

**BOARD OF SELECTMEN**  
**Minutes of December 29, 2014**

**MEMBERS PRESENT:** Chairman Ross McLeod called the meeting to order at 4:00 PM. Selectmen Joel Desilets, Bruce Breton, Al Letizio, and Roger Hohenberger were present, as was Town Administrator David Sullivan and Assistant Town Administrator Dana Call. Mr. McLeod opened with the Pledge of Allegiance; and then advised there was no formal agenda for the evening, but rather this was the Board's year-end meeting to finalize any outstanding items.

Mr. McLeod then noted that, at the previous meeting, concerns had been raised regarding his handling of the budget discussion for the Community Development Department. He indicated that he did not believe that he had been disrespectful; rather as Chairman he believed it to be his responsibility to get all necessary information to the Board members. Mr. McLeod noted that he believed, if a presenter was unsure, they should indicate as such; rather than presenting opinions as facts. He noted that he felt both form and substance, as well as respect and candor, were necessary. Mr. McLeod indicated that he believed the Board needs to obtain the information necessary to make their decision in the public forum; otherwise the people are left to wonder why a decision was made. He noted that he respects the Board, which with its varying personalities is one of the best ever, and encouraged anyone with issues or concerns to contact the members; reiterating his respect for his fellow members and staff.

**DONATIONS:** Mrs. Call requested that the Board accept the following donations toward the Tree Lighting and Senior Party: hot chocolate and hot cider, ConvenientMD; hot chocolate, Chunky's; cookies, Mr. Letizio; \$25 gift card, Common Man; \$25 in gift cards, McDonalds; \$400 in gift cards, ConvenientMD, and; \$20 gift card, MaryAnn's Diner. Mr. Hohenberger moved and Mr. Breton seconded to accept with gratitude. Passed unanimously. Brief discussion ensued, and thanks were extended to Mr. Letizio for his contributions. It was noted that Mr. Letizio had been providing cookies to the Tree Lighting for approximately ten (10) years.

*Discussion moved* to a donation to the Historic District/Heritage Commission. Mrs. Call advised that Mr. Laliberte, who had completed an Eagle Scout project at the Stickney Cellar hole, wished to donate excess funds raised to the HDC. Mr. Letizio moved and Mr. Hohenberger seconded to accept. Passed unanimously.

**YEAR-END ITEMS:** Cost of Services update – Mr. Sullivan advised that staff had met before the holiday to discuss the Board's hope that the analysis could be updated; and if the Board concurred the numbers and narrative could be updated by April 1 using the 2014 data. Discussion ensued, and Mr. Letizio advised that the EDC had requested an update primarily to obtain a break-out of the 55+ condominiums. Mr. Sullivan advised this could be done, and clarified that the narrative of which he spoke would be a brief accompaniment to the new report; as opposed to an update of the original. After further, brief discussion, it was the consensus of the Board that staff proceed.

*Mr. Sullivan* advised that Ms. Scott was requesting \$4,000 be added to her 2015 budget for the Master Plan. He explained that this would allow for internal efforts to proceed with the Plan; as the Board had removed the funding request of \$50,000. Mr. Sullivan clarified that \$1,000 would cover printing costs, \$1,200 for meeting minutes, and the balance for any staff overtime involved.

Discussion ensued regarding the printing/copying costs, and Ms. Scott clarified that this would be to obtain hard copies of Phase I chapters from an outside company and binders for same. Mr. Hohenberger sought clarification that this could be done internally, rather than sending it out, and it was confirmed it could; however, the toner expenses would be excessive.

Mr. Breton inquired whether the \$4,000 could be taken from the fund balance, and Mr. Sullivan replied in the negative; clarifying that the funds need to be physically encumbered in order to be carried over. Mr. Sullivan then noted he had no issue with Ms. Scott's request, however, he believed it should be discussed at the Public Hearing as the budget has already been posted.

Discussion ensued as to the means to encumber the funds. Mr. McLeod sought clarification as to how many additional meetings would be involved; to which Ms. Scott replied that the \$1,200 would cover one additional meeting per month.

Mr. Sullivan then advised that Ms. Scott had a second request, which was to expend \$2,000 from this year's remaining funds for the soil project; removing same from her 2015 budget request. Mr. Letizio moved to expend the funds from 2014 as requested. Mr. Desilets seconded for discussion, then sought clarification as to who had requested this project.

Ms. Scott advised that the Planning Board had made the request, and that the Town's Engineer Steve Keach had also made a presentation regarding same. Mr. Desilets expressed concerns that he had been unable to find any history of the Planning Board discussing this in their minutes. Mr. Hohenberger advised that he had concerns regarding this project; seeking clarification as to whether this was going to change the requirements.

Ms. Scott clarified that there will be no changes in the Town's density/soil requirements; rather this would update the Town's ordinances to incorporate the current terminologies and methods of submitting maps. Further discussion ensued, and Mr. Letizio expressed concerns with the amount of time the Board was expending on such a minute tax impact.

Mr. Sullivan indicated that his recommendation would be that the Board do nothing with Ms. Scott's request to add funds for 2015; explaining that \$2,000 of same would be a wash and that the remaining could be found in the bottom line budget. Further discussion ensued regarding the soil project, and Mr. McLeod noted that this had been discussed many times by the Planning Board.

Motion to expend the \$2,000 then passed unanimously. After further discussion regarding the request to add funds, it was the consensus of the Board to make no changes to the budget.

*Tax Assessor Mike Fedele* approached requesting to carry-over the balance of \$100,000 in 2014 funding, approximately \$24,000, to have KRT complete additional data collection. He explained that, even with the inspections completed, there is a deficit of 650-700 properties being reviewed within the 5-cycle. He noted that carrying over these funds and completing additional work removes the deficit; adding that it will also afford an opportunity to have KRT assist him with the Vision modeling tables. Discussion ensued regarding the original funding/project, and Mr. Sullivan advised that the Board had authorized at the time the expenditure of \$63,200, had held the balance of the \$100,000, and had brought Mr. Fedele onto the job early. He clarified that the \$24,000 will lapse if not carried over, and that Mr. Fedele would like to use it to do additional parcels.

Mr. Desilets noted that, earlier in the year when this had been discussed, he felt the \$24,000 should be allowed to lapse into the General Fund. He then indicated that, to his understanding of modeling, not every home needed to be done within a 5-year time; rather only a fraction needed to be completed. Mr. Desilets noted that he believed the Town was well within same. Mr. Fedele noted that the majority of homes have not been done since 2006; with some not having been looked at since 1997. Discussion ensued in that the current data collection by KRT was not targeted by time, but rather by efficiency; with neighborhood data collections being undertaken. Mr. Sullivan noted that, back in March, it had been recommended to spend an additional \$14,700 to have KRT do an additional 700 properties. Discussion ensued.

Mr. Letizio moved and Mr. Hohenberger seconded to authorize Assessing to spend \$14,700 to do an additional 700 parcels. Mr. Fedele raised concerns that, if there are valuation issues within the construct of the software, he will not have the funding available to address same.

Further discussion ensued, and Mr. Letizio amended his motion to authorize Assessing to expend up to, and not to exceed, the outstanding balance of \$24,000. Mr. Hohenberger withdrew his second, and Mr. Breton seconded the amended motion.

Further, lengthy discussion ensued amongst the members before the motion failed 2-3; with Mr. Hohenberger, Mr. Breton, and Mr. Desilets opposed.

Mr. Breton then moved and Mr. Hohenberger seconded to authorize the expenditure of \$14,700 for additional data collection. Passed 4-1, with Mr. Desilets opposed.

Mr. Breton then moved that Mr. Sullivan and Mr. Fedele work to obtain from the contractor an estimate of hours necessary to complete the modeling tables and, if deemed appropriate and within the available funds, to authorize the Chairman to execute a contract for same. Discussion ensued, and Mr. Breton withdrew his motion. Brief, further discussion occurred regarding the financial authority of Mr. Sullivan, which was clarified as being up to \$10,000.

Mr. Breton then moved and Mr. Hohenberger seconded that Mr. Sullivan and Mr. Fedele work to obtain from the contractor an estimate of hours necessary to complete the modeling tables and to proceed, if deemed appropriate and within the available funds. Passed 4-1, with Mr. Desilets opposed.

*Mr. Sullivan* advised that two (2) bids had been received for the Highway Truck, as follows:

<i>Liberty International, Manchester NH</i>	<i>\$170,300</i>
<i>Freightliner, Londonderry NH</i>	<i>166,680</i>

He indicated that staffs' recommendation would be to award the bid to Freightliner, conditional upon approval and acceptance by the NH DOT and FHWA.

Mr. Letizio moved and Mr. Hohenberger seconded to award the bid to Freightliner for their bid amount of \$166,680. After a brief discussion, motion passed unanimously.

*Mr. Desilets* briefly advised the Board that the Local Energy Committee was looking into participating in an EPA Green Campaign; and that more information would be available at a future meeting.

*Mr. Sullivan* advised that he had confirmed with Town Counsel that, as it pertained to the Blueberry Road parcels, the Board can utilize a Realtor to market the properties; as they have the authority to dispose of tax deeded parcels "... as justice may require". As such, a Warrant Article is not necessary for these parcels. Mr. Breton moved to remove the article and that the Chair and Mr. Sullivan meet with realtors regarding these parcels. Mr. Sullivan clarified that the parcels will need to be engineered, first. Mr. Desilets seconded, and the motion passed unanimously.

*Mr. Sullivan* advised that, as it pertained to the Cistern Special Revenue Fund, both the DRA and Town Counsel feel that the funding for same will have to be limited to cisterns and cannot be extended to other water supply needs; and that the recommendation would be to establish the fund as the article is written. Discussion ensued, and Mr. Breton concurred; noting that it establishes the fund and a place for future grant funds should same become available. Mr. Breton then noted that the fees for cisterns should be evaluated. After further, brief discussion it was the consensus to leave the Article as worded for the public hearing.

*Mr. Breton* inquired whether the fund balance could be utilized to update the Town Hall handicapped door. Mr. Sullivan advised that prices are currently being obtained, and that the modification will be funded either from this year's fund balance or the 2015 Property Maintenance trust.

*Mr. McLeod* noted that the Planning Board was discussing an amendment for Town Meeting relative to temporary agricultural signs; which was prompted by the local alpaca farm. He noted for the record that he'd had an email exchange that afternoon with Mr. Sullivan as to whether the current zoning was being selectively enforced (eg. are landscaping company signs around Town being enforced).

Mr. Sullivan clarified that neither he, nor the Board of Selectmen, can dictate to the Code Enforcement Office what is enforced. He indicated that the purpose of the discussion at hand was to review a proposed Planning Board amendment; and offer input thereon. Mr. Sullivan further clarified that, if the Zoning Ordinance is thus amended to allow for such signs in the Town's right of way, then the Board of Selectmen would be the enforcer in that circumstance.

Mr. Desilets expressed concerns as to whether the Town was currently violating State law in prohibiting signs; as statute expressly allows them within the State rights-of-way. Discussion ensued in that the Selectmen have no jurisdiction over Code Enforcement, as well as the most recent correspondence from Town Counsel regarding this matter which is dated 12/24. Mr. Sullivan advised that, as the recipient, he had no issue with releasing the letter to the public.

Discussion of Town Counsel's position on the matter then ensued; with Mr. Breton noting that Attorney Campbell indicated no signs are permitted in the Town right-of-way without the express permission of the Selectmen. Mr. Sullivan concurred, reiterating that if the Planning Board allows agricultural signs in the rights-of-way, as worded, then there is a potential that such signs could go in the Town's right-of-way; which is under the Selectmen's purview and their permission would need to be garnered.

Town Planner Elizabeth Wood approached and clarified that, as it pertained to the current Code Enforcement matter, all off-site signs are prohibited. Relative to the Town rights-of-way, Ms. Wood indicated that if the amendment is approved then the Selectmen would need to determine whether there would be an application process or not. Lengthy discussion ensued regarding the intent of the amendment to just permit agriculture signs, and the similarity of the alpaca farm's situation to Mr. Nassar's in the past. Mr. Breton noted that the latter had resolved the issue of his needing an offsite sign for Apple Acres by obtaining a variance.

Mr. Desilets noted that there are two halves to this issue; the State's rights-of-way versus the Town's; adding that it was important to move forward without violating State law. Mr. Letizio noted that, if the sign is within the State right-of-way the Town has no jurisdiction. Discussion ensued and Ms. Wood clarified that currently, regardless of which right-of-way it is in, the sign is prohibited as it is off premises.

Discussion ensued regarding the proposed language, which relaxes the Zoning regarding agriculture signs and removes the offsite and State right-of-way issues. Also, that the Town cannot be selective in enforcement, and whether permitting agricultural signs and not others was discriminatory. Mr. Sullivan advised he would need to follow up with Town Counsel regarding the latter.

Mr. McLeod noted that the State has already carved out an exception niche for temporary agricultural signs. Discussed ensued, with input from Ms. Wood, regarding the trickling down from the Federal level of these agricultural sign permissions; and the overall murkiness of the regulations. Mr. Desilets reiterated that his primary concern is that, if the State allows something within their right-of-way, are we superseding that with our Town ordinances; adding he had hoped it would be clarified in the ordinance.

Lengthy discussion ensued regarding the jurisdiction of the Board of Selectmen, which does not extend to the Planning Board or State, and that the State's definition of "farm" to which the Planning Board defers is very broad.

Ms. Wendy Lundquist, owner of Snow Pond Farm, approached to clarify that the State of NH permits ten (10) such signs within ten (10) miles of one's facility; adding that there are multiple other signs within the State and Town rights-of-way besides hers. She then disagreed regarding the definition of farm being broad, rather feeling it to be pretty specific in nature. Mr. Desilets sought clarification as to whether another violation had been issued to Snow Pond on 12/22 for a sign on Route 111; which is a state road. Ms. Lundquist replied in the affirmative to both queries.

Mr. Sullivan sought clarification as to whether Ms. Lundquist had ever gone before the Zoning Board of Adjustment to appeal the Code Enforcement violation(s). Ms. Lundquist replied in the negative. Discussion ensued, and Code Enforcement Administrator Dick Gregory approached to clarify that signage in both the State and Town rights-of-way are being enforced as being off premises signs. He reiterated that the Board has no jurisdiction over the CEA's duties.

Mr. McLeod reminded the Board that the Planning Board is only seeking input on the proposed language; adding that if it were to pass then the Selectmen can discuss what to do as it pertains to the Town's rights-of-way and process related thereto.

Mr. Dennis Senibaldi approached to request that, whatever the decision, it not be discriminatory; rather it should be all or nothing. He indicated the State usually measures for distance "as the crow flies" and that a ten (10) mile radius as noted by Ms. Lundquist could encompass towns as far as Nashua or Methuen, MA.

Ms. Scott approached to reiterate that the department and staff are not enforcing State regulations in the case of Snow Pond or others; rather local zoning ordinances prohibiting off premises signs are what is being enforced. She noted that the proposed language will amend that portion of the Zoning Ordinance to allow temporary agricultural signs.

Lengthy discussion ensued, wherein Mr. Desilets again express his concerns regarding the State being superseded. Also discussed was State enforcement of their rights-of-way versus Board enforcement of the Town's, whether Town Counsel's suggestions had been incorporated into the proposed language, the Apple Acres circumstance, and the issue of discrimination.

Mr. Sullivan sought clarification that, should the Planning Board approve this amendment for Public Hearing, it would then be in effect and thus Snow Pond would receive no further violations. Ms. Wood replied in the negative, as the existing language is more restrictive than the proposed. Lengthy discussion ensued regarding the various jurisdictions of the CEA, PB, Selectmen and State; the language as proposed and what will happen at the Selectmen level should it pass; and whether the CEA can enforce items in the State rights-of-way, which is a ZBA issue.

Ms. Vanessa Nysten approached noting she believed that in keeping with section 706.6; items within the State rights-of-way are to be enforced by the State. Discussion ensued, with Mr. McLeod noting this is more of a Planning Board than Selectmen issue. Ms. Scott clarified that the section pertinent to the Snow Pond issue is 706.5.1.5; which relates to them being off the premises. Ms. Scott then noted that Mr. Gregory had compiled a list of all similar violations issued; an indication that Snow Pond is not the only party being enforced.

Mr. Senibaldi approached and questioned whether the Town has the authority to remove signs that are in the right-of-way; and Mr. Sullivan replied that Town Counsel advises that it does, provided an attempt to contact the party is first made.

Ms. Lundquist approached to note that she did not believe discrimination applied; as agriculture signs are different entity altogether. She also noted that she did not believe farm owners should be made to go to the ZBA for a variance when the State encourages towns to allow agricultural signs such as theirs.

Mr. Letizio noted that, per Mr. Gregory's summary, from January to December of 2014, fifty-four (54) temporary signs violations had been issued; with Snow Pond receiving eight (8). Discussion ensued regarding the other signs around town not on the list, and Mr. Gregory explained that Code Enforcement is reactive in nature. He noted that if the Department does not know about an issue, they cannot enforce it. Discussion ensued as to who could remove the signs, and it was clarified that the Highway Agent and/or Police could remove signs from the State rights-of-way. Further lengthy discussion ensued amongst the members regarding the proposed amendment and what action the Board would take, if any.

Mr. Letizio moved and Mr. Breton seconded to urge the Planning Board to follow the advice of Town counsel. Discussion ensued, and the motion was withdrawn. It was the ultimate consensus of the Board to take a hands-off approach to this matter and, should it pass, proceed to schedule a discussion at that time as to permitting/enforcement of signage in the Town's rights-of-way.

**MINUTES:** Mr. Hohenberger moved and Mr. Letizio seconded to approve the minutes of December 15<sup>th</sup> as written. Passed unanimously.

Mr. Hohenberger moved and Mr. Desilets seconded to adjourn. Passed unanimously.

The meeting was adjourned at 6:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

*NOTE: These minutes are prepared in draft form and have not been submitted to the Board for approval.*