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APPROVED
TOWN OF PELHAM
BOARD OF SELECTMEN - MEETING MINUTES
October 23, 2018
APPROVED – November 13, 2018

CALL TO ORDER - approximately 6:30PM

PRESENT: Mr. Hal Lynde, Mr. William McDevitt, Mr. Doug Viger, Ms. Heather Forde,
Ms. Amy Spencer (arrived after the meeting commenced), Town Administrator
Brian McCarthy

ABSENT: None.

PLEDGE OF ALLEGIANCE

MINUTES REVIEW

October 9, 2018

MOTION: (McDevitt/Viger) To approve the October 9, 2018 meeting minutes as amended.

VOTE: (4-0-0) The motion carried.

OPEN FORUM

No one came forward.

APPOINTMENTS

Discussion – Library renovation project and warrant article

Library Director Rita Gavelis and Library Trustee Jennifer Maslanek came forward to discuss the proposed Library renovation project that will be submitted by warrant article to the voters at the 2019 Town Meeting. Prior to the meeting the Selectmen were provided with information. There was a building layout plan displayed for the public that showed renovations that were completed during phase I and where the proposed renovations would be located for phase II. Ms. Gavelis discussed how the specific areas would be renovated and why those renovations were needed.

- 1) Replace worn counter at main circulation desk;
- 2) Back room to be partitioned to create separate lunch room and emerging tech space;
- 3) Additional office space with small storage area;
- 4) The room with historic clock to have a ceiling added to create reading room;
- 5) With the addition of a ceiling there will be additional space in upstairs youth area – addition of rolling book stacks that can be rearranged for programs;
- 6) Molly Hobbs room to have expanded storage/meeting room/kitchenette/additional sink;
- 7) Addition of soundproofing upstairs with sound-dampening glass;
- 8) Addition of office space for children's librarian.

Mr. Lynde questioned if someone had looked at the proposed ceiling to ensure it would have enough support. Ms. Maslanek replied they had an architectural rendering and explained the original support beams were steel making for a relatively easy construction process.

Mr. McDevitt recalled when the Library was presented to voters it was done as one package combined with the renovation of Sherburne School. At the time electronic books were starting to become popular and there were people who questioned the need for a new library. Due to this the library was built in a minimalist way to satisfy the politics of the day. He wanted to know how the proposed renovations supported the current mission of the library, which had changed from simply being a place to get books.

Ms. Spencer arrived.

Ms. Gavelis replied libraries throughout the nation had changed their scope; it goes beyond coming in and getting a physical book. People like to download items and do things remotely; however, they were finding that the gap libraries fill are a public/community meeting space. She said the meeting space and programs were becoming more of what their mission is to build the sense of community. Mr. McDevitt spoke about the concerns with construction. He asked if they were satisfied with the load bearing ability, distribution of air etc. Ms. Maslanek answered yes; they have reviewed the HVAC, lighting, sprinklers etc. that were also included in the cost estimate. Mr. McDevitt informed there was a long wooden table from the original library still in storage at the Municipal building. He felt the room currently looked so special and regretted seeing the room changed although he understood the need.

Ms. Maslanek stated they are submitting the proposal as a warrant article. Ms. Gavelis said they would love for the Selectmen to support it (on the ballot). Mr. Viger was unsure if the Board had the ability to support the article. The Board will investigate the question.

Diane Fallon – Friends of Moeckel Pond

Ms. Diane Fallon and Mr. Norm Young came forward and thanked Pelham for supporting the Moeckel Pond restoration project over the last eight years. She and Mr. Young represent the Friends of Moeckel Pond and the Moeckel Pond Village District. Also attending the meeting was Vice President of Conservation Commission Jim Finn, and Windham Heritage Commission/Friends of Moeckel Pond member Carol Penn. Ms. Fallon discussed the repairs needed for Bayleaf Way and provided an overview of the proposed project. Moeckel Pond is a 40-acre pond located on the border of Pelham and Windham. In 2011 the private owners and Town of Windham received a letter of deficiency from the State Dam Bureau; the dam was declared a hazard they were ordered to draw down the pond. From that time forward coalition of town and community groups have worked together to rebuild the dam and restore the area with the express purpose of taking what was a private pond to a public recreational area. With support from Pelham they have secured the funding needed to repair the dam and were now ready to move forward. Ms. Fallon said they would like to start repairs this fall in preparation to make Bayleaf Way passable for construction vehicles (late July 2019) and public access. The Pelham Conservation Commission provided a letter of support and outlined requirements during repair and question whether the project needed to go in front of the Zoning Board for variance.

Mr. Lynde asked who signed off on the renovation. Mr. McCarthy replied the Board gave him the authority to sign-off on the project. He noted that it had been vetted by Town Counsel; who reviewed and made changes for the Town's best interest. Mr. Lynde questioned what was needed from the Board. Ms. Fallon replied they would like the Board to approve the proposed road repairs, so they can start mid-November, and inform if they need to go in front of the Zoning Board. Mr. Lynde understood the repairs had been reviewed by the Highway Road Agent. Ms. Fallon stated the Road Agent attended a site visit (September 7th) with the Pelham Planning Director, members of the Pelham and Windham

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94 Conservation Commission and other involved parties. She said Dave Tokanel was willing to do the
95 required work. Mr. Lynde asked Mr. McCarthy for his opinion on the road repairs. Mr. McCarthy
96 understood the Road Agent had reviewed the site; as long as the Road Agent was satisfied, Mr.
97 McCarthy had no objection.

98
99 Mr. Finn spoke about the proposed construction and project. He noted consideration had been given
100 to adding gates/bars at the end of the paved section of Bayleaf Way for night and/or winter access.
101 Bayleaf Way is entirely within Pelham's purview; the access lot, dam and reconstruction itself is within
102 Windham. Mr. McDevitt commented that Pelham struggled with 'unwanted' visitors to Pelham
103 Veteran's Memorial Park. Fortunately, there are neighbors in the area who contact the Town or Police
104 when there is activity after hours. He questioned if there were houses around Moeckel Pond that may
105 watch for certain activity. Mr. Finn replied there were houses on each side of the paved section on
106 Bayleaf Way as well as the original Moeckel house. Mr. McDevitt thought it would be a good idea to
107 close it off during the winter. He said if someone wanted to use it during that time they could park on
108 Bayleaf Way. He said the question was whether they should go to the Zoning or Planning Board since
109 there is a wetland conservation district encroachment.

110
111 Mr. Viger inquired where the funds will come from for the renovations and upgrades. Ms. Fallon
112 replied for the last eight years the money came from the land itself; the estate determined that the land
113 was valuable and had sold some and donated some to conservation. She said the pond was sold and
114 the 'access' parking lot was sold to the Windham Conservation Commission to ensure the water body
115 would stay available as public land. She said they've received a generous donation and the conservation
116 commission had put in additional funding. There was also funding coming from a land and
117 conservation fund. Mr. Viger confirmed that none of the improvements would be funded from tax
118 dollars. Ms. Fallon replied it would all be from private dollars; there would be no impact on taxpayers.

119
120 Mr. McCarthy questioned where the gate would be located. Mr. Finn said the suggestion was made to
121 locate the gate approximately 30ft. from the end of the paved road. Mr. McCarthy said if the gate was
122 closed and people came to hike they would park on Bayleaf. He suggested the Highway Safety
123 Committee review the proposal.

124
125 Mr. Lynde questioned if Pelham Conservation had an opinion about the proposal going to the Zoning
126 Board. Conservation Chair Paul Gagnon came forward. He preferred to not provide an opinion as the
127 Selectmen had the authority to waive the requirement. Mr. Lynde understood Bayleaf Way was within
128 Pelham. Mr. Lynde questioned what type of requirements the Town should state to ensure the wetland
129 conservation district was not affected. Mr. Gagnon replied the recommendation letter indicated they
130 should use all the best practices, such as silt fencing and no excavating. He felt there was a hardship
131 but didn't want to speak for the Zoning Board. He briefly spoke about the terrain and slope of the area.

132
133 Ms. Spencer felt the project was worthwhile and well thought out. She agreed with the concern about
134 the gate. She didn't feel qualified to make a decision and felt they should get the opinion of the Zoning
135 Board. Mr. McDevitt respectfully disagreed. He said the Town didn't have to follow its own zoning.
136 He said frequently people that go to the Zoning Board don't have the same mindset/concern about the
137 environment that the conservation commissions had. He didn't see any value in going to the Zoning
138 Board and noted that the work couldn't be done any other way as preservation couldn't occur without
139 some of the encroachments that the conservation commissions had reviewed and made
140 recommendations for. He encouraged the Board to consider moving the project forward without that
141 necessity. Mr. Lynde said the project was worthwhile and felt the onus was to make sure that the
142 wetland conservation district was not compromised in the process. Mr. McDevitt also didn't feel they
143 needed to go in front of the Planning Board.

Ms. Spencer wanted to know the Board's precedent with respect to this type of project. She was concerned with being consistent and treating people the same. She said if they didn't have a precedent, the project would then set the precedent for anyone who had a project with conservation purposes to come in front of the Selectmen. She didn't want to make the Board a pseudo-Zoning Board. Ms. Fallon discussed the process they had taken when doing the subdivision, which went through two towns and two counties. She pointed out that the road was in Pelham and they were simply filling in the ruts. She discussed the gate and said they were bringing it up now in the event they needed it during construction or during times of storm events.

Ms. Spencer reiterated her question if there was any precedent with or without going to the Zoning Board. Mr. Lynde gave Hinds Lane as an example of upgrading a road. Mr. McDevitt couldn't recall a similar circumstance and pointed out that the Board wasn't bound by precedent, but also didn't want to give the impression of being arbitrary. He said since the proposal wasn't 'for profit' and wouldn't benefit and any individual he was a lot more comfortable.

MOTION: (McDevitt/Forde) To allow work to proceed on Bayleaf Way as outlined during the meeting (through information provided) and under the guidance of Friends of Moeckel Pond, Pelham Highway Road Agent and Pelham Conservation Commission.

VOTE: (5-0-0) The motion carried.

Conservation Chairman Paul Gagnon – Presentation of new open space maps

Mr. Gagnon presented each of the Selectmen and Town Administrator a copy of the new Town of Pelham open space maps. He described the highlighted areas as Town owned, State owned, and New England Forestry owned; there were a total of 2,400 acres of open space. He noted the map didn't include the Girl Scout camp, Fish and Game or the prime wetlands. He said they would continue to add to the Town land. He thanked the Nashua Regional Planning Commission for their assistance during the process.

Cole Wilkerson – Eagle Scout project presentation

Boy Scout Cole Wilkerson came forward and discussed his proposed Eagle Scout project. He has been organizing his project in coordination with the Hobbs Community Center and Director Sara Landry. The proposal is to 1) add a hand rail for the handicap entrance, 2) remove existing gazebo (located in the field), 3) move a marker (plaque) from an older Eagle Scout project to front entrance, and 4) add a flower bed in the location where the gazebo will be removed.

Ms. Spencer thought the project sounded great. Scout Wilkerson discussed the process he would go through for approval. He commented that the funding would be through fundraising and donations.

Mr. Viger asked when he would turn eighteen. Scout Wilkerson had over a year before turning eighteen. Mr. Viger appreciated the project.

Ms. Forde asked if the handrail was outside. Scout Wilkerson replied it was located at the old main entrance. Ms. Forde wanted to know what material would be used to ensure it would last. Scout Wilkerson believed it was currently wood and planned to work with Ms. Landry and the Town to ensure the new rail was code compliant.

Mr. Lynde questioned how he determined the components to the project. Scout Wilkerson knew of other things being done at the center and met with the Director to find out what else needed to be done. He spoke about the timeline for completion of the project.

Mr. Viger wanted to ensure that the project would be coordinated with the Town Administrator and the Building Inspector. Mr. Lynde questioned what would happen to the gazebo material. Scout Wilkerson replied he had reviewed the area and would ensure not to disturb the irrigation heads. He said the material would be disposed of appropriately. Mr. Lynde asked that he see if there are any items that could be recycled.

The Selectmen thanked Scout Wilkerson for his presentation and wished him good luck with his project.

Joe Wholey – Eagle Scout project presentation

Scout Wholey came forward and reviewed his proposed Eagle Scout project to erect a shade structure at Muldoon Park in the area of the disc golf course. His proposal was for a 12ftx18ft pole structure with asphalt shingles; a diagram was submitted for reference. The front of the structure will be approximately 10ft. tall that sloped to the back at approximately 8ft. in height. Scout Wholey told the Board he would be meeting with Planning Director Jeff Gowan to ensure he has the appropriate permits required for the project. Pelham Building Supply has offered to discount supplies; additional funding will come from fundraisers.

Mr. Viger confirmed that the proposed location would be in the area of the first hole of the disc golf course. Scout Wholey answered yes. Mr. Lynde asked if the structure would get in the way of foresting/logging. Parks and Recreation Director Brian Johnson came forward and told the Board that the road is used to maintain the course. The proposed structure wouldn't interfere and had been on their project list for quite a while.

There was a brief discussion regarding the construction of the structure. Mr. Johnson told the Board that the Building Inspector would be involved in the process.

The Board thanked Scout Wholey for his presentation and wished him good luck with his project.

DISCUSSION

Parks and Recreation - Request to apply for a grant

Parks and Recreation Director Brian Johnson told the Board he would like to apply for the America Walks Grant for \$1,500; there was no match required. The funds would be used to clean up the Muldoon walking path. Mr. McDevitt spoke about the State Nursery having native shrubs/trees etc. that may be able to be used. The Board had no objection.

Setting the tax rate

The Board was provided with a breakdown of the proposed 2019 tax rate. Mr. Lynde questioned if they wanted to use money from the fund balance. The current balance was approximately \$5.9 million; of which approximately \$930,000 would be used for approved warrant articles in 2018 which left approximately \$4.8 million. Mr. McDevitt asked if there was an approximate figure that would be contributed to the fund balance at the end of 2018. Mr. McCarthy had read a revenue report (last Thursday) that indicated there was approximately 29.87% of the budget remaining. He didn't have the revenue numbers at this time. Mr. Lynde provided figures showing how the rate would vary based on

using different fund balance figures. Mr. Viger pointed out the Town was currently running a high market; anything taken out of the fund balance wasn't free and they would have to make up for it next year. Mr. Lynde discussed the Town's valuation. Mr. Viger was willing to move \$1.377 million out of the fund balance to keep the tax rate, with the realization they would be held accountable for the fund balance. Mr. McDevitt agreed with the concerns; however, he said they had always managed to put back something close to what they had taken out.

The proposal for \$21.46 per thousand dollars of property valuation, an increase of \$0.01 or 0.05% from 2017.

MOTION: (Viger/McDevitt) To support taking \$1,377,000 out of the fund balance to maintain a tax rate of \$21.46 per thousand.

VOTE: (5-0-0) The motion carried.

The breakdown of the tax rate is:
Town Government - \$6.58, an increase of \$0.69;
Local Education (school) - \$11.62, a decrease of \$0.55;
State Education tax - \$2.09, a decrease of \$0.99;
County tax - \$1.17, a decrease of \$0.04.

Review / Vote on 2019 Warrant Articles

The Board was provided with the latest draft of the 2019 warrant articles and discussed minor amendments. In summary they were as follows:

- 1) Abbott Bridge project
- 2) Support Union contract
- 3) Forestry Management
- 4) Highway Block Grant
- 5) Highway capital reserve fund (currently contains approximately \$500,000)
- 6) Establish addition to Cutler Spaulding
- 7) Establish Moeckel Road Town Forest
- 8) Establish Moose Pond Town Forest
- 9) Roof replacement (possible creation of capital reserve)/ raise funds— Police Department
- 10) Library renovation project

Since the last Board meeting Mr. McCarthy stated he had emailed all the department heads to see if they had anything to bring forward; no one had additional items. Mr. Viger asked that he reach out to the Planning Department to find out if there would be any Zoning articles submitted. Mr. Lynde replied the Zoning subcommittee would be conducting a meeting and possibly submitting two articles.

Mr. Viger commented he would be making a presentation at the Board's next meeting about having a Town Manager form of government. He asked Mr. McCarthy to find out if the Board is allowed to 'recommend' the Library article on the ballot.

Hobbs Center - Request to replace kitchen equipment and window replacement project

Mr. McCarthy reminded the Board of the Hobbs Community Center Director speaking to the Board about the refrigerator and burner were more than fifteen years old and had reached their end-of-life usage. He would like the Board to consider replacing the equipment, so the center didn't have an interruption of service. Additionally, there were seventeen windows that were believed to be original

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to the house that didn't open/close and let heat out. He pointed out how they could save a significant amount of money by having the maintenance man complete the work. Mr. McCarthy informed that the cost for the proposals would come from the 2018 projects budget.

Mr. McDevitt questioned why they needed such a large stove since they didn't cook their own lunches anymore. Mr. McCarthy replied the Director had given him three quotes and he went with the middle stove. He said they tried to do as much as possible when they had their own functions. He felt it would be reasonable to have good cooking equipment in case they had to use it.

MOTION: (Viger/Forde) To approve \$12,100 for the replacement of a refrigerator (\$2,800), stove (\$4,200) and \$5,100 for windows.

VOTE: (5-0-0) The motion carried.

Review request from the Pelham School Age Child Care to use Sherburne Hall as an emergency evacuation site

Mr. McCarthy provided the Board with written request from Pelham School Age Child Care to use Sherburne Hall as their emergency evacuation site for their program should the need ever arise. They explained that the proximity and capacity (197) made the location ideal. Their program capacity is licensed for 185. Both the Fire Inspector and School Resource Officer endorse the use of Sherburne Hall. Mr. McCarthy told the Board he forwarded the request to Town Counsel who had also endorsed the request and thought it was a great idea.

Ms. Forde questioned how the children would be transported to Sherburne Hall. Mr. Lynde replied that would be the responsibility of the program.

Ms. Spencer stated she had no problem with the request as a personal or policy matter; however, as a legal matter questioned a private entity using public space. Mr. Lynde believed they were a private entity but pointed out it would be used as an evacuation site as opposed for using the hall for a program. Ms. Spencer stated that wasn't a distinction for First Amendment purposes. Ms. Forde will research to find out if they are a Town organization. Ms. Spencer said with the caveat she would support the request.

Ms. Spencer made a motion to approve the use of Sherburne Hall as an evacuation site for Pelham School Age Child Care program at Pelham Elementary School with the caveat they are a public school entity. Mr. Viger seconded.

Mr. McDevitt thought it was an interesting point. He said he will vote no because he felt they needed more information to reach a conclusion. Mr. McCarthy pointed out that the Festival of Trees was allowed to use Sherburne Hall. Mr. McCarthy said he would add an agenda item for the November 13th meeting.

Ms. Spencer withdrew her motion. Mr. Viger withdrew his second.

Follow up on intersection conflict warning system for Bridge Street / Ledge Street

Mr. McCarthy informed he had contacted the representative from the New Hampshire Department of Transportation and learned that the technology aspect of the device had taken longer than anticipated. Pelham remained one of four communities the State was working with.

New budget law

The Selectmen learned there was a new budget law. Mr. McDevitt questioned why the Town hadn't heard anything from the State. Mr. Lynde didn't feel it would affect Pelham. Mr. McCarthy replied the New Hampshire Municipal Association had information. He said there had been no guidance from the Department of Revenue Administration or the State. He told the Board he sent all the information to Town Counsel who felt it would not impact the Town. He noted there was part of the new law that contradicted the default budget law. It was Town Counsel's recommendation to just proceed as normal.

TOWN ADMINISTRATOR / SELECTMEN REPORTS

Mr. McDevitt stated at a previous meeting he had brought up the topic of doing research regarding having Town Meeting in May instead of March. After reading information from the New Hampshire Municipal Association and hearing from the Board that they had the ability to change the meeting (for inclement weather etc), he said the process of moving the meeting to May would be a lot of work and create a lot of aggravation. He didn't feel it was worth pursuing. Mr. McDevitt said he would like to have an agenda item to discuss Police Department arrests. He said the country was developing a 'lynch mob' mentality of making a person 'guilty' when they are 'accused' of something. He spoke about the recent press release and felt it would be a good idea for the Police arrest log to contain the statement 'All parties are innocent until proven guilty in a court of law'.

Ms. Spencer supported Mr. McDevitt's suggestion. She believed when United States Attorney offices across the country put out press releases on similar-type items they are required to say that the accused is innocent until proven guilty. She felt they should do it for press releases and the arrest log. If not required, she felt it was a good policy. Mr. Viger felt it went without saying. He believed if it was required every town would be doing it everywhere. Mr. McDevitt said he was greatly bothered by the 'rush to judgement'.

Mr. McCarthy said he spoke with Town Counsel about the topic, and counsel recommended that they not comment about a person's guilt or innocence on a press release; it's widely known and accepted that people are innocent until proven guilty. The Police should not be commenting on a person's innocence or guilt because that is determined by the court. He said he would forward Town Counsel's memo to the Board, so they could decide what they wanted to do.

Mr. Viger reported that the Budget Committee had voted on the Town's budget and they would now begin review of the school's budget.

Ms. Forde reported that the planning for the Festival of Trees was beginning and asked if the Selectmen would like to present a tree. She offered to organize and pull it together. Mr. Viger offered to work with Ms. Forde.

Ms. Spencer reported that the Pelham High School Music Department mattress sale would be held at this weekend.

Mr. McCarthy summarized the projects that had been completed and said everything was going well. They were seeking quotes for the Police Department roof, which he said would need to be addressed sooner rather than later.

Mr. Lynde reported that the CMAQ Advisory group met. There were four engineering firms that had submitted qualifications for the (Sherburne Road/Mammoth Road/Marsh Road) project. All four will be interviewed.

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386 **ADJOURNMENT**

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MOTION: (Viger/Spencer) To adjourn the meeting.

VOTE: (5-0-0) The motion carried.

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389 The meeting was adjourned at approximately 8:42pm.

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Respectfully submitted,

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Charity A. Landry

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Recording Secretary