

**Kingston, New Hampshire  
Board of Selectmen  
Meeting of February 3, 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:**

**Tony Desimone, Appointment to Kingston Days Committee:**

Mr. Desimone introduced himself to the Board and answered a few questions about his interest in serving on the Kingston Days Committee. He said he had worked as a chef for 36 years, but is not working now, so is looking for something to do. He said he had volunteered at the Kingston Days motorcycle show for 10 years, and helped out in other areas as well, last year taking tickets.

The Board signed the appointment form for Mr. Desimone and thanked him for volunteering.

**Scott Panfilis, Terry Jamro, 35 Marshall Road re: driveway**

Following up on a discussion that took place at the January 27 meeting of the Board, Mr. Panfilis and Mr. Jamro were present to speak with the Selectmen. Attorney Caitlyn Masys was also present, along with the excavation contractor that has worked on the driveway. There was a discussion of the problems with the driveway, which is out of compliance with town's regulations for slope and is standing in the way of the Certificate of Occupancy for their home.

Chairman Heitz said that the Board is in receipt of an agreement and release of liability, and has gotten feedback from Town Counsel on how to proceed. The Town's attorney had first advised holding the occupancy permit until the work was done, but then after further consideration of the facts, suggested a bond to ensure the project was completed in a timely manner. Chairman Heitz said that is the purpose of this discussion. He said he understands that the owners had retained a paving company to do the work in the spring when the ground thaws.

There was a discussion of what amount the bond should be; Town Engineer Dennis Quintal had provided a plan of the work and an estimated cost of \$22,000. Mr. Jamro asked what percentage of a bond they will need, pointing out that they have already spent \$8,000 to retain the paver, Pentucket Pavers and Landscaping. They do not have a date, as they will need to first take some material off the top and make a wider radius, all of which is on hold until warmer weather.

The excavator present was identified as the one who will do the grading. Mr. Panfilis said he did the initial cut, but did not have a chance to finish. He estimated the current slope to be at around 16 %, and the Town's regulations are 10%.

Selectman Coombs said that the issue is that in the late 1970's when the subdivision was created, the state's regulations called for 15% slope. The owners later became aware that the new Town regulation is actually 10%, and it will not be possible to get to that. Selectman Coombs said that the happy medium arrived at by Mr. Quintal, the owner's surveyor and the Fire Department was 12.5.

Selectman St. James asked the contractor if he considered the plan viable. The Contractor said that the problem he sees is the cut at the top of the hill, as the electrical conduits are buried there. If they cut too much, the electric will need to be redone. He said he could do work that doesn't follow the plan exactly, but that he thinks will work.

Attorney Masys said she had not seen the estimate before now; she was given a copy. She and the contractor looked over the estimate, which Mr. Quintal had worked on with Landry Survey.

Selectman St. James asked if they would have the time and financing to get the work done this spring. Mr. Jamro said that they want to get it done, they want a paved driveway and they want to be safe. He said the issue is the difference in the percentages, and what applies where, and they are trying to find the best way to proceed. He said when they tried to get a driveway permit they were told that it did not apply, as they were on a state road. They then looked up the State laws and saw 15% on a secondary driveway, which is what it is, as it comes off another driveway, so they were confused by that. He said they understand where the Town is coming from but they it has been difficult to maneuver through the different rules.

Mr. Panfilis said they had met with the fire department before building, pointed out what they planned to do, and everyone said it would be fine. The contractor asked why it is not fine now. He said they did exactly what they were asked to do. Selectman Coombs said that the state only cares about the first 10 feet of driveway, and that this identified a hole in the driveway permitting process that needs to be fixed.

Selectman St. James said it is about safety, and that while a fire truck was able to get up to the house, it took some maneuvering, and also that a police cruiser could not get up there on a recent icy day. Mr. Panfilis said that there was new snow that day and the new gravel needed to be shoveled. He said the fire truck was able to come all the way up and turn without stopping, and also that dump trucks have made it up to the house regularly. He said they do plan to make it wider, and 100% better, but there just has not been time.

Attorney Masys agreed that timing is the problem, or the work would have been done. She said finances are not the problem and they will not drag out this process, they want it done as soon as possible. Mr. Jamro said that as they already gave \$8,000 to the paver, and will need to pay some extra for the excavation, they need to know how much more they need to come up with. He asked if a copy of their deposit, showing the intention to do the work, would help. Atty. Masys said that maybe in a compromise, if the estimate of the work is \$22,000 they could bond a lesser amount by producing the receipt.

Selectman Coombs said he is fine with that idea. Road Agent Rich St. Hilaire was present and pointed out that there is a cost escalator of 25% included in the bond, so the actual cost would be \$18,000. He said that if the receipt is produced, that would bring the amount down to \$10,000, and he thinks \$5,000 would be fair, with an agreement to complete by July 4.

**MOTION:** by Selectman Briggs, to ask for a \$5,000 bond plus the amount of the paver, expecting that the work will be completed by July 4.

**SECOND:** by Selectman St. James.

Mr. Jamco and Mr. Panfilis said they would be okay with that agreement. In discussion, Chairman Heitz suggested amending the motion to change the deadline to September 30.

Looking at the waiver, Chairman Heitz noted that it reads "less than 14%", when the agreement was 12.5%. He asked if the agreement should be changed to reflect the 12.5% grade that was agreed to. The excavator said that he was not comfortable with this, not having seen the plan until tonight. He said that if they go too far they would need to dig the entire hill and add a retaining wall. However, he said he could level and add a turn to change by about 3 feet. He could not say what that translated to in percentage of slope.

It was agreed that the motion would be tabled until the contractor, surveyor and town engineer have time to look at the plan and find out if they can stick with the 12.5% or need to come up with a different plan. Mr. Jamro and Mr. Panfilis will return next week.

#### **Heritage Commission: Certified Government Grant**

Debra Powers was present to speak for the Heritage Commission, and explained that they are pursuing a Certified Local Government grant to hire a consultant who will help them put the Plains Cemetery on the National Register of Historic Places. She said that they have been told this cemetery is probably viable because of its age and history, but cemeteries are difficult to get onto the register. Ms. Powers added that this is part of the master plan, and will draw people in and encourage growth in town.

Ms. Powers said she is just informing the Board tonight, as she does not have the application for signatures yet. She said the Commission got two quotes, one for \$4,500 and one for \$7,000, so will be putting in the grant application for the higher amount. She said this is a full payment grant that will not require any matching funds from the town. In conversation it was agreed that if this is awarded, the money should go directly to the consultant.

Selectman St. James asked if having the cemetery on the Historic Register would change anything that the town does there. Selectman Coombs, as Cemetery Sexton, said the only question he has is whether this would effect a situation where a family replaced a broken or missing stone with a modern piece of granite. Ms. Powers said she would have to ask these questions, but believes that as the families own the plots they would have the right to replace stones. She also said that the town would have the right to turn down the grant, and that the worst that could happen is they would be taken off the register for violating the rules.

Ms. Powers said that being on the historic register would make the cemetery eligible for grants that would cover repair of headstones and other support of the cemetery. She added that it would also be another way to get into grant opportunities for other areas and buildings in town.

**MOTION:** by Selectman St. James, to approve the application for a grant that will pay for a consultant to work with Heritage to place the Plains Cemetery on the National Register of Historic Places, and to authorize Chairman Heitz to sign the documents.

**SECOND:** by Selectman Coombs

**All in favor.**

There was a brief discussion of the Heritage warrant article, which will need an adjustment of its wording at the Deliberative Session due to it being printed with wording from last year's article, which was slightly different.

**PUBLIC COMMENT I:**

Road Agent Rich St. Hilaire said he would like to clear up misunderstanding about the warrant article that appears on this year's ballot, changing his position from elected to appointed. He said he is hearing from people who feel the Board may be trying to get rid of him. He said he wanted it to be clear to all that he is the one who brought the idea forward.

Mr. St. Hilaire spoke about the changes that have taken place in the Highway Department in the last 35 years, and the added duties he has taken on. He said the only qualification for a person to get elected is residency in town and \$1.00. He said the Town would be better served if a qualified candidate can be found to replace him when he retires.

Chairman Heitz said he agrees that it is definitely old school having the position as elected, that it did not used to be a major department the way it is now. He said that Mr. St. Hilaire has done an excellent job for the town and it is not the intention of the Board to replace him. He said they only want to ensure that when he decides to go, they will be in a position to hire a professional that is able to do the job. Selectman St. James also commented that the change does not take place until the current elected term is up in 2021.

**OLD BUSINESS**

**2020 Warrant**

The Selectmen briefly discussed the emergency meeting that took place on January 25 on the subject of the warrant articles added after the Fire Station bond hearing. These articles, giving voters the option of using money from the town's Infrastructure Fund to lower the amount of the bond, had been found to be problematic by the state Department of Revenue Administration. Chairman Heitz said that at the meeting on January 25, the board decided not to remove the articles, and now that they have been posted they cannot be removed. Alterations at Deliberative Session will be limited to minor adjustments or monetary amounts.

Selectman St. James said that the majority of the Selectmen have the intent to put \$2.5 million from the fund toward the bond. He said the articles use the same language as what the voters supported for the library building. He said that Town Counsel had advised that they can't be changed at this point and should go forward. He said he felt they were straightforward with the voters.

## **NEW BUSINESS**

### **Candidates Night**

Selectman Coombs said that even though there are only three positions on the ballot that are contested, he feels it is in everyone's best interest to hold a Candidates' Night. The question of who would moderate the event was discussed, as Moderator Ellie Alessio is on the ballot in a contested position. It was decided to ask School Moderator Rick Russman if he will moderate this event. It was then decided to hold the event on Wednesday, February 26 at 7:00 PM.

### **Electrical Inspector**

A complaint was received from a resident about the Town's Electrical Inspector, who had failed a whole-house generator as it was undersized. The resident had come to Selectman Briggs with the complaint. Selectman Coombs said he had heard about this, and that the generator was undersized to serve the entire house, so a sub panel will be needed. He said the inspector had compelling reason to act as he did. The resident will be calling Selectman Briggs to follow up.

### **Dumpster at John's Truck & Auto**

Selectman Wilson said he had brought some appliances to the dumpster provided for free recently by John's Truck & Auto for the disposal of white goods, and found it full of carpet and other items. He said it appears that people are taking advantage of the situation and he thinks they need a sign posting fees for illegal dumping, or maybe a fence to prevent dumping after hours. He said they were very accommodating, and it was agreed that they take a lot of trash that people might otherwise have dumped on the roadside, but that the Town should at least invest in a sign.

## **COMMITTEE LIAISON REPORTS:**

**Recreation:** Selectman Coombs reported that Director Paul Butler is looking into an after school program in conjunction with Austin 17 and some other groups. It would be self-funded, and Mr. Butler will be in to discuss plans once he has explored the options.

**Planning Board:** Selectman Coombs said he will recommend to the Planning Board that changes should be made requiring a town driveway permit on any road. He said that the state permits revert back to the town, as they only care about the curb cut into their right of way.

**Budget Committee:** Selectman St. James reminded voters that the Deliberative Session will be on Saturday, February 8 at 9:00 AM. He said there are 28 articles and a budget over \$6 million, and that this is the opportunity to come in and ask questions.

**Fire Department:** Selectman St. James said that Chief Pellerin has hired one person, a returning full-time fire fighter and paramedic. He said that interviews are scheduled next week to fill the other opening.

**PUBLIC COMMENT II:** None heard.

**CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:**

- A letter was signed to be sent to the NH DOT requesting a change in the Route 125 corridor plan, so that it will not negatively impact a Kingston business. Motion was made by Selectman St. James, seconded by Selectman Wilson, and approved by all.
- The Facilities Use application for the Kingston Days 2020 event to be held on the Plains on July 31 through August 2 was approved on a motion by Selectman St. James, Seconded by Selectman Briggs, all in favor.

**APPROVAL OF MEETING MINUTES:**

**MOTION:** by Selectman St James to approve the public and non-public meeting minutes of January 27, 2020 as written.

**SECOND:** by Selectman Coombs.

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

**MOTION:** by Selectman St James, to go into non-public session under RSA 91-A:3, II (b) Hiring of personnel, and (I) legal advice

**SECOND:** by Selectman coombs

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

The Board adjourned to Non-public session at 8:12 PM

**MOTION:** Upon motion of Selectman Coombs, **SECOND** of Selectman St. James, it was voted by roll call to return to public session at 8:28 PM

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

**Discussed in non-public:**

Legal /Personnel

**Adjournment:**

**MOTION:** by Selectman Coombs to adjourn at 8:30 PM

**SECOND:** by Selectman Briggs

**All in favor.**

Respectfully submitted,  
Susan Ayer  
Administrative Assistant