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APPROVED
TOWN OF PELHAM BOARD OF SELECTMEN
MEETING MINUTES
July 6, 2021

CALL TO ORDER – Mr. Haverty called the meeting to order at approximately 6:30 pm.

PRESENT: Robert Haverty, Douglas Viger, Hal Lynde, Jaie Bergeron, Kevin Cote, Town Administrator Brian McCarthy

ABSENT: None

PLEDGE OF ALLEGIANCE

Mr. Haverty asked Mr. Cote to lead the Pledge of Allegiance.

Mr. Haverty explained the meeting would be a little out of order to get some scheduled appointments completed up front.

APPOINTMENTS

Executive Councilor Janet Stevens: ARP FRF funds available to Pelham/Hillsborough County.

Executive Councilor Janet Stevens came forward to address the Board, noting she would be using many acronyms. She stated that Pelham would receive \$1.4 million through ARP FRF. She informed that the first tranche of these funds would be for \$744,343.00 and was already ready to go. She noted that Hillsborough County would be receiving a total of \$81 million. She explained that in order to be eligible for the funds, the Town must apply before August 18, 2021. Ms. Stevens stated that prime recipients must:

- 1) Be compliant with guidance from the U.S. Treasury
- 2) Follow uniform guidance which sets out federal regulations on the use of federal funds
- 3) Must report to the U.S. Treasury

She noted that it would be very important to keep all relevant documents related to this. She stated that the funds must be committed to either a third party, grant, or loan by December 31, 2024 and that those funds must be expended by December 31, 2026. She stated that if the Town were to opt to decline the funds, the funds would transfer to the State, the Town would avoid being what is considered a prime recipient, and the Town would have no legal obligations to the funds.

Ms. Stevens stated that the Town should have already received some funding through the State Library, as the checks were sent out on June 30, 2021. She noted that the second distribution for the libraries would be on September 1, 2021. Ms. Stevens explained that \$2.2 million was approved to be distributed to 234 libraries throughout the state from the Institute of Museum and Library Sciences.

Ms. Stevens explained that a lot of federal funding would be coming into the state and that she was there to help explain it to municipalities. She informed that there are five silos for eligible use: public health expenditures, negative economic impacts of COVID, to replace lost public sector revenue, provide premium pay, and invest in water/sewer and broadband. She explained that the funds could be used for costs incurred on March 3, 2021, and in some cases could be used for funds prior to March 3, 2021 as long as the Town paid the cost after March 3, 2021. She added that premium pay could retrospectively pay for work performed at any time since the start of the public health emergency.

Revenue costs, you can cover costs for 2020 calendar year, but funds must be incurred by receipt after 3/31/21.

Sewer/broadband, this will cover costs for projects planned or started before 3/3/21 yet specific costs that covered funds that incurred after 3/3/21.

Public health impacts for eligibility--think about the two step criteria.

Id a public health issue which occurred or was made worse during COVID.

You have to design a program that addresses the issue not just COVID, yet lack of qualified healthcare employees could be one criterion, and that it worsened during COVID. You could think about job training.

Examples covered would be behavioral healthcare, cover treatment, public health and safety, payroll and benefits, medical expenses, residents still in recovery from COVID, or expenses to improve the design and execution of public health programs.

Negative economic impacts for funding eligibility—think about the two step process.

Id the economic impact made or made worse and design a program that focuses on the need. COVID is not the key test.

Eligible assistance, think about impacted households or assistance to small businesses.

Improving efficiency of economic relief programs that could be improve technology, consumer outreach.

One of the caveats, towns and cities are just one part of the puzzle with LFRF funding. There is a myriad of fund coming in at the state and country level. In Pelham consider what other assistance is out there to assist with rent, mortgage, utilities—try not to duplicate and that you are not paying to a household the same cost that another entity might be covering. There is no double dipping. There are special rules for tourism under this category. Outside tents and heaters would be covered. If Pelham had planned expansion of facilities or delayed building of town tourism offices, for example. You can pay for that, but this fund cannot be used for infrastructure projects unless project responded to a specific public health need. You cannot use it for rainy day or reserve funds. You cannot use on interest or principal on debt. Revenue loss, the amount of revenue Pelham would have received if not for the pandemic. They use a counter factor revenue basis. To calculate your revenue loss there is a calculator which will make this very easy for you on the GOFER site. You need to start with your fiscal year most recent prior to COVID budget back to 2019. You have to estimate your counter factual revenue. There are two calculators, one is through the National League of Cities and Towns and Government Finance Officers Association of America. Eligible uses—there is broad latitude for use most normal government activities. The Treasury specifically states the following non-exhaustive list: maintenance or pay go buildings of infrastructure including roads; health services; environmental remediation; school or educational services; provisions of police, fire, and other public safety. What is not allowed: obligations on interest; principal related to debt or settlement agreements; judgements, consent decrees, or judicially confirmed debts. She strongly advises to hold off on offsetting any tax rate until the Treasury has final guidelines. Premium pay—any use can pay up to an amount of \$13/hour above base wage as long as the aggregate that this person would receive does not exceed \$25,000. Who is eligible—essential workers who help maintain continuity of essential critical infrastructure sectors (childcare, education, sanitation); food production including those that are critical to protecting the health and well being of community (one sector that has been overlooked are the grocery

workers). Examples of where these go: nursing homes, farms, grocery stores, janitors and sanitation workers, public health, and safety staff. Remote workers are not acceptable. Any recipient of premium pay must provide written justification to the Treasury of how the premium is spent if they amount that they are receiving is 150% above the average wage. It will be your responsibility to make certain that you do not go above that \$25,000 aggregate looking and confirming with these employees. Last is investment in infrastructure water/sewer & broadband—eligible uses: US EPA clean water state revolving funds, provide safe drinking and usable water, improve drinking water infrastructure, manage, and treat storm water, facilitate reuse, provide relief in case of natural disasters. Broadband eligible uses: help for unserved and underserved portions of your town, it meets symmetrical upload, and integrates affordability.

The Board has been hit with a lot of information of funds coming into your community and one thing that she wanted to stress is that they approved 25 other funds at this point, so you need to consider for example if you have 6 daycares in town, has one of the other funds been earmarked for this. GOFER has great resources. A consulting firm was hired that can take questions. There will be another webinar coming out very soon. Her goal is to assist and advise the Board and getting every dime that she can for them. At this point these are interim guidelines; they have not even seen what the reporting documents will be.

Mr. Haverty noted that there was a tremendous amount of information and he thanked Ms. Stevens.

Mr. Viger asked Ms. Stevens since everything she mentioned did not include any school things, does the school district get something separate. Ms. Stevens replied that education comes out of premium pay.

Mr. Viger asked if education was coming out of Pelham's total and that there was not a separate fund specifically for education.

Ms. Stevens replied not at this time—she would have to go back and look at all 25 other funds. But, for mitigation, if you go back in the fall and parents are still concerned about going back, if you needed to use capital, you could take that out of Public Health Impacts. You have five major silos to draw from. The most important thing is to register, you have until August 18. If you miss the deadline, the funds revert back to the state. Even though you sign up to use them, there is no requirement that you use them.

Mr. McCarthy was under the impression from speaking with the School Business Manager that there were funds from the Department of Education that were available to schools.

Ms. Stevens noted that she would have to talk with the Commissioner and would have to go through all 25 of the contracts to confirm. She can speak with Mr. McCarthy afterwards. She advises to use the funds and reduce the burden on your taxpayers.

Mr. Haverty thanked Ms. Stevens for her time and said they would need to take time to go through all of the information.

Ms. Stevens reiterated that there is a lot of information on the GOFER site and the consulting firm that they have hired is phenomenal.

PUBLIC HEARING:

Regarding a proposal to purchase approximately 40 acres, defined as Map 31 Lots 11-31 to 11-35 (Off Blueberry Circle).

Mr. Haverty opened the Public Hearing.

Paul Gagnon from the Pelham Conversation Commission, Dutton Road: Two weeks ago, he reviewed this case in quite a bit of detail. He said he would be brief at this meeting. The Commission is asking the Board of Selectmen to approve their request to purchase 40 acres of open space. This is land off of Blueberry Circle that abuts 20 acres that the town already owns called the Blueberry Wood Lot. This would triple the land that the town currently owns. Mr. Gagnon displayed the area on the drawing. There are both conservation reasons and reasons reducing the number of residential homes that could be added in the town. He pointed out that the wetland area that flows into a stream empties into Cedar Pond in Massachusetts. It is the second largest white cedar swamp in all of Massachusetts. That then flows into Peters Pond. It is the head waters for two ponds that are in Massachusetts. From a conservation perspective they feel it is a valuable piece. There are existing trails on the uplands which could be opened to the public if it were public land, and it would expand the Blueberry Circle town forest. The unique issue with this parcel is that it has been approved for a cell tower. These 40 acres consists of four parcels. The town would eventually acquire all four parcels. 3 would be acquired right away which consists of slightly over 36 acres. The 3.7 acre parcel would remain owned by the current owner until the time comes when the cell tower is no longer needed. The Board of Selectmen has held a bond on it, so the tower company needs to remove the tower and it then becomes town land. The town would be buying 40 acres, getting 36.3 right ways and the other 3.7 when the cell tower is no longer used. Some of the abutters were concerned last time that there might be two cell towers put on since it is 3.7 acres. Mr. Gagnon spoke with the owner, and he verbally confirmed that there would only be one and he was willing that put that in writing. The town attorney drafted an amendment. That has been emailed to the landowner. He was on vacation so was not able to get it signed for this meeting but agreed that he would sign it along with his wife and son this evening and it would be available for Mr. Gagnon to pick up July 7.

Mr. Haverty opened it to the Board for questions, as there were no questions, he opened it to the Public for comment.

Mike Ausevich, 8 Falcon Drive, Pelham: He will be able to see the cell tower from his front door. He has requested and has seen the Purchase and Sales Agreement which was discussed at the last Public Hearing. He reviewed it and there are a lot of dates in that document that have since passed and he is assuming that can not be the Purchase and Sales Agreement that will be executed for the purchase of the land. He asked if the Board has seen an amended Purchase and Sales Agreement.

Mr. McCarthy replied that once it is approved, the Board will see it from the Town Attorney.

Mr. Gagnon responded that there have been two extensions—they did not realize how long it was going to take. There are no changes to the P&A other than the closing dates and the second amendment extended the closing date to July 31, 2021.

Mr. Ausevich replied that took care of the dates but in the original Purchase & Sale it talks about 1.5 acres to remain with the landowner, and he says now it is 3.7 acres instead of the 1.5. His concern is that if there is more land in control of the entity, there could be more bad things done with the property. He is referring to other things other than residential could be done with the land.

Mr. Gagnon replied as he has done previously that the reason for that increase was that American Tower recommended that they include the fall zone; if you lay the cell tower down two ways it is over 250' and you make a square that big and put the road into it, it comes up to 3.7 acres. He understands the concern that the people have but with this deal, he will only be able to put one cell tower and will only be able to put telecommunications equipment there. If these constraints are their concern to not allow this purchase of the 40 acres, there will be no constraints on the 40 acres, the cell tower will go up and the landowner will have the freedom to do what he wants with the 40 acres. From Mr. Gagnon's perspective preserving 36

acres of it immediately and limiting the use of the 3.7 acres with the amendment currently being signed, is more advantageous to the abutters than allowing all 40 acres to be owned by the landowner.

Mr. Haverty reiterated that the amendment does memorialize the fact that there will be just the one cell tower.

Mr. Gagnon agreed and said that it would be put into the deed at closing according to Attorney Rattigan.

Mr. Viger asked Mr. Gagnon if there had been any subdivisions created or any outlay of what the 40 acres potentially could have for housing if the Town were not to purchase it.

Mr. Gagnon replied that Herbert Associates was engaged several years ago, there were either five or seven house lots shown on Mr. Zohdi's drawing.

Mr. Ausevich responded to the fall zone comment stating that the Zoning and Board of Selectmens had already approved variance of the fall zone, so he feels that is not even relevant of changing the size of that lot to include the fall zone. The variance said that there was no concern with the fall zone.

Mr. Gagnon replied that the Zoning Board only approved the tower falling onto the existing town land, the 20 acres Woodberry Circle Wood Lot. The Commission was trying to avoid purchasing new land, making that town land, and having the potential that the tower could fall on the newly acquired town land. There is confusion between what the Zoning Board approved and what the current fall zone is trying to accomplish. He repeated for clarity: Because of the way the cell tower is laid out can now fall on existing town land, so they gave the cell tower company a variance for that. That is falling towards the west. If we buy the land around it, if it fell to the north, east, or south it would hit town land. They needed to make the space big enough that if it fell in any of those three directions, it would not fall on town land.

Mr. Haverty reiterated that regardless of the size of the lot, they are entitled to one cell phone tower, and telecommunication equipment necessary to support the installation and no other usage. They cannot do solar panels; they cannot do windmills. They are entitled to one cell phone tower, and telecommunication equipment necessary to support it.

Mr. Ausevich started to comment about what he remembered about the fall zone.

Mr. Cote called a point of order. He said that he understood that Mr. Ausevich was angry about the cell tower but that is done, it was approved and cannot be changed now. He wanted to bring everyone back to the purpose of this hearing—it is about the purchase of the 40 acres. If the Town does not purchase the 40 acres, it is in the hands of the landowner—he can put in houses, he can do what he wants with the land.

Mr. Viger than said to Mr. Cote with that said, hearing the input from the residents may affect the way he votes. He was not in all those meeting, did not get the feedback of all the meetings.

Mr. Haverty said both points had been noted and asked Mr. Ausevich to please continue.

Mr. Ausevich said that his concern with the 3.75 acres was that he will have more control and right now this is their only opportunity to reduce the size of that land if that is something that is on the table.

Mr. Haverty stated that Mr. Ausevich's concern has been heard and addressed. He noted that Mr. Gagnon has clearly stated that there will be one tower and only telecommunications on that property.

Mr. Ausevich asked why this was not brought to zoning since it is now almost 4 acres but that was not originally proposed. Now it is suddenly being proposed after it was approved and after it went to court.

Mr. Gagnon stated that this deal had no impact on the Zoning Board and Board of Selectmen. What they reviewed was a site plan for a cell tower. The site plan showed where the cell tower was going to be located, where the road would be, where the wetlands were. They did not have copies of this Purchase and Sales Agreement. He does not think it was even created at the time that they made their decision. The Board of Selectmen made their decision after it was signed. But he believes that the Zoning Board made their decision before this agreement was even run into. The confusion that somehow the one acre that is in this Purchase & Sales Agreement somehow influenced their decision he believes is completely incorrect.

Mr. Haverty thanked Mr. Ausevich and said that the Board appreciates his input.

Larry Horgan, 32 Blueberry Circle, Pelham NH. He said that he spoke two weeks ago in front of this Board. He noted that they are disputing how this was all brought about. The neighborhood is for open space, which is correct. But there is a backend on this whole thing. Throughout this entire process, he has gone to numerous meetings both Zoning and Planning. In the minutes, he submitted three different things last week. He has done more homework, found more times that Mr. Gagnon talked about one acre—buying 36, giving the site 1 acre. That was not the original deal in front of Planning. This was a “quid pro quo” deal. The Town gets the top 25’ of the tower and they get to purchase the remainder of the 36 acres after the 1 acre. That was the “quid pro quo.” The neighborhood took the Planning decision to court and the judge acknowledged based on that—1 acre. That is said and done. We go to Planning again for a lot line revision. Regarding, the lot line revision he noted to this Board 2 weeks ago failed to acknowledge the size. He does not have the minutes yet because they are not out, but they failed to acknowledge the size of the project. Therefore they voted for it.

Mr. Cote interjected that the size of the project has never changed. The site pad, the cell tower, where it is going, the road has never changed.

Mr. Horgan thinks it is an ethical issue where the towns people and taxpayers were misled because of the original Purchase Agreement that dates back to 2019. There are just numerous things about this whole purchase that does not add up.

Mr. Cote said the 1+ acre is the bare minimum of what is needed to construct the cell tower. We are getting caught up in this 1.25 to 3.7 acres. The 1.25 was the bare bar minimum needed for the tower, the cables, the pad, and the road.

Mr. Horgan replied, okay so why don’t we stick to it.

Mr. Cote responded that if we keep it at 1.25, the cell tower could fall into Town land. We are doing this to avoid the issue where we can of it falling into Town land. The concern of another tower going in has been taken care of, there can only be one tower.

Mr. Gagnon said that he takes offense to the insinuation that this is a quid pro quo. This is a real estate transaction. The landowner is selling the Town 40 acres and in exchange the Town is paying \$225,000. There is no quid pro quo. He did not go in front of the Zoning Board and ask them to approve anything so we could get through with this deal. He really does take offense to that because it questions his integrity.

Mr. Horgan is pretty sure that the Town bought another cell tower property—61 acres out of 63.

Mr. Gagnon, replied no. The Commission is in the process of doing that. The same language is in that Purchase & Sales Agreement as is in this one and we are doing the same fall zone and that will be over 5 acres. He thanked Mr. Horgan for asking the question.

Mr. Horgan said that he was looking at minutes saying they are buying 61 out of 63 so the tower will be 2 acres. That is the same size tower. He is asking why the one in Tower Hill is 2 acres .

Mr. Haverty noted that Mr. Gagnon just said it was 5 acres.

Mr. Gagnon asked when the Purchase & Sale Agreement that he was referring to signed. Mr. Gagnon noted that the Purchase and Sales Agreement was signed before he knew what was required for the fall zone. Because of the uphill scenario the minimum required was the 2 acres to include the tower, cables, pad, and road, When he learned that you had to include the fall zone, he did it for both cell towers. The 1 acre on Blueberry Circle became 3.7 and the one on Tower Hill that was 2 acres is now 5.3. He just saw the drawing a couple of days ago. It is the exact same reason. There is no quid pro quo. The other cell tower had been approved and authorized and built before the Purchase and Sales Agreement was even signed.

Mr. Horgan said that the quid pro quo was in front of Planning. He said that the Superior Court Judge acknowledged that because the Town was getting the top of the tower and the ability to purchase the 1 +/- acre—the 36 and the tower gets to keep the 1 +/- acre. He wants to know if this will have to go before Zoning and Planning if the town approves this with the larger parcel.

Mr. Gagnon replied noting what Mr. Cote said earlier the Zoning Board and the Board of Selectmen approved a site plan. There have been no changes to the site plan. The size of the lot is what has changed. It was originally on a 15 acre lot when the Zoning Board and Board of Selectmen approved it. It has now been reduced to 3.7. He understands that the neighbors are upset that they were not able to reduce it 1, the best he could do was 3.7. But he thinks that with the amendment to keep it to one cell tower and only telecommunications will have the same effect. The property will be protected, and the use is limited. There is no need to go back to Zoning and Planning because the site plan has not changed.

Mr. Horgan asked Mr. Cote if they could clear out trees and land for the construction.

Mr. Cote did not know what they would do with their land. He was referring to the minimum acreage that they need to put up a cell tower. They need to put in the road, the pad, the cables extending out to hold the tower up.

Mr. Horgan corrected that there are no cables; it is a monopole. He is concerned about the disturbance of the whole area.

Mr. Gagnon said that they would have to come back to Planning and back to Zoning because there are wetlands there. The wetlands have been flagged and the buffers have been identified. The site plan got approval for minimal disturbance of the buffer. They are not going to be able to go in there and disturb the soils or disturb the wetlands without coming back to Planning and coming back to Conservation to get approval to do that. They have approval for a site plan; if they were to go beyond the site plan, they would have to come back if they were doing something that was in addition to what had been approved.

Mr. Haverty told Mr. Horgan that to his concerns a site plan has been approved. They can build according to an approved site plan. If it goes beyond that means that they need to go back to get approvals.

Mr. Horgan asked if that meant disturbing anything like cutting trees.

Mr. Haverty replied that there are areas that are marked because they are conservation that they cannot disturb on that parcel.

Mr. Horgan said that through the planning process he brought up the National Heritage Bureau. He was in contact with them. The applicant did a data check on the site. He had one done on his property and there were discrepancies. He brought that up to the Board and also brought up that their data check was one year expired. They did not acknowledge that. He called the Heritage Bureau back; this was after they approved the plan. The Heritage Bureau sent Mr. Doherty an email stating that the data check was flawed—they had a computer error. He did not hear anything, there was no public disclosure that it was wrong. He said that this was just another point that gets the neighborhood up in arms. It seems a little unethical because the Planning approval of the lot line revision was June 7th and we have not even gone through the 30 day appeal process, and you are having two hearings. There is still an appeal process that should be going on. He believes that it is jumping the gun.

Mr. Gagnon noted that Mr. Horgan was correct about June 7, but 30 days was July 7. The Board has not voted yet and no one has filed an appeal that Mr. Gagnon knows of.

Mr. Horgan said they are having the hearing and they have not voted yet.

Mr. Haverty replied that the Board can hold all the hearings they want during the appeal process. As long as the Board does not vote during that appeal process.

Mr. Horgan asked if this would be brought up as a warrant article as the Purchase & Sales says or are the Selectman going to vote on it.

Mr. Gagnon replied that all our Purchase & Sales Agreements have a clause that is in there because the RSA says that if 50 registered voters sign a petition requesting that this goes on the warrant, then it will then go on the warrant. All of our Purchase & Sales Agreements have that language. This will not go on the warrant unless there are 50 registered voters that sign such a petition. It has never happened before; usually people want to see open space protected. If it goes on the warrant and does not pass, the landowner will own all 40 acres, not just 3.7. This Board has the authority to approve it barring that petition.

Mr. Haverty responded that Mr. Gagnon answered specifically what he was going to answer. This Board would vote on it except under the circumstances Mr. Gagnon outlined. He believes that they would vote on it at the next meeting—2 weeks from this meeting.

Mr. Horgan repeated that it is just the way that this whole purchase went down, deceiving for the town taxpayers.

Mr. Lynde asked Mr. Horgan if he would be satisfied if the Town just walked away and did not buy anything.

Mr. Horgan agreed that he is hung up on the 1.25 acres and he said if you look at last meeting—everywhere you look there are two towers on 1 site.

Mr. Haverty replied that the concern for more than one tower has been eliminated.

Mr. Horgan agreed, but is still concerned about the site size.

Mr. Lynde replied that Mr. Horgan had not answered his question. Would you prefer that Town does none of it.

Mr. Horgan replied that he wants them to revise it.

Mr. Haverty asked him what he wanted to revise it to.

Mr. Horgan replied 1.25 acres.

Mr. Lynde asked what if we made it 1.25, what does that do for us. Can the Town do that or does the Town assume additional liability making 1.25 instead of 3.7.

Mr. Gagnon said we would have to adjust the plan; we would need a line adjustment. We would need to go to the Zoning Board and get another variance because the tower could fall to the North, East, or South onto Town land. We would have to extend the Purchase and Sale Agreement. This is assuming the landowner will want to extend the Purchase & Sale Agreement. The landowner can walk away from this on July 31 if we are not ready. Assuming he would extend, where are we with that, what do we gain. With this plan they can only put one cell tower and telecommunications equipment. Mr. Gagnon noted that what these folks are trying to do is to stop the construction of the cell tower.

Mr. Haverty replied that he understands that and that is very clear.

Mr. Gagnon replied that he does not have that in his authority, and he is not sure that the Board did either.

Mr. Haverty agreed.

Mr. Gagnon replied that he did not think that they would be satisfied even if it were 1 acre. 2 weeks ago, their fear was two cell towers. The concern for more than one tower has been taken care of.

Mr. Viger told Mr. Gagnon that if this deal falls through and the 40 acres goes back to the original purchaser, he has an approved cell tower plan already in place. He could put the cell tower up and build three houses or however many that it breaks down to be. If this falls through, he can put up the cell tower or two cell towers because the Commission would not have the agreement that is in the Purchase & Sale Agreement, and he could build houses in that remaining 40 acres.

Mr. Gagnon thanked Mr. Viger and replied that was correct.

Mr. Horgan replied that he thought that they would meet a lot of opposition.

Mr. Viger replied that there is less opposition against a builder of his own property than there is a town.

Mr. Horgan replied that it is the access. He is already going through a residential lot for the access.

Jeff Kira, Bush Hill Road, Pelham. He said that as far as the purchase of the land, he agrees with Mr. Gagnon. He is protecting the land in the best interest of the Town. He thinks that is something to consider and thinks that it is really good.

Mr. Haverty closed the public comment portion of the Public Hearing.

Mr. Haverty closed the Public Hearing and noted that we would revisit this in two weeks for a vote.

APPOINTMENTS

Conservation Committee Applicant Interviews: Al Steward & Dennis Hogan.

Dennis Hogan, 35 Moon Shadow Drive, Pelham. He has lived in town since 2000. He is on the Pelham Good Neighbor Fund. Two years ago, he had the opportunity to be an alternate for the Conservation Committee. He did not know a lot about conservation and has had quite an education in two years. He has interacted with the Board of Selectmen and Zoning, has made site walks, and has been able to vote at various meetings. He has a much better understanding, he thinks that he has been through a two year apprentice program in understanding what Conservation does and trying to help homeowners understand what their rights and needs are as we try to protect the environment in the community.

Mr. Haverty asked Mr. Horgan that as a full time voting member if he had any particular priorities or objectives that he would like to see.

Mr. Hogan replied that he has been working with Chairman Gagnon and Mr. Steward involved with land acquisition. He has been involved with several ongoing opportunities where they are trying to purchase land to protect in the community. That is a big interest of his at this point and also the trail system. He has been an avid hiker and that is how he got involved in the first place. Someone told him about the opportunity as he was walking through the trails.

Mr. Haverty thanked Mr. Hogan for coming down.

Nathaniel Steward, 6 Vista Drive, Pelham. He has been with the Conservation Committee for approximately three years as an alternate. He also worked a lot with Mr. Gagnon on developing land. He created a database, they sent out letters, reviewed the returns, and been able to continue to try to expand the open space that Pelham enjoys now—some 2,800 acres. They plan to continue to add to that. He is currently the Chairman of the Natural Resource Inventory where they are working with the Nashua Regional Planning Group in identifying those areas that we are trying to maintain, conserve, and looking forward to expanding the open space. One of his major objectives would be to expand the community's awareness of the WCD so that hopefully we can prevent situations that are presently going on where citizens unfortunately invade unknowingly the WCD which is a 50' buffer on the wetlands. Sometimes those things need to be reversed, remediated and it causes undue pain and expense for the citizens. Having a campaign to expand on that would help out both the Conservation Commission and the citizens.

Mr. Haverty said that he answered the question that he was going to have about his priorities or objectives.

Mr. Lynde commented that it was nice to have both of them on the Commission and whatever vote taken, they would still be working at it, and he appreciates that.

Mr. Steward commented that he truly enjoyed the past three years.

Mr. Haverty thanked Mr. Steward.

Mr. Haverty commented that Conservation is one of the areas where we have a lot of talented, dedicated people. This is a good problem to have trying to decide between two dedicated, qualified, and committed individuals.

Mr. Gagnon, Dutton Rd., Pelham. He stated that this may be a question of timing. There was a woman who left town and her position was open and that was posted. But he asked if they received something from Louise. There was a second person after the last Conservation Commission meeting that said she was going to resign. Maybe she did not send it in yet. If the Board picks one tonight, they will have another one very soon.

Mr. Haverty said that Mr. McCarthy went to check on it so they would hold off on the vote for a few minutes.

OPEN FORUM:

Mr. Gagnon noted that both applicants have been fantastic on the Conservation Commission. They show up at the meetings; they participate; they volunteer when the Commission asks for people to do stuff. They are both involved with land acquisition which is not the easiest thing that the Commission does. They are both terrific. Whether it is tonight or the next meeting he hopes that the Board will get to appoint both of them.

Mr. McCarthy returned. The person who is resigning has not yet forwarded the email, however she is resigning. They can vote at this meeting with the provision that it is upon receipt of the resignation. There is one position for two years and one for three years. Mr. Hogan agreed that he would be okay with the two year term and would defer to Mr. Steward for the three year term.

MOTION: (Cote/Bergeron) to appoint Dennis Hogan to the Conservation Commission for the remainder of the two year term subject to the receipt of the resignation.

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

MOTION: (Lynde/Cote) to appoint Al Steward to a three year term.

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

Mr. Haverty thanked them both.

DISCUSSIONS:

CIP Projects. Hawkers & Peddlers Ordinance review

There has been a little bit of discussion amongst the Board and primarily between Mr. McCarthy and Mr. Haverty since Mr. Haverty as the Chair is the one who signs the licenses for Hawkers & Peddlers. He reviews the application and makes sure that it is complete. One of the things that was noted is that the last revision of the ordinance on February 12, 2019. As Mr. Haverty was going through a couple of them this summer, he noticed that some of them were being applied for for 60 or 90 days at a clip. Our ordinance clearly states that it is a 30 day Hawkers License; you must reapply after 30 days. Mr. Haverty's question to the Board is if the Board wants to revisit this ordinance for this or other reasons. Perhaps considering revising the timeframe which might make it a little easier. We do not want to make it unnecessarily difficult for people to do business or sell wares, but we do want to cover ourselves.

Mr. Cote noted that if the Board was going to address it now, there was something else within the ordinance that he would like to address as well. With the Farmers Market going on there is a question whether the vendors that do the Farmers Market need to apply for this. In Section 5 at the end of the last line says "*This ordinance does not apply to farm stands as defined in RSA 21:34-a.*" Mr. Cote would like to amend that last line so that it would read: "*This ordinance does not apply to farm stands or farmers markets as defined in RSA 21:34-a nor does it apply to town special events.*"

Mr. Bergeron thinks that it makes sense for the Farmers Market. But regarding Town events if you have a business that comes in and is selling prepared food, he thinks that they should still have to do it. Not necessarily a non-profit organization, but a food truck for example should have to get the license.

Mr. Haverty agreed that a food truck, hot dog truck, ice cream truck, or selling paintings you should have to get a license in his opinion. Referring to town events—what town event? Because the 4th of July is put on by Pelham Community Spirit. That is not a town event it is put on by an outside agency. In his opinion, this is not an opportunity for the Town to collect the fee. There is a process to make sure that they adhere to certain guidelines and requirements by the state of New Hampshire. To waive that would be ignoring some of what the state requires these vendors to do. Back to the point about farm stands versus farmers markets. A farm stand is if someone has a farm, and they want to set up at the end of the road to sell some of their produce. A farmers' market is different in Mr. Haverty's opinion. If the Board waived the itinerant vendor requirement for a farmers' market, what would stop Fox Pest Control or people selling windows to setup an easy up at the farmers market?

Mr. Cote responded that there are rules in the RSA as to what a farmers' market is. If you are being called a farmers' market you cannot have window vendors selling windows.

Mr. Haverty said 35% of your volume by dollar has to agriculturally based.

Mr. Cote stated that in the process of applying to be in the farmers market, you need to show licensing. There is a certain process that you have to follow as it is.

There was some discussion around what is allowed at a farmers market based on the RSA's.

Mr. Haverty commented that he had no problem with if you are a vendor and can meet the 35% volume to be agriculturally based that is fine. But if you are the shaved ice person there selling ice, that is not agriculturally based, and you should have a permit to be there.

Mr. Viger looked at other communities and there are provisions on how they deal with agricultural farmers markets versus hawkers and peddlers.

Mr. Haverty agreed that he is okay with putting it in section 5 and then making sure that the Board is watching who is actually at the farmers' market that they actually belong there.

Mr. Cote agreed that he will bring the guidelines from the Agricultural Commission on what exactly the requirements are to the next meeting and if it fits, then they can move forward.

Mr. Haverty tabled the farmers' market aspect for now and went back to the events part. He believes if you are there with fireworks, concerts on the green, town event type things—his position is that you need a Hawkers & Peddlers License. If there is a sponsor like Pelham Community Spirit the Board should partner with them telling them that they should make sure that all the vendors know that they will need the Hawkers & Peddlers Licenses. The Board will know if they did because the Board has to sign them.

Mr. Haverty asked that regarding the non-profit aspect such as Auxiliaries, VFW's, what the Board thought about things like that.

Mr. Cote thought that should get a pass.

Mr. Viger asked that if they were listed as non-profit, weren't they listed as exempt from Hawkers and Peddlers Licenses.

Mr. McCarthy read aloud section 9, which exempts the non-profit organizations.

Mr. Haverty brought the question back to the length of the license.

Mr. McCarthy said that they are constantly having to renew them after 30 days and felt we should reevaluate to a 60 or 90 day period.

Mr. Viger noted that in the Hawkers and Peddlers License from the state, it reads that it is \$15 per month, not to exceed \$50 for the year.

Mr. Haverty asked what the Board thought about making the license \$50 for the year. There was agreement. He asked Mr. Cote if he would amend the ordinance and bring it back to the next meeting.

Mr. Cote agreed.

MINTUES REVIEW:

June 22, 2021

MOTION: (Lynde/Cote) To approve the June 22, 2021, meeting minutes as amended.

VOTE: (4,0,1) Mr. Haverty abstained. The motion carried.

DISCUSSION:

CIP Projects

Mr. McCarthy referenced two memos in the packet. They are two capital improvement projects that he had submitted. He wanted to get them in on time; he did submit the actual applications. He wanted to stay with the CIP timelines. He brought them forward to the Board for them to review and decided whether they wanted to do these projects or not.

Project 1 is a COVID 19 remediation project. It is regarding the ventilation system and air circulation systems at Town Hall. He read the memo into the record.

There were no questions, the BOD was okay to submit the project to CIP.

Project 2 is regarding renovation of the Planning Department. He read the memo into the record.

Mr. Viger asked Mr. McCarthy if EEI will accept public bids from local contractors.

Mr. McCarthy replied that they would.

Mr. Lynde asked if both projects would go out to bid.

Mr. McCarthy's reply was yes.

Mr. Haverty confirmed with Mr. McCarthy that both went out to CIP.

The Board was good with Project 2.

Mr. McCarthy asked if he was authorized to put it in his budget for 2022.

Mr. Bergeron asked if the EEI fee was included in the \$325,000 estimate.

Mr. McCarthy replied that it was.

The Board was okay with the projects being included.

SELECTMEN/TOWN ADMINSTRATOR REPORTS

Mr. Bergeron had no report other than he went to the 4th of July celebration; it went very well, and everyone did an excellent job.

Mr. Lynde had no report and agreed with Mr. Bergeron about the 4th of July celebration. Concerts on the Green at 6 PM, Wednesday July 7.

Mr. Viger had no report.

Mr. Cote had no report.

Mr. McCarthy had no report. Mr. McCarthy said that the fireworks were fantastic and well executed. It was well attended. They estimated there were about 1,500-2,000 people that attended. They did an excellent job with the traffic. It was the best that he has seen since he has been here.

Mr. Haverty asked Mr. McCarthy if the Health Officer position was advertised.

Mr. McCarthy replied that it is. No applicants yet. In speaking with Karen, she is willing if remotely to hang in there until the position is filled.

Mr. Haverty had no report.

REQUEST FOR NON-PUBLIC SESSION

MOTION: (Cote/Viger) Request for a non-public session per RSA 91-A:3, II, a (personnel).

ROLL CALL VOTE: Mr. Bergeron – yes
Mr. Lynde – yes
Mr. Hagerty – yes
Mr. Viger – yes
Mr. Cote – yes

(5,0,0) The motion carried.

It was noted that when the Board returned, after the non-public session, the Board would not take any other action publicly, except to seal the minutes of the non-public session and to adjourn the meeting. The Board entered a non-public session at approximately 8:27 pm.

ADJOURNMENT:

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Respectfully submitted,
Jordyn M. Isabelle
Recording Secretary