

**APPROVED
TOWN OF PELHAM
BOARD OF SELECTMEN MEETING
MINUTES
November 22, 2016
APPROVED – December 6, 2016**

CALL TO ORDER - approximately 6:30PM

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

ABSENT: Mr. Paul Leonard

PLEDGE OF ALLEGIANCE

MINUTES REVIEW

November 15, 2016

MOTION: (Lynde/McDevitt) To approve the November 15, 2016 meeting minutes as amended.

VOTE: (3-0-0) The motion carried.

ANNOUNCEMENT

- Festival of Trees – will be held in Sherburne Hall at 6 Village Green, Pelham, NH beginning November 25th through December 4th from 5pm to 9pm each day. Please stop in and participate in the Christmas Festivities and various events.
- Reminder – The Winter Parking Ban will be in effect December 1, 2016. The ban is as follows: *No person shall park a vehicle or permit such vehicle to be parked on any public street or highway between the hours of 12 midnight and 7AM during the period of December 1 to April 1 annually. Any vehicle found parked in violation of this Ban shall be towed at the owner's expense.* Your anticipated cooperation is greatly appreciated.
- Public Hearing: Per RSA 36-A, the Board of Selectmen will hold the second of two public hearings regarding the proposed purchase of approximately 22 acres defined as Map 27 Lot 2-89, Gumpas Pond, located off Granite Drive, to be acquired for conservation purposes. The Public Hearing will be held on December 6, 2016 at 6:45PM in Sherburne Hall, 6 Village Green, Pelham, NH.

OPEN FORUM

No one came forward.

APPOINTMENTS

Health Officer Selection

Deferred to December 6, 2016. The Board members present preferred to have the full Board present when making their final decision.

OTHER BUSINESS

Update – Drought Situation

Mr. McCarthy stated that the drought condition was still dire as there hadn't been adequate rainfall. The New Hampshire Department of Environmental Services is concerned that the drought will extend through the winter into spring. Mr. McCarthy asked citizens to be vigilant and conserve water whenever possible and abide by the water ban. He will report back to the Board when the State provides another update.

Ms. Spencer arrived.

PUBLIC HEARING – Per RSA 36-A, the Board of Selectmen will be holding a public hearing regarding the proposed purchase of approximately 22 acres defined as Map 27 Lot 2-89, Gumpas Pond, located off Granite Drive, to be acquired for conservation purposes.

Representing the Conservation Commission was Ms. Karen MacKay. She told the Board that the Conservation Commission met November 9th and voted unanimously to recommend the purchase of the parcel. She stated that the proposal was to acquire a parcel containing approximately 22 acres off Granite Drive, which abuts Gumpas Pond. The land steeply slopes down toward the pond. A resident of the pond informed the Conservation Commission that there was a spring that seeped year round off the hillside into the pond. Ms. MacKay displayed a map of the area and highlighted the location of the proposed parcel. She noted that the parcel had no road frontage or direct access. She explained that access could be gained over a 'drift road', which is similar to a floating pathway (not open to vehicular traffic) through privately owned property. There were six other lots abutting the proposed parcel that also had access over the drift road. Due to the limited access, the Conservation Commission is recommending the purchase be for conservation purposes only with no formal opening and no parking area. There were no formal trails located on the property. Ms. MacKay commented that there was a pond association and several members present at the Conservation Commission's public hearing; they were in favor of preserving the land but had some concerns about the parcel being abused and people being disrespectful of the area. She said they informed the residents that people wouldn't be encouraged to use the land, but if it was owned by the Town, the people of the Town could use it. She noted that the pond association was a voluntary group that encouraged residents of the pond to join (\$100 per year). Ms. MacKay told the Board that a purchase and sales had been signed. The purchase price is \$100,000. The Town has appraised the property at \$246,300.

Mr. Lynde asked if the Town already belonged to the association. Mr. McCarthy didn't believe so. Mr. Lynde questioned if the parcel abutted any Town owned land. Ms. MacKay replied the parcel didn't abut any Town owned land, and showed the Board the closest Town owned land near the Gumpas Pond area that connected through to Sherburne Road. She noted there was open land that might be able to be acquired at some point in the future.

Ms. Spencer understood that there could possibly be a way in the future for the proposed land to connect to other parcels to increase the Town's already robust trail system, which she felt would be a good thing. Ms. MacKay spoke about the work done by volunteers to keep the Town trail system clear for various activities such as hiking, snow shoeing, snowmobiling etc. Ms. Spencer questioned

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94 if the Town belonged to any pond associations in other areas of Town. Mr. McCarthy didn't believe
95 so. Ms. Spencer noted if the Town was going to set a precedent by joining the pond association in the
96 area, she suggested being conscientious members of the other associations where the Town owned
97 land. Ms. MacKay replied no one had spoken about the Town joining the association; it was simply
98 mentioned during the Conservation Commission meeting that everyone living around the pond
99 received information and joining was voluntary.

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101 Mr. McDevitt pointed out that the tax card indicated the land was in current use and didn't pay much
102 in property taxes. He didn't see why the Town wouldn't join the association and felt it would be
103 good to do so. He asked for clarification regarding public access to the lot and wanted to know if
104 residents would have a legal right to pass over the lot. Ms. MacKay replied the parcel itself could be
105 accessed because the current owners could walk over the drift road. She assumed if the Town owned
106 it, people could still access the property. She didn't think it was a huge deal that the public may walk
107 the drift road to get onto the parcel. She said there was no area for people to park to access the drift
108 road. She believed the drift road would need to be surveyed and be specifically placed to minimize
109 people walking over abutting lots. Mr. McDevitt said a question for Town Counsel was if public use
110 could be prohibited because the parcel wasn't being acquired for public use.

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112 Mr. Viger opened the discussion to public input. No one came forward.

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114 The second public hearing will be conducted on December 6, 2016 beginning at 6:45pm in Sherburne
115 Hall, 6 Village Green, Pelham, NH 03076

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117 **Discussion** – The sale of lots: Map 24 Lots 12-76 & 12-77 (*Discussion only, no public input*)

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119 Mr. Viger stated the Board had multiple discussions regarding the lots.

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121 Ms. Spencer stated the Board previously received public comments. Being a resident of the area, she
122 had intimate familiarity with the neighborhood. Having a full and robust discussion of all the rights
123 and issues and competing interests involved, it was her opinion that the Selectmen should withdraw
124 the warrant article and retain ownership of the land.

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126 Mr. Viger called attention to the fact that Mr. McCarthy provided the Board with updated information
127 (dated November 18, 2016) from Attorney Patricia Panciocco, who represented an interested
128 purchaser. Ms. Spencer replied even in light of the further information, her opinion remained the
129 same, that the Board should withdraw the article and retain ownership of the land.

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131 Mr. McDevitt understood from the Hilbert family discussion that there was some legal action pending
132 and disagreement among the neighbors. He recalled receiving advice in the early 1990's that if
133 there's a neighborhood dispute, don't get the Selectmen involved. That advice had stood by him. He
134 felt the Board should walk away from the proposal as there was no compelling reason for the Town to
135 sell the land.

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137 Mr. Lynde didn't see any real issue with the Board putting the land out for sealed bid. At the same
138 time, he had no objection to the Town holding onto the property. He made a motion to withdraw the
139 warrant article; the Board could review at a future date.

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MOTION: (Lynde/McDevitt) To withdraw the warrant article for the sale of Map 24 Lots 12-
76 & 12-77.

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

Town Warrant Article – Revision

Mr. McCarthy provided the Board with an amended draft of the proposed warrant articles. He said once the Board reviewed the draft, he would amend the articles as directed and submit back for approval during the December 6th meeting. The Board reviewed the proposed articles.

Mr. McDevitt saw the article regarding the golf course lease. Mr. McCarthy discussed the history of the articles. He said the Town had entered into an agreement with PV Limited, with respect to the golf course purchase; however, the current rules don't allow the Selectmen to agree to any lease of Town property with a term longer than one year without Town approval. Town Counsel provided wording for the article, which Mr. McCarthy read aloud.

Ms. Spencer wanted to know if the sale of the property was premised and conditioned upon PV Limited being able to continue operating the golf course for a period of ten years. Mr. McCarthy answered yes. Mr. Viger noted it was done with the understanding they needed Town Meeting approval. Mr. McCarthy added if the article was not approved, they would renew the lease annually. Mr. McDevitt wanted the wording of the article to be clear that the Town would not be operating the golf course. The Board reviewed the wording of the article.

Mr. McCarthy spoke to the draft articles from the Trustees of the Trust funds. He noted that the dollar figure listed for Recycling Equipment was incorrect and would be amended per information provided by the Trustees. The amendment was also sent to the Budget Committee for discussion at reconsideration.

Mr. Viger asked for the deadline to receive warrant articles. Mr. McCarthy replied petition articles had to be submitted no later than December 14, 2016. Mr. Viger stated they had received one petition article and suggested waiting to review it until December 6th. He noted the Board may need to call a special Board meeting if other articles are received.

Mr. McDevitt asked that the Board discuss information received from Town Counsel some time ago. He stated that the Selectmen didn't have the authority/general right to enact ordinances without prior Town Meeting approval. He said the Town had a number of ordinances on the books that might need modification, but had no ability to do so without Town Meeting approval, even if there was an urgent matter. Mr. McDevitt read aloud the following suggested wording (from the Statute):

Shall the Town vote to adopt the provisions of RSA 41:14-b, which authorizes the Selectmen to establish and amend certain town codes and ordinances after they hold 2 public hearings on the establishment or amendment of the ordinance or code; provided however, upon the written petition of 50 registered voters presented to the Selectmen prior to their vote on the establishment or amendment to the ordinance or code, the issue shall instead be inserted as an article on the warrant at the next town meeting. This authority to establish or amend town ordinances and codes shall not apply to the zoning ordinance, historic district ordinance or building code, which are governed by the adoption rules in RSA 675.

Mr. McDevitt pointed out that the language included a way for citizens to stop an ordinance by having fifty registered voters signing a petition. He would like to include the article on the warrant to see how voters felt. There was no objection.

MOTION: (McDevitt/Spencer) To add the wording in the statute to the warrant.

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

The Board will revisit the warrant articles during their December 6, 2016 meeting.

Petition Warrant Article – Review

The Board deferred review until their December 6, 2016 meeting. In the event additional petition articles are received by the December 14th deadline, the Board may schedule special meeting to review such.

Pelham Youth Council Constitution – Revision

Ms. Spencer told the Board there had been 4-5 applications by students to join the Pelham Youth Council. When reviewing the membership criteria in their constitution, she said it was optimistic but somewhat restrictive. She found that all the applications didn't necessarily fall within the criteria and brought forward two amendments for the Board to consider. They were essentially amendments to the enactment since the Youth Council had not yet been constituted. She read aloud the proposed amendments to Article 4 and 8.

MOTION: (McDevitt/Lynde) To accept the amendments to the enactment of the Pelham Youth Council Constitution as brought forward by Ms. Spencer.

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

TOWN ADMINISTRATOR / SELECTMEN REPORTS

Mr. Viger announced that the public along with the Board of Selectmen are cordially invited to share thoughts about the Pelham Police Department at the Commission on Accreditation for Law Enforcement Agencies ('CALEA') public hearing on November 28, 2016 beginning 7pm at the Pelham Elementary Media Center (school library), 61 Marsh Road, Pelham, NH. Mr. McCarthy stated if the Police Department receives accreditation, they will have attained a standard of excellence that the Town should be proud of. He commended Chief Roark and his staff. Ms. Spencer felt it would be beneficial for members of the community to either call in or attend to voice support.

Ms. Spencer looked forward to announcing and reaching out to the student members of the Pelham Youth Council who had made application. She said students will introduce themselves to the Board. They will also make regular reports to the Board.

Mr. McDevitt reported about the hearings recently in front of the Planning Board.

Mr. Lynde spoke about the latest report regarding recent overdoses occurring in Pelham. He said Pelham Community Coalition would be reaching out to parents and encouraging them to have open and ongoing discussions with their children. Information regarding upcoming events can be found at: <http://www.pelhamcoalition.com> (copy & paste into browser)

Mr. McCarthy told the Board he had tasked Fire Chief Midgley to find out what steps the Town would need to take in order to make the Pelham Fire Station a Safe Station. He noted Manchester and Nashua had Safe Stations. A Safe Station is a place a person can go who wants help from addiction, without fear of arrest. Mr. Lynde noted that responders to the events were being impacted. He said the Town may need to provide them some help. Mr. McCarthy replied there were programs in place.

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238 **ADJOURNMENT**

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MOTION: (McDevitt/Lynde) To return to public session and adjourn the meeting.

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

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241 The meeting was adjourned at approximately 8:08pm.

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Respectfully submitted,
Charity A. Landry
Recording Secretary