



BOARD OF SELECTMEN
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Fitzwilliam Town Hall
13 Templeton Turnpike, Fitzwilliam, NH 03447

BOARD MEETING MINUTES
July 6, 2023
1:00 P.M.

Selectmen Present: Brian Doerpholz, Nancy Carney, Martin Nolan arrived at 1:51

Guests: Dana Pinney

AGENDA:

- **Call to Order**

Mr. Doerpholz called the meeting to order at 1 p.m.

- **Public Comment - None**

- **Public Hearing**

1:30 p.m. - Acceptance of unanticipated revenues from the State of New Hampshire in excess of \$10,000.

Mr. Doerpholz opened the public hearing at 1:30 p.m. and the public hearing notice was read.

Those in attendance were: Dana Pinney

Mr. Doerpholz shared that \$46,526.76 was received from the State as reimbursement for the power lift. Ms. Favreau shared the money went into the General Fund and is marked for the ambulance.

Mr. Pinney asked if the lift was already installed and he didn't remember it being approved. Ms. Favreau noted that the Fire Department had applied for a grant and the Fire Department Association had made a \$5,000 donation. Mr. Pinney questioned approval of the \$5,000. Ms. Carney shared that the Association was a private entity. Ms. Favreau shared that the Fire Department had applied for a grant and we were awarded the grant which reimbursed us for the cost of the power lift.

Mr. Doerpholz made a motion to accept the grant from the State. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

There being no further public comment, Mr. Doerpholz closed the public hearing at 1:35 p.m.

- **Appointments**

1:45 - Meet with Suzanne Gray, Planning Board Chair – to discuss the noise ordinance

Suzanne Gray, Barbara Young, Kevin Wooley, Tom Rothermel, and Ed Goodell met with the Selectmen.

Ms. Gray and Ms. Young would speak for the Planning Board. Ms. Gray shared with Mr. Doerpholz that the comment he made to her about the noise ordinance was why she had requested a meeting with the Board of Selectmen. Mr. Doerpholz asked if the comment he had made to her was a big topic for the Planning Board, as it was just a comment. Ms. Gray shared that every year they look at the ordinances, and if there is a concern about the noise ordinance, they would like to review it now. Ms. Gray explained the Planning Board's process.

Mr. Doerpholz asked if any member of the Planning Board could explain the ordinance. Ms. Gray shared that the person who worked with the Planning Board to review the ordinance felt it was appropriate. He was a consultant on a case that the Planning Board had with Eversource. Mr. Doerpholz asked if there was anyone on the Planning Board that could explain the ordinance.

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Ms. Gray shared that when looking at noise, the first chart in the ordinance talks about if anyone in the community is complaining about noise and it lists the dba levels. Ambient noise in Fitzwilliam is 38 center, rural and residential is 30. Mr. Doerpholz shared that the noise level of conversation is 60 decibels. Compared to that Mr. Doerpholz felt the levels for industrial noise in their charts were too low. Mr. Doerpholz asked if there was anything in the ordinance that gave an amount that wasn't acceptable. Ms. Gray noted that they don't typically include that but it is to the property line, which is where the sound is measured. Ms. Gray shared that it is what you can hear at the property line. Ms. Young shared that based upon where the noise would be, test modules were put on the abutters property lines and that is where the measurement is taken.

Ms. Carney asked how the Selectmen police this. Ms. Gray shared that this is for commercial. Ms. Carney shared that if something is happening on the pinnacle, how do we police it? Ms. Gray noted that the ordinance has pre and post compliance. Mr. Doerpholz asked if it is up to the business owner to prove them wrong. Ms. Gray mentioned that the Selectmen have received measurements from a business. Mr. Doerpholz asked how someone measures. Ms. Gray shared that it could be done on a phone. Mr. Doerpholz mentioned that the measurement on a phone is not accurate. An actual decibel meter should be used. Mr. Doerpholz asked if it was up to the business owner to get an accurate measurement. Ms. Young shared that it is on the owner to hire the experts. Mr. Doerpholz asked about the time duration. Mr. Doerpholz thought that the ordinance needed to be simplified. Ms. Gray shared that they would look at it to make it more user-friendly. Ms. Gray has concerns about dumbing it down because it would get rid of the teeth. Mr. Doerpholz stated that he didn't want them to dumb it down. Ms. Young didn't find that anyone on the Planning Board would state that they are experts. Both parties would be brought in. Mr. Doerpholz asked if there was an approved business that has gone to the Planning Board and they can't rectify what they are doing, what is their recourse. Ms. Gray noted that they have had this problem with Eversource and it was the low noise. They installed underneath their equipment vibrating pads to help with noise and they installed an angle wall to absorb the noise. There are things that can be done. Mr. Doerpholz asked if it couldn't be rectified. Ms. Gray shared that we don't know it can't be rectified. Mr. Doerpholz asked about noises in the course of conducting business, that are part of the normal operation? Mr. Doerpholz then asked Ms. Gray what if the noise could not be suppressed, what would the Planning Board do? Mr. Doerpholz received no answer. Ms. Gray shared the Planning Board's site plan review process and what their questions are. If the business expands, they need to go back to the Planning Board. If they don't, the Planning Board doesn't have an opportunity to discuss what the expansion would do. Ms. Gray mentioned that they ask them to come in and meet with the Planning Board to discuss. Mr. Doerpholz asked if they have pursued any of this legally after sending a letter, the answer was no. Mr. Doerpholz then shared the Selectmen's enforcement process.

Ms. Gray asked what the Planning Board could do to resolve the issues. Mr. Doerpholz shared that he had just mentioned that it was confusing and he didn't understand why it had gone to this level that Ms. Gray felt she needed to discuss this with him in a Selectmen's meeting.

It was noted that residential noise is difficult to enforce. Ms. Carney asked how to police noise and this is when writing any ordinance. Ms. Gray shared that it is for the Planning Board to create and the Board of Selectmen to enforce. Ms. Gray would have the Planning Board look at and put more introductory information in and add more explanation. When sitting down to look at the ordinance, it has information. Ms. Gray mentioned the Planning Board are not experts but she would ask the Selectmen if they have a problem with an ordinance, to come and see the Planning Board as they don't want to work in a vacuum. Ms. Carney shared that the Selectmen wanted to understand and assist. Ms. Gray noted the list is long in what is considered noise. Mr. Nolan mentioned running a lawn mower, he felt that neighbors need to have tolerance and there is a reasonable time when things can be done. When you have neighbors, we need to work together. Ms. Gray shared that if they get complaints about noise to let the Planning Board know. Mr. Doerpholz suggested speaking with Chief Leonard DiSalvo on how they could enforce. Ms. Carney shared that the biggest thing to understand is the education of what the ordinance is and everyone needs to be on the same page. Ms. Young shared that when applicants come in for site plan review, they walk through everything and they also mention that they can talk to Lori Nolan, Land Use Coordinator if they have questions. Ms. Carney noted that people hear what they want to hear.

2:00 - Meet with DPW Director Glenn Smith

DPW Director Glenn Smith was unable to attend, and the Administrative Assistant Mary Kisinger represented the DPW Director. Mr. Doerpholz shared that the renovation at the barn came out of left field. Mr. Doerpholz asked Ms. Kisinger to explain what is going on. Ms. Kisinger shared that they needed the space for winter to repair equipment. Mr. Nolan shared that Turnkey offered materials but he didn't know if they would do the work. Ms. Kisinger shared that she didn't know where we stand on it. Mr. Doerpholz shared that if Turnkey isn't going to do the install, then bids are needed and Mr. Smith needed to watch his budget. Mr. Doerpholz noted that Mr. Smith is currently down to 40% and he should be at 50% unexpended. Mr. Smith would need to get bids and the Selectmen would need to approve. Mr. Nolan shared that there isn't a written plan. Ms. Kisinger handed out a plan that she has put in rough measurements of what they wanted to do.

Discussion was held on what is kept in cold storage, wanting to have vehicles undercover, and getting storage containers to put the trusses on. Mr. Doerpholz asked Ms. Kisinger to get three bids, so they can compare pricing. If too expensive, it might need to be added to CIP.

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Ms. Favreau shared with Ms. Kisinger that she is having an issue with invoices being submitted twice. Ms. Favreau didn't know if she needed to talk with Mr. Smith or if Ms. Kisinger was handling. Ms. Kisinger shared that she would keep closer watch on what is going on with the invoices.

Ms. Favreau shared that the reno is major and Mr. Smith should have come to the Selectmen sooner. Ms. Kisinger shared that the stairway is new and that the DPW guys were going to do the work. Ms. Carney asked when the plans started. Ms. Kisinger shared that it was planned before she started as the Administrative Assistant. Mr. Doerpholz and Mr. Nolan shared that the project has grown as they have gone along. Mr. Doerpholz shared that if the guys can't do the work, then we need to get bids and it might have to go to CIP. Mr. Doerpholz shared that they planned on a small project that they could handle on their own and now it has grown.

2:15 – Meet with Kevin Wooley – Community Power Committee

Mr. Doerpholz shared that the Selectmen have reviewed the information given at their last meeting. Mr. Doerpholz asked about the number of public hearings. Mr. Wooley shared that the Coalition is two public hearings and he thought this was a stepping stone and we would end up as a member of the Coalition. Discussion was held on having public hearings, how to schedule, and at the last public hearing, take a vote to go with the County and when it comes time for town meeting, have an article asking if we stay with the County or the Coalition. Mr. Wooley shared that the County went through this in accordance with RSA 53-E.

Mr. Nolan shared having public hearings and having a vote at town meeting to let the voters determine who to go with should be done. Mr. Nolan would have the public hearings separate from the Selectmen's meeting and one in conjunction with the Selectmen's night meeting and get input and vote. Ms. Favreau asked Mr. Wooley if the committee would present at the public hearing. Mr. Wooley shared that we would have someone come in from Clean Energy NH to present at the public hearings. Mr. Doerpholz would like to get the meetings scheduled now. After discussion, the Selectmen agreed to hold an informational session, Thursday, July 13th at 6:30 p.m. and on Wednesday, July 19th the Selectmen would open their regular meeting and meet with the public to discuss and vote.

- **Consent Agenda**

- **Payroll and Vendor Manifests**
- **Minutes – June 21, 2023 – Public and Non-Public**
- **Construction Permit Application – After-the-Fact - Map 15, Lot 14-2 – 4x9' landing with stairs on an existing garage**
- **Construction Permit Application – Map 9, Lot 10 - 28 roof mounted solar panels**
- **Accept donations to Danny Baker Fund**

Ms. Carney made a motion to approve the Consent Agenda. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

- **Continued Business**

- **New Business**

- **Review Abatement Recommendations from Avitar – Map 24, Lot 1-29, Map 19 Lot 7, Map 15, Lot 7 and Map 15, Lot 9**
Mr. Doerpholz reviewed the abatement recommendation from Avitar for Map 24, Lot 1-29.

Mr. Doerpholz made a motion to approve the recommendation of Avitar for Map 24, Lot 1-29. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

Mr. Doerpholz reviewed the abatement recommendation from Avitar for Map 19, Lot 7.

Ms. Carney made a motion to approve the recommendation of Avitar for Map 19, Lot 7. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

Mr. Doerpholz reviewed the abatement recommendation from Avitar for Map 15, Lot 7

Mr. Doerpholz made a motion to approve the recommendation of Avitar for Map 15, Lot 7. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

Mr. Doerpholz reviewed the abatement recommendation from Avitar for Map 15, Lot 9

Ms. Carney made a motion to approve the recommendation of Avitar for Map 15, Lot 9. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

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- **Review Revised Abatement Recommendation from Avitar – Map 2, Lot 9-5**

Mr. Doerpholz reviewed the revised abatement recommendation from Avitar for Map 2, Lot 9-5.

Ms. Carney made a motion to approve the recommendation of Avitar. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

- **Accept Resignation**

Mr. Doerpholz shared that Ms. White had submitted her resignation effective the end of November. Mr. Doerpholz mentioned that Ms. Favreau has revised the job description and title. Ms. Favreau shared that the position needed to be at 30 hours per week and noted that Ms. White currently works between 20 and 25 hours per week. Ms. Favreau mentioned with code enforcement, it takes a lot of time. Ms. Favreau's hope is to hire someone that she can start training and grooming to step into her position once she retires.

Ms. Favreau asked when she should advertise, interview and hire. Mr. Doerpholz wanted to start immediately. Ms. Favreau would post on Indeed and NHMA.

Ms. Carney made a motion to approve the change in the job description and title to Administrative Assistant. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

- **Junkyard License renewals**

Mr. Doerpholz shared that we have received a Junkyard Renewal Application from Donald Bailey and Car Guyz Auto Recyclers, LLC. Ms. Carney shared her concerns. Mr. Doerpholz noted what the Planning Board did not include in their Notice of Decision. Mr. Doerpholz asked to please notice the requirement about keeping the vehicles out of sight. Both would be sent the page to certify that they meet the State regulations.

Mr. Doerpholz made a motion to approve both applications and to send the Compliance Certification Statement. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

- **Appoint Alternate Conservation Commission member**

Mr. Doerpholz shared that the Conservation Commission recommended the appointment of David Holmes, as an Alternate.

Ms. Carney made a motion to approve the appointment of David Homes, to the Conservation Commission as an alternate. Mr. Doerpholz seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

- **Review legal Invoices**

The Selectmen reviewed the legal invoices and approved.

- **Review updated information on ambulance – paramedic intercept**

Mr. Doerpholz mentioned that we received a notice from Rescue Inc. They would inform us of their decision going forward.

- **Construction Permit Application – After-the-Fact – Map 32, Lot 22 – renovation on first floor**

Mr. Doerpholz made a motion to approve the After-the-Fact Construction Permit for Map 32, Lot 22. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

The Selectmen agreed that a Certificate of Occupancy was needed.

- **Construction Permit Application – Map 29, Lot 1 – 9’X16’ addition to existing shed**

Mr. Doerpholz made a motion to approve the Construction Permit for Map 29, Lot 1. Ms. Carney seconded. Mr. Doerpholz – Yes, Ms. Carney - Yes. Approved – 2-0

The Selectmen agreed that a Certificate of Occupancy wasn't needed.

Ms. Favreau asked the Selectmen what work they wanted done in the common. Ms. Favreau would contact Andy Jenks. Funds for the work would come from the Building Expendable Trust.

Mr. Doerpholz made a motion to take funds out of the building expendable trust and the amount is not to exceed \$2,400. Mr. Nolan seconded. Mr. Doerpholz – Yes, Martin Nolan – Yes, Ms. Carney - Yes. Approved – 3-0

- **Other Business – Information Only**

- **Non-Public - If Necessary Non-Public Session - RSA 91-A:3 II a, b, c, d, e, I**

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Non-Public Session - RSA 91-A:3 II(I) - Legal

At 2:41p.m. Mr. Doerpholz made a motion to go into non-public session under RSA 91-A:3 II(I). Ms. Carney seconded and the motion passed 3-0. Roll Call vote: Mr. Doerpholz– Yes, Mr. Nolan – Yes, Ms. Carney - Yes.

At 2:48 p.m. Ms. Carney made a motion to leave non-public session. Mr. Doerpholz seconded and the motion passed 3-0. Roll Call vote: Mr. Doerpholz – Yes, Mr. Nolan – Yes, Ms. Carney - Yes.

At 2:48 p.m. Ms. Carney made a motion to seal the non-public minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Mr. Doerpholz seconded and the motion passed 3-0. Roll Call vote: Mr. Doerpholz – Yes, Mr. Nolan – Yes, Ms. Carney - Yes.

- **Adjournment**

Mr. Nolan made a motion to adjourn the meeting at 2:48 p.m. Mr. Doerpholz seconded and the motion passed. 3-0

Submitted by:

Sheryl White
Secretary to the Board of Selectmen

Brian Doerpholz, Chairman

Martin Nolan

Nancy Carney
Board of Selectmen