



BOARD OF SELECTMEN
P.O. BOX 725
FITZWILLIAM, NH 03447
(603) 585-7723 Fax: (603) 585-7744
Email: fitzwilliamnh@fitzwilliam-nh.gov

BOARD MEETING MINUTES
May 2, 2019
9:00 A.M.

Selectmen Present: Daniel Baker, Robyn Bates, Charles Kenison

Mr. Baker called the meeting to order at 9 a.m.

PRIMARY:

***** APPROVE MINUTES**
- April 24, 2019

Mr. Kenison made a motion to approve the minutes. Ms. Bates seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

***** APPROVE MANIFESTS**

Mr. Kenison made a motion to approve the manifests. Ms. Bates seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

***** REVIEW SIGNATURE FOLDER – The Selectmen reviewed and signed.**

9:00 MEET WITH ADAM DUBRISKE

Adam Dubriske met with the Selectmen to discuss painting the office and cleaning out at the Fire Department. The FireWards asked Mr. Dubriske to meet with the Selectmen for approval. Mr. Dubriske shared that this would be done by volunteers and that he and the Assistant Fire Chief would take care of the office. Mr. Dubriske would also like to paint the lines in the bay and he thought this was a good time to spruce up the space. A FireWard shared with Mr. Dubriske that it was a Town owned building and he needed to get the Selectmen's permission. Ms. Bates asked if Mr. Dubriske knew what his budget was. Ms. Favreau shared that the donation could be used. Mr. Dubriske shared that he needed a couple of gallons of paint and possibly putting up a Fitzwilliam Emblem on the back wall. Ms. Favreau shared that she thought his budget would be fine and invited him to go over the budget with her.

Mr. Dubriske mentioned that things have started to reappear and he asked Ms. Favreau how to purchase boxes to use for storing. Ms. Favreau shared that the Town has an account with Staples. Mr. Dubriske mentioned what he needed for supplies. Ms. Favreau shared that she would assist him. Ms. Bates shared that he should get some training. Mr. Dubriske shared that Edwin Mattson, Jr. and John Holman mentioned learning the procedural process. Mr. Dubriske mentioned that they have two laptops – it shut off and they are unable to log back in because they don't have the passwords. They have had to hand write their call notes. Mr. Dubriske shared that Mr. Holman asked about having the Town's IT person come in. Mr. Dubriske stated they have a desperate need to gain access to the computers.

Mr. Dubriske also mentioned the cell phone booster and internet Wi-Fi was disabled two days ago. He wasn't sure if it was in someone else's name. Ms. Favreau shared it was through the Town via Verizon and she asked if the Police Department had internet access. Mr. Dubriske shared that they have internet access but not cell phone. Ms. Favreau would follow-up with Verizon. Discussion was held on the internet being through Consolidated, the booster was Verizon, and being unable to test. Ms. Favreau would pull the invoices and the Selectmen would go to the Fire Department to look into. Mr. Baker shared with Mr. Dubriske that he has the support of the Selectmen.

Mr. Dubriske asked for a letter of authorization to Spotted Dog, and a few other programs that the Fire Department uses for reporting. There has only been one signature in the past and as they move forward and reauthorize, they are including two authorized signatures. Mr. Dubriske and the Acting Captain would be authorized users. Ms. Favreau asked if it should include

BOARD MEETING MINUTES
May 2, 2019

a FireWard. Mr. Dubriske shared that he gets access because he is the Chief Officer and some need an EMT. Mr. Dubriske noted that he would create a password notebook for this information. Ms. Favreau asked that she receive a copy. Mr. Dubriske agreed to provide a copy. Mr. Baker asked Ms. Favreau to write a letter of authorization for the programs that the Fire Department uses.

Mr. Dubriske shared that he, the Lieutenant and the Troy Fire Chief took an ambulance billing class last week. They are familiar with that process now and they shouldn't have any issues. Mr. Dubriske stated that he doesn't see any major issues at this time. The only thing they discovered was should the Fire Department apply for a grant – they are out of grant compliance now. There is a computer program that they need to update and it hasn't been. Mr. Dubriske shared that they have too much on their plate to go back now, but eventually they could. They need to report calls to stay in compliance and they entered April until they weren't able to access the computer. Mr. Kenison asked if they were missing any computers. Mr. Dubriske didn't think so but he shared that they haven't gone through the space. Mr. Dubriske mentioned that he didn't know what they had for tracking of radios, so they have started making a list of the serial numbers on the minitors. They are trying to determine what they have for equipment.

Mr. Dubriske asked if the Selectmen had received a letter of resignation from the EMS Lieutenant. Mr. Dubriske shared that she turned in her things the day before yesterday and they were down to he and another officer. Mr. Dubriske mentioned that they are getting great support from other local departments in helping them get through this. Mr. Dubriske noted that in regard to EMTs, they were short staffed but he thought they would build staff back up. They have some people who want to rejoin and get their recertifications. Mr. Dubriske noted the EMS Lieutenant hadn't been to a call in the last seven months. They have enlisted the help of the EMT in Troy to make sure they stay in compliance with ambulance supplies. Mr. Baker asked about the FireWards. Mr. Dubriske mentioned that there wouldn't be any decision made to leave the current officer structure in place until July 1st and that the FireWards were trying to have a meeting this week. Mr. Dubriske shared that the FireWards haven't given him any indication of no and he thought it would move forward. Mr. Dubriske shared that the atmosphere remained good and they had a good number turn out at last week's training. Mr. Baker asked Mr. Dubriske to let the Selectmen know if he needed further assistance.

The Selectmen thanked Mr. Dubriske for coming in.

9:15 MEET WITH CHINOOK
- Pilot Agreement
- Attorney Fees

Heath Barefoot, Project Director of Development with NextEra thanked the Selectmen for allowing them to come and visit with them. Dana Valleau, Environmental Specialist with TRC accompanied Mr. Barefoot. Mr. Barefoot shared that at their last meeting, a draft Pilot Agreement as well as an MOU were provided and both documents were a way for them (NextEra) to memorialize the benefit for the Town as well as any issues that may arise. Mr. Barefoot noted that in a subsequent letter, the Town expressed interest in hiring their own experts and expected to incur expenses with a legal representative. Mr. Barefoot shared they have prepared a letter that outlines the framework to begin negotiating both of those documents. He would need to update the signature page. Mr. Barefoot handed out copies to the Selectmen. Mr. Barefoot noted that he would send back a partially executed copy from them (NextEra) and following that they could begin negotiating both of those documents. Suzanne Gray, Chair, Planning Board asked for the content of the letter. Mr. Barefoot stated the Town had concerns that the Town would incur expenses with hiring an attorney and that letter essentially agrees to that. Mr. Baker asked if limited to the Pilot Agreement and MOU. Mr. Barefoot shared it was in direct response to the Town's request. Mr. Baker asked Ms. Favreau if she had the original letter because he thought they would need an attorney periodically and thought it provided a sum. Mr. Baker reviewed the Selectmen's original letter and shared that it was confusing as the Selectmen were looking for a sum up to \$30,000 for legal fees for the project and he said it was limited and they wanted to give an estimate of the fees to encompass more than the MOU and the Pilot Agreement. There may be requests for expert fees as well. Mr. Baker asked if there was some way to make more open ended and that it was legal fees for the project, not just the MOU and the Pilot Agreement. Mr. Barefoot reviewed the letter. Mr. Baker stated he didn't think it would cost up to that amount for the MOU and the Pilot Agreement. Mr. Barefoot shared that he would take that feedback into account.

Mr. Baker stated the need to move faster if they want it moved faster. Mr. Baker mentioned their public hearing and that it was a meeting. Mr. Baker shared that the Selectmen hold a public hearing. Ms. Bates asked to clarify the public hearing. She stated that NextEra asked to rent the space for an information meeting. Mr. Barefoot stated that was correct. He shared it was part of the Site Evaluation meeting. Mr. Barefoot stated it was a public information meeting. Ms. Gray stated from the Planning Board perspective, that she had an issue with that. Ms. Gray reviewed the public hearing criteria: a testimony where transcripts were taken, a local Board would need to be running the meeting and NextEra would provide the testimony. Ms. Gray noted that NextEra's coming in and giving an information meeting was fine but not having a public hearing. Ms. Gray mentioned that on that day the Planning Board has a public hearing, so they wouldn't be available to attend. Mr. Baker asked what the intent was. Mr. Barefoot stated the intent was for it to be an SEC hearing. Ms. Hayward shared that she had a conversation with a member of the SEC and her understanding and the language used was that NextEra wanted to do a public information session which was a precursor to the SEC public hearing and what they were asking was that on any advertising

BOARD MEETING MINUTES May 2, 2019

to call it a public information hearing. Mr. Barefoot stated that was correct and that it was a public information hearing as the SEC allows and they (NextEra) intended to fully comply with their requirements.

Ms. Gray had sent the Selectmen information on the RSA for a municipality having a public hearing. Mr. Baker read the RSA. Mr. Baker asked if Mr. Barefoot had a copy of the RSA. Mr. Barefoot stated that they did. Ms. Gray shared that the applicant would be giving testimony as they would in any such public hearing to fulfill the SEC requirement. Mr. Baker stated not true of the public information session. Ms. Gray shared that the RSA stated it should be overseen by a local board. Mr. Barefoot asked to reread that section. Terry Silverman asked if they intended this public session to check off the box for SEC. Mr. Barefoot stated this was the SEC process and shared that it was in response to what Chairman Baker just read. This was the public information session as required by the SEC. Mr. Barefoot noted this was the public information session to check the box for SEC. Ms. Gray stated this was a Land Use issue and she felt the Planning Board should be overseeing this. Mr. Baker asked where the language was. Ms. Gray stated that the Chairman of the local board was to be notified of this and that NextEra was to provide testimony. Mr. Valleau stated the first hour would be open for people to ask general questions and for them to provide general answers. The second portion would be recorded. Mr. Valleau had talked with Pam Monroe an attorney at Orr & Reno about this in order to meet with SEC RSA 162 requirements. Ms. Gray asked if he was leading the testimony part of the meeting was it NextEra. Mr. Barefoot shared they were confusing what the meeting was. Mr. Barefoot stated it was an information meeting. Mr. Valleau repeated what he had previously stated. Ms. Favreau asked if it would be a separate meeting. Mr. Valleau shared it would be at the same time. Ms. Gray asked if they had filed with the SEC. Mr. Barefoot responded that they have not. Ms. Bates stated it sounded like a two-step process to file with the SEC. First they file with the SEC and the second meeting was the testimony and recorded transcript. Mr. Valleau shared that the information part was what they (NextEra) were doing voluntarily and not required by the SEC. The SEC requirement was that it be recorded. Mr. Baker shared that was why the Town was asking for legal fees to help guide the Town. Mr. Baker asked to open it up to have counsel help with this and to provide required public notices. This would allow everyone to be up to speed. Ms. Bates asked about them doing the public information session only but not the recorded session and not checking the box for SEC. Ms. Favreau shared that all they (NextEra) did was to send in a request to rent the Town Hall space and they could call it whatever they wanted. Ms. Bates stated the need to make sure the Planning Board was available for this meeting as they were the Town's voice and the information department for the Town.

Susan Silverman asked if there was going to be any compensation for other experts that may be needed for any part of the project. Mr. Baker shared they didn't close it, they felt to get started they needed legal guidance. Ms. Silverman shared it was better to be clear up front and she mentioned a case with the ZBA. Mr. Baker acknowledged that it made sense. Ms. Bates asked where the \$30,000 notion came from. Mr. Baker explained. Ms. Bates mentioned if the letter was written properly by NextEra, that would allow for other experts. Mr. Baker shared the Selectmen were looking at this without an application. It's being held up and the Selectmen were focusing on the legal agreements (Pilot Agreement and the MOU) and looking for expertise from the Planning Board. Ms. Silverman stated it was her understanding that once they apply to the SEC, they would hold a public hearing where the public could submit comments or make comments during the hearing. Mr. Kenison stated to clarify – request that specifically for legal fees and the Town might request more depending upon the experts. Mr. Kenison thought that maybe the letter should state: "not limited to and not everything they might ask for". Mr. Kenison noted the Planning Board would be looking for a wetland's scientist. Mr. Silverman asked if NextEra would have a completed project to review before submitting to the SEC. Would experts be able to look at before to be more informed? Mr. Barefoot shared that they would expect to have most of it completed by then and the final version would be when they file their application. Pursuant to that they have made several reports available to the Town as they have been completed and they would continue to do that.

Ms. Gray asked that at the meeting with Fitzwilliam, would they have the same plan that they would submit to the SEC. Mr. Barefoot shared that the plan, as he understands, when filing the application that is completed and at the time of the public information session, they would do their best to answer any questions or concerns there may be. Ms. Gray asked that they (NextEra) were saying that this wouldn't be the plan submitted to the SEC. Mr. Valleau stated they were hoping that there wouldn't be any changes and it takes a long time to redesign. The filing with the SEC would come within two months of the public information session so they wouldn't expect a major redesign. Mr. Valleau stated that as Mr. Barefoot had shared, they don't want to call it a final plan. Ms. Gray noted that if the Town had an attorney sitting here, they would suggest that they have a final plan to be presented to the Town's information hearing. Ms. Gray asked NextEra to please not put the Town in a position where the Town doesn't have all of the information. Mr. Valleau stated that the changes that would be made would be in response to the comments and that would be the reason for the recording. They don't consider it final until it's filed. It was just semantics. The SEC process was for NextEra to present their "final" plan to the Town so people could review and offer the information session for people to ask off the record questions and they would have the formal recorded session for the SEC to document questions and NextEra's responses for the SEC. Ms. Gray mentioned that what Ms. Bates has stated made sense and that was to have two separate meetings. Ms. Bates noted so that there was full disclosure, the Selectmen were doing homework on their own, to intelligently negotiate. Ms. Bates wanted NextEra to understand that the Selectmen were trying to do their due diligence. Dana Pinney agreed with Mr. Silverman's request for a complete plan to review. Mr. Pinney shared that one way to do that would be to present the plan for this meeting and the meeting should be separate. The SEC process was one part information and one part public hearing. Mr. Pinney asked when the next meeting would be held.

BOARD MEETING MINUTES
May 2, 2019

Mr. Barefoot asked to make it clear – the information meeting would count towards the SEC requirement. It has to be held no less than 45 days before filing with the SEC and once filed, the SEC holds a public hearing. Mr. Pinney mentioned the public hearing would be at the State level. Mr. Valleau and Mr. Barefoot agreed. Mr. Pinney asked if it should be two separate sessions to allow time to review by the Town.

Ms. Bates asked to make a motion to have NextEra resubmit the rental agreement with the proper connotation to being an information session and a second session for the Public Hearing 45 days after that and for the public information session to have the plans 15 days ahead of the meeting so everyone could review and on a day the Planning Board was available. Mr. Kenison seconded. Mr. Kenison didn't see anything else being acceptable. Mr. Baker stated he didn't feel he had enough information to know if NextEra was being compliant. Ms. Gray thought legal advice would be very helpful. Mr. Silverman mentioned that NextEra was asking the Town for an MOU and doing it without allowing the Town to do our due diligence and without a proper hearing in the Town's view. Mr. Barefoot stated that wasn't accurate. NextEra was asking for a negotiation to execute. Mr. Baker stated the expectation today was to discuss the Pilot Agreement and MOU. Mr. Baker mentioned that it was hard for him to feel that it was being done correctly. Mr. Barefoot stated they (NextEra) was within their right to hold a meeting. Mr. Baker and Mr. Barefoot reviewed the RSA. Mr. Barefoot shared that it was the providing officer of the hearing session. Mr. Barefoot took a picture of the RSA. Ms. Gray stated that wasn't the first paragraph and that was what she was discussing. Ms. Gray recited the first paragraph of the RSA. Mr. Baker stated that it didn't say that in the first paragraph. Ms. Bates asked that the Selectmen get a legal opinion and put the meeting off for a bit. Ms. Young shared that a later date shouldn't interfere with a night the Planning Board has a scheduled meeting. Ms. Hayward shared that she needed to be there if it involved the Planning Board and that Tuesday nights were worse because it might involve ZBA and Tuesday nights are Land Use. Ms. Young asked if the motion made by Ms. Bates passed or was it being discussed.

Ms. White read the motion made by Ms. Bates: Ms. Bates asked to make a motion to have NextEra resubmit the rental agreement with the proper connotation to being an information session and a second session for the Public Hearing 45 days after that and for the public information session to have the plans 14 days ahead of the meeting so everyone could review and on a day the Planning Board was available. Mr. Kenison seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

Mr. Barefoot asked if there was a formal written request that the Selectmen would provide to them. Mr. Baker shared that they have a formal request for \$30,000. It doesn't change the fact they have asked for legal fees to exist throughout the project. A letter to clarify could be submitted – other experts may be called and information may be needed from the Planning Board. Mr. Baker doesn't want to change the first letter due to the deadline but was comfortable writing a second letter. Mr. Barefoot noted the original letter was written to the wrong address. Ms. Favreau shared it was sent to the address on their letterhead. Mr. Barefoot stated the letter never came but they had gotten an e-mail. Mr. Barefoot apologized for that. Ms. Bates asked what the address was, for the record. Mr. Barefoot stated the address was 700 Universe Blvd., E5E. Mr. Barefoot shared that accounted for the delay. Mr. Barefoot stated that he understood, conceptually, and doesn't need a letter as it was the motion, a lot was thrown in there. Mr. Baker shared that the motion would be summarized from the minutes and that would be sent to him. The Selectmen agreed.

Mr. Silverman stated that it wasn't their intent to block them from doing a project. It was just to mitigate that it's the right project for the Town itself. Mr. Barefoot thanked Mr. Silverman. Ms. Bates mentioned that Mr. Silverman's comment was correct. It would be a very good thing for the Town but we as volunteers and elected officials were trying to protect the Town. Mr. Pinney asked when they planned to be on-line. Mr. Barefoot stated he believed he provided copies of the contracts with the Town. Mr. Baker agreed and stated he didn't want to open this up as all the Selectmen wanted to discuss was the Pilot Agreement and the MOU. Mr. Barefoot stated he understood their concerns and hoped to express the process under the State was a process to make sure they (NextEra) were approaching this project responsibility and they are in full compliance with all of the requirements under permitting and they welcome the opportunity to work with the Town. Mr. Baker advised Mr. Barefoot to use the Planning Board's expertise. Mr. Baker asked if there were any other questions. Mr. Barefoot asked if the facility was still available on May 21st. Mr. Barefoot stated they were in compliance with their request. Mr. Baker stated the motion was made that their meeting be held when the Planning Board was available. Mr. Baker shared that they were more than welcome to rent the Town Hall. Mr. Barefoot thanked Mr. Baker.

10:00 MEET WITH CEMETERY TRUSTEES
- Seasonal Positions

At 10:19 a.m. Ms. Bates made a motion to go into non-public session under RSA 91-A:3 II(b). Mr. Kenison seconded and the motion passed 2-0. Roll Call vote: Mr. Baker – Yes, Mr. Kenison - Yes. At 10:42 a.m. Ms. Bates made a motion to leave non-public session and seal the minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Mr. Kenison seconded and the motion passed 2-0. Roll Call vote: Mr. Baker – Yes, Mr. Kenison - Yes.

Mr. Mattson, Jr. shared that someone who needed to do community service (88 hours) approached the Cemetery Trustees. Mr. Grab thought the person was working out some fines. Ms. Bates asked in what capacity the Trustees wanted to use the help. Mr. Mattson, Jr. shared that they have brush that needed picking up and he could do something where no damage could

BOARD MEETING MINUTES
May 2, 2019

be done. Ms. Favreau was concerned with liability. Mr. Grab shared that he wouldn't work unsupervised. Mr. Kenison asked if he would be an employee of the Town or the Court. Mr. Mattson, Jr. didn't know if he was under a time limit. Mr. Baker asked if Mr. Mattson, Jr. knew him. Mr. Mattson, Jr. stated that he does. The Selectmen suggested contacting Chief Leonard DiSalvo. The Selectmen wanted to check into before making a decision. Ms. Bates asked Ms. Favreau to check on the liability and to also contact Chief DiSalvo.

Mr. Grab discussed Memorial Day and that an MC and a speaker were needed. Ms. Favreau shared that a parade permit was needed. Mr. Grab stated he was a committee of one and he had done the leg work. He mentioned that all of the lead stuff has been started. Mr. Baker mentioned Wayne Dunham, Jr. Mr. Grab handed out a list to the Selectmen of what was handled and what needed to be done. Mr. Baker offered to help with set-up, as well as Mr. Kenison. Ms. Bates asked who would check on a speaker and MC. Mr. Baker shared that Mr. Kenison would talk with Mr. Dunham, Jr.

Mr. Baker mentioned that the Trustee's schedule some interviews and the Selectmen would work on an MC and Speaker for Memorial Day. Ms. Favreau shared that the Selectmen meet on the 8th and the 16th of May.

10:30 MEET WITH COMMON COMMITTEE MEMBERS
- Follow Up

Ms. Beckwith discussed the electricity on the common and mentioned that there wasn't any electricity going to the new pole. Mr. Baker stated they were aware of that. Mr. Kenison shared they would try to get it done for Memorial Day. Ms. Beckwith asked where the new outlets would be placed. She noted electricity was needed for the flag pole and near the monument for concerts and the Christmas tree. Ms. Beckwith thought Mr. Cuomo and the Selectmen would take care of this. Mr. Baker asked if it was placed on the map they created. Ms. Beckwith stated there were questions on it. Mr. Kenison discussed the placement of the panel and the GFIs located on the panel. The Selectmen shared that they wanted Committee members to come up with the locations. Mr. Kenison shared that he has been working with Mr. Cuomo on the outlets.

Ms. Beckwith noted that they had received bids on the restoration of the fountain and the sign. Ms. Beckwith shared that she and Mr. Cuomo met with two sand blasting-powder coating companies. The Town's fountain was Victorian style and the concern was how many parts the fountain had in order to take apart for delivering to a company for restoration. Ms. Beckwith reviewed the bids with the Selectmen. Ms. Bates asked for the total budget. Ms. Favreau shared there was \$6,150.57 for improvements to the two parks.

Ms. Beckwith shared that a group asked if they could make a donation. It was noted that they needed to earmark to whom they were donating. Once rails on the fence were repaired they would have volunteers help paint. Ms. Bates mentioned that Mr. Cuomo would be going back to the Mattson's to get their consent that the budget could be used for this. Ms. Beckwith shared that she hasn't heard from Mr. Cuomo. Mr. Kenison mentioned the chemical conversion was an essential primer. Mr. Kenison would work with Mr. Cuomo to get the sign done. Mr. Baker mentioned the concern with taking the fountain apart and asked if pricing was obtained on painting in place. Ms. Beckwith shared that it was expensive and she didn't get any quotes.

Mr. Baker noted if that was the priority of the committee, he made a motion that the committee was authorized to spend the money on the repair of the fountain (powder coating) provided that disassembly be arranged with Gene Cuomo, Road Agent and this be cleared through the Depot Park Committee to assure there are no other commitments. Ms. Beckwith shared that if this was approved that she would mention to the company if the sign was deleted, what the cost would be. Ms. Bates seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

Ms. Favreau asked about the Christmas tree. Ms. Beckwith shared that she has some options. Mr. Kenison noted that a tree needed to be put down at the Depot.

Mr. Baker made a motion to accept the donation for restoration of the fountain by Dana Pinney. Ms. Bates seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

11:00 MEET WITH RICHARD DWINELL
- Property Erosion

Mr. Dwinell met with the Selectmen and shared that he was representing several people, and they were not too happy with what happened with the school vote. Mr. Dwinell questioned if the Town of Swanzey has ever had an audit of their assessment. Ms. Favreau shared that by State law every town has to do an assessment by review – every five years. Mr. Baker shared that the Town pays a lot for their assessments and it was a pretty good estimate of the value of their property. They have looked at other Towns where the inspections differ. Ms. Bates didn't understand the underlying point. Ms. Favreau shared that in a cooperative school district, Towns use different assessing companies. Discussion was held on the differences between businesses in Swanzey versus Fitzwilliam, the lawsuit, looking at Swanzey's assessment, the small adjustment for Swanzey versus the large adjustment for Troy, and Swanzey falling into the same criteria as Troy. It was noted

BOARD MEETING MINUTES
May 2, 2019

that the number of students in Swanzey was a lot higher than Fitzwilliam. Mr. Dwinell asked if there was any way that Fitzwilliam could pull out of the district. It was mentioned that at Town meeting someone spoke about the expense of pulling out. Ms. Bates shared that she had Ms. Favreau do an analysis of the cost and it was on her docket to review this summer. Ms. Favreau shared there was a lawsuit against the State and MRSD joined. Ms. Bates shared that the Selectmen weren't just letting it go by the way side – they were investigating – but can't do anything for five years.

Mr. Dwinell complained about Templeton Turnpike and Sandy Hallow Road. Mr. Dwinell shared that Sandy Hallow was a one way road due to erosion and the pot holes on Templeton Turnpike are so large that he has to stop. Mr. Dwinell shared that he came in and complained to Sheryl White and nothing has been done. Mr. Baker stated that there has been so much rain that even though the roads have been graded once, the rains destroys the roads. Mr. Dwinell would like them filled. Mr. Kenison stated that the mud was so bad by Warren Hall's property that it was filled and they haven't had time to go back. Mr. Kenison mentioned that on Templeton Turnpike there was one section that was still frozen but had pot holes.

Mr. Dwinell asked if the Selectmen sit on the ZBA. Mr. Baker stated he does. Mr. Dwinell stated that Steve Filipi was giving Mr. LeClair the run around. Mr. LeClair pulled all of the permits for Ms. Woods and he had to do an asbestos abatement. On the Spaulding residence, Mr. Streeter didn't have to do an asbestos abatement. When questioned, Mr. Filipi stated they forgot. Mr. Dwinell stated if it is a protocol, it should be the same for everyone. It was noted that the ZBA wants to bring to Attorney Joseph Hoppock. Mr. Baker suggested that Mr. Dwinell meet with the ZBA as the Selectmen have no authority over the ZBA.

Mr. Dwinell mentioned the erosion on his property and Mr. Barker has temporary barriers to keep water from running down his stairs into his cottage. Mr. Dwinell shared that eventually his garage would fall into the lake and every time it rains, sludge accumulates at his garage. He asked if the Selectmen felt the same way that they did last year. Mr. Baker mentioned that he didn't know what they could do. Repaving was mentioned. Mr. Dwinell stated the drain has backed up. Mr. Kenison asked if there was something the Selectmen could do out of good will if Mr. Dwinell states that he won't hold the Town liable. Mr. Dwinell shared that Mr. Cuomo mentioned using granite and Mr. Dwinell stated his plow would hit it. Mr. Baker stated the Town had no liability but the Selectmen were willing to help. Ms. Bates shared that maybe the middle ground would be to accept the granite. Ms. Bates asked if Mr. Dwinell was willing to review that. Mr. Dwinell stated that nothing was written up. The Selectmen would review the situation.

Mr. Dwinell thanked the Selectmen for their time.

CONSTRUCTION PERMIT
- Map 16, Lot 7

Map 16, Lot 7 – Ms. Bates made a motion to approve the Construction Permit for Map 16, Lot 7 with the condition that he must maintain Best Management Practices for erosion control during construction. Mr. Kenison seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0
The Selectmen agreed that an Occupancy Permit was needed.

ZONING BOARD OF ADJUSTMENT
- Accept Resignations
- Discuss Appointments

Mr. Baker shared that appointments needed to be made for Dan Sutton and Susan Massin.

Mr. Baker shared that resignations had been received from Steve Filipi and Gretchen Wittenborg. Mr. Baker noted that a case was to be heard in May and Mr. Filipi was willing to assist. Laurie Hayward would like to have an emergency meeting and asked who would call it if there was no Chair or Vice Chair. Mr. Baker stated that there was a letter of resignation with thinking his term ends the end of May. He stated he was unable to make that meeting and Mr. Baker asked if the date could be changed. Ms. Hayward shared they don't have a full board and they could notify people that we don't have an ability to hold a ZBA meeting without quorum. There are two people to determine that there be a continuance to June. Mr. Baker stated that June would work because the resignation was the end of May. Mr. Filipi needed to be contacted to see if he would sit for the case. Mr. Kenison stated that Mr. Filipi was already appointed. Ms. Hayward stated that her interpretation was that he wasn't willing to. Ms. Bates stated that we should contact him and ask if we delayed the case would he be amenable to sit in for the next formal one. Mr. Baker stated that the case would need to be reheard. Mr. Baker reviewed Mr. Filipi's resignation letter. Mr. Baker stated that he would contact Mr. Filipi.

Ms. Hayward shared that if one new member was added to the case, they wouldn't have the bulk of the process, and it may invalidate the decision. Ms. Hayward shared she needed to contact NHMA to determine if Mr. Filipi and Ms. Wittenborg would remain. It was noted that the Selectmen didn't accept their resignations. Mr. Baker would contact Mr. Filipi and Ms. Bates would contact Ms. Wittenborg. Ms. Hayward asked if the ZBA could contact any attorney that they would like to get them through this process. Mr. Baker stated that the Selectmen approved that they get legal counsel. Ms. Hayward asked if it was

BOARD MEETING MINUTES
May 2, 2019

the same decision whether or not Mr. Filipi or Ms. Wittenborg were sitting on the Board. Mr. Baker stated that if we have to rehear the whole case, we might need counsel on that. Ms. Bates stated that would be the first thing on the list. Ms. Hayward shared that both sides would be angry. She stated the ZBA wasn't the end of this case and maybe it could go to the Planning Board. Ms. Hayward mentioned that this could have gone to the Planning Board first for a continual use permit and she explained the two reasons that Spicer was different. Spicer was nonconforming and there was a valid reason for a variance. Ms. Drugg signed an agreement, that invalidates the set back to the well. The ZBA, conceptually, could look at more narrowly. There was a variance to be considered. Ms. Hayward shared there were procedural things that the ZBA might look at but they definitely have to address the question of grandfathering. An attorney would need to look at and confirm. Mr. Baker noted it was a complicated case. Mr. Baker stated the Selectmen voted to allow for legal advice and subsequently to that, two resignations were received which the Selectmen haven't accepted. We need to determine if we have members that are willing to hear the case before appointing new members. Ms. Favreau shared that the two board members were alternates and they need to be noticed. Mr. Baker asked if Ms. Hayward knew Susan Massin was an alternate and that she didn't receive anything. Mr. Kenison noted that she asked not to. Ms. Hayward asked about Connie Porter and Susan Massin being alternates today and taking Ms. Wittenborg and Mr. Filipi's resignations. Mr. Baker stated it was the recommendation of the ZBA and then voted on by the Selectmen. Ms. Hayward shared that it hasn't been.

Mr. Baker stated to make sure everyone was on the same page, the Selectmen would contact the Board members. Ms. Bates stated she was going to ask Ms. Wittenborg to stay on and hear the Spicer case. She would also mention that Ms. Wittenborg has the Selectmen's support of contacting an attorney. Mr. Kenison shared that he knew she has tried to contact Attorney Bernie Waugh. Ms. Favreau mentioned that he was out of the Country. Mr. Kenison asked Ms. Hayward to find out if there was someone else in the practice that she could talk with. Mr. Kenison mentioned that Dan Sutton has been voting at the two meetings that he has attended. Ms. Hayward shared that he has been sitting in on almost all of Cathy Davis' cases. Mr. Sutton has been to all of the Spicer meetings. It was asked if that would constitute continuity. Ms. Hayward would ask that question of the attorney.

Ms. Porter's letter would be sent to the ZBA for their recommendation.

CERTIFICATE OF OCCUPANCY
- **Map 20, Lot 9**

Map 20, Lot 9 – Mr. Kenison made a motion to approve the Certificate of Occupancy for Map 20, Lot 9. Ms. Bates seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

ON-GOING BUSINESS:

- **STEEPLE PROJECT**
- **Invoice**
- **LCHIP Grant**

Mr. Baker shared that Jay Southgate would start to work on the moldings, as he was finishing up a project (outside work) and asked if the Selectmen were willing for him to start work on the moldings and order mahogany. Mr. Southgate sent an invoice for \$15,000. Ms. Bates asked about not wanting the molding done until after the LCHIP meeting. Mr. Baker shared there were minute moldings that wouldn't be detected at street level. Mr. Baker asked Mr. Southgate to hold off until after the LCHIP class. Mr. Baker shared that he heard that any work that we do prior to getting LCHIP grant money can be part of the LCHIP grant, however, it's subject to consideration by the Secretary of the Interior, and the federal guidelines of historic restoration specific as to whether repair or replace. Mr. Baker reviewed the guidelines and shared that the Selectmen may want to review before a decision was made. Mr. Baker shared that the information posted, caused concern due to the priority on repair or replace, which was very subjective. What could be required is an inspection by the LCHIP group to say that it should have been repaired instead of replaced. Mr. Baker mentioned that in our steeple, we have one big component. Mr. Southgate has shared that when the steeple comes down and the clock and bell tower – inside the steeple – the center spindle he thought he could save – would be a restoration – and may comply with what LCHIP would require. Below that there is rot in the beams which Mr. Southgate felt would come to a question as to whether we reconstruct to modern construction or post and beam and the cost was significant. The cost difference could be the entire grant. Mr. Baker thought that if we max out at \$200,000 of LCHIP, they would come in and be critical. Mr. Baker suggested to delay until December. Ms. Bates shared that was her opinion. The \$10,000 was for the historical structure report – not going to take back. It was good for the taxpayers to know that their money was invested wisely. Mr. Baker shared that Dave Drasba felt the dental work and shutters and highly skilled molding could be repaired. The question remains that if we go forward with LCHIP, whether or not the money can be used for what we end up with up there. Mr. Baker thought that Mr. Southgate could go ahead with the moldings, to fill some time, and we could ask him to give a revised estimate if following the Secretary of the Interior's guidelines of restoration. Mr. Baker shared that if Mr. Southgate's estimate was \$300,000 versus what he has proposed, then we can think about rationally whether we go with the LCHIP grant process. It was noted that we could still file an intent to apply.

Mr. Baker would like to have a conference call with Mr. Southgate and talk through this process. Mr. Baker shared that we could end up spending money with Mr. Southgate and go in an opposite direction. Mr. Kenison noted that we could come back and replace a

BOARD MEETING MINUTES
May 2, 2019

board if restoring. Ms. Bates stated she understood the taxpayers concerns and she thought it would cost more to follow their guidelines and we could spend more of the taxpayer's money. Mr. Baker stated that no one would know whether it was repaired or replaced due to the craftsmanship. Mr. Kenison questioned if we should have a public hearing to get the Town input. Ms. Bates shared that she was nervous having work start without knowing what the direction was. Mr. Baker stated before we go into LCHIP we need to meet with Mr. Southgate and discuss what it would cost for him to follow the Secretary of the Interior's guidelines of restoration. Mr. Kenison questioned George Born about starting construction before the grant has been awarded. He stated that they frown upon it and it would put us in a different category. Ms. Bates questioned if we do not go with the grant, were there some things that we could pair down that would save money. Mr. Kenison agreed that we need to have a public meeting. Mr. Baker would like to schedule a conference call with Mr. Southgate for the next meeting.

Ms. Bates made a motion to test the water at the Fire Station. Mr. Kenison seconded. Mr. Baker – Yes, Ms. Bates - Yes, Mr. Kenison - Yes. Approved – 3-0

Meeting Schedule: **9:00 a.m. – Thursday, May 2, 2019**
 7:00 p.m. – Wednesday, May 8, 2019
 9:00 a.m. – Thursday, May 16, 2019
 7:00 p.m. – Wednesday, May 22, 2019
 9:00 a.m. – Thursday, May 30, 2019

Ms. Bates made a motion to adjourn the meeting at 12:50 p.m. Mr. Kenison seconded and the motion passed. 3-0

Submitted by:

Sheryl White
Secretary to the Board of Selectmen

Daniel Baker, Chairman

Robyn Bates

Charles Kenison
Board of Selectmen