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3 **APPROVED**
4 **TOWN OF PELHAM - BOARD OF SELECTMEN**
5 **MEETING MINUTES**
6 **June 6, 2017**
7 **APPROVED – June 20, 2017**
8
9

10 **CALL TO ORDER** - approximately 6:30PM
11

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

ABSENT:
None.

12
13 **PLEDGE OF ALLEGIANCE**
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16 **MINUTES REVIEW**
17

18 **May 9, 2017**

MOTION: (Lynde/McDevitt) To approve the May 9, 2017 meeting minutes as amended.

VOTE: (3-0-0) The motion carried. (No audible response from Mr. Leonard)

19
20 **May 23, 2017 – Deferred.**
21

22 **ANNOUNCEMENTS**
23

- 24 ➤ Special Town Meeting – To vote on Zoning Amendment - June 24, 2017 at Sherburne Hall from 7AM-8PM
- 25 ➤ Vendor Event – June 11th and June 25th at the VFW from 2PM-6PM
- 26 ➤ MDA Fun Day – July 29th at the Fire Station from 1PM-4PM
- 27
- 28

29 **OPEN FORUM**
30

31 No one came forward.
32

33 **APPOINTMENT(S)**
34

35 **Volunteer Application–Nathan Caron for alternate to the Zoning Board of Adjustment (3yr term)**
36

37 Mr. Caron came forward to discuss his application to be an alternate with the Zoning Board. He was
38 interested in becoming involved with the Town and helping where he could.
39

40 Mr. Lynde questioned how many openings were available. Mr. McCarthy replied the Board could have
41 up to seven alternates. He noted per Statute (and confirmation with Town Counsel) they had to be
42 appointed to a three-year term, unless filling the term of someone who resigned.

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Mr. Lynde asked Mr. Caron if he had ever attended a Board of Adjustment meeting. Mr. Caron replied he attended meetings in Durham and Manchester, but not in Pelham. Mr. Lynde discussed the criteria, specifically the hardship criteria, which he explained must be with the land and not the applicant. Mr. Caron understood.

Mr. McDevitt spoke about hearings and discussed the fact that case law often came into play during meetings. He encouraged all board members and alternates to attend programs offered to educate on the laws. He noted courses were sponsored by the NH Municipal Association and encouraged Mr. Caron to attend. Mr. Caron stated he was willing to attend courses and become educated. Mr. McDevitt questioned if he had a matter that would be coming in front of the Board in the near future. Mr. Caron answered no.

Mr. Viger commended Mr. Caron for coming forward to volunteer.

MOTION: (Lynde/Leonard) To appoint Nathan Caron as an Alternate to the Zoning Board of Adjustment for a term expiring March 31, 2020.

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

Volunteer Application – Paul Dadak re-appointment to Conservation Commission (3yr term)

Mr. Dadak came forward to express his desire to be re-appointed to the Conservation Commission. He discussed his experience and qualifications. He stated he would like to remain on the Conservation Commission and Planning Board to represent the Town, its development and safeguard conservation areas.

Mr. McDevitt stated Mr. Dadak had volunteered with the Town for a long time and had proven his value to conservation. Mr. Viger voiced his appreciation for Mr. Dadak's volunteerism.

MOTION: (Lynde/Leonard) To appoint Paul Dadak as member of the Conservation Commission for a term expiring March 31, 2020.

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

Discussion – Ed Gleason, Trustee of the Trust Funds to discuss creation/modification of a policy which would establish a minimum threshold of \$10,000 for acceptance of any future Expendable Trust Funds

Trustee of the Trust Funds Edmund Gleason came forward with Secretary of the Trust Funds Demetra Bergeron. Mr. Gleason told the Board they had been making a lot of progress on the Trust Funds to 'weed' out some of the old ones. They had a meeting with the Department of Justice ('DOJ'), who recommended that the Trustees appeal to the Selectmen to institute a policy, or correct an existing policy, to establish a minimum of \$10,000 for any new trust fund. The rationale behind doing so was that the administration of the low dollar trust funds is cumbersome and not worth it.

Ms. Spencer arrived.

Mr. Gleason told the Board they had transferred all the assets into Enterprise Bank and were seeing a better return on investment. He felt part of the Trustee's job was education, and they should sit down with the Selectmen, School Board etc. to discuss what money was out there and what it could be used for. He explained they were currently putting information together for review. He summarized the portfolio and

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86 felt the Trustees were in good shape to work with the Selectmen. Mr. Gleason provided the Selectmen
87 with a spread sheet of the Town accounts and backed it up with the MS-9 and MS-10.

88
89 Mr. Viger commended the Trustees for the work they've done and continue to do. Mr. McDevitt also
90 thanked the Trustees. He asked which funds qualified for the \$10,000 policy. Ms. Bergeron replied it
91 would only apply to funds going forward.

92
93 Mr. Lynde questioned if a fund could be set up so when it reached \$10,000 they could manage it. Mr.
94 Gleason stated trust funds had to have a specific purpose and intent. Mr. Lynde asked if there had been
95 any discussion with the State regarding perpetual care. Mr. Gleason replied the perpetual care situation
96 was a yearly subject of review by the DOJ with the Trustees. Ms. Bergeron added that the only option
97 would be to go to court with each perpetual care fund and do a Cy pres. Mr. Gleason said in Pelham's
98 case the value of the perpetual care account was over \$800,000 and the main stay of the portfolio. The
99 account was comprised of over 1,040 individual graves. He noted they wrote a warrant article in 2008 to
100 change perpetual care into general maintenance, which had been extremely successful.

101
102 Ms. Spencer questioned what would happen to a trust that began with \$10,000 and later went below that
103 amount. Mr. Gleason explained there were two different types of trusts: 1) expendable trust fund – the
104 entire amount could be expended, and 2) restricted expendable trust fund, where there is a restricted
105 principal. He said they erroneously believed that the restricted principal was the original donation, but
106 had now been advised that in 2008 legislation that enabled the accounts to be invested into investment
107 companies now necessitated that the principal be escalated for inflation on a yearly basis using the
108 government standard. They were now making provisions to make sure the principal goes up concurrent
109 with inflation.

110
111 Mr. McDevitt said we should eliminate some of the trust funds with small balances. Ms. Bergeron replied
112 they had gone through the process during the past few years. Mr. Gleason said they eliminated some
113 capital reserves and some expendable trust funds. The voters approved warrant articles to do so. They
114 had gone through the same process with the school. Mr. McDevitt asked if Mr. Gleason could speak with
115 Mr. McCarthy regarding some of the trusts when the budget and Town ballot is being prepared. Mr.
116 Gleason suggested the Trustees have a yearly review with the Board to clean up and eliminate appropriate
117 funds.

118
119 Mr. Viger questioned if the Selectmen should make a motion to extend the minimum expendable trust
120 fund threshold to \$10,000. Mr. Gleason was unsure if the Town had a policy for accepting gifts. Mr.
121 Viger replied they had a policy for accepting gifts, but didn't know if they had one for accepting trust fund
122 monies. Mr. McCarthy noted they didn't have that type of policy. Mr. Viger suggested they draft a policy
123 and discuss at a later meeting. Mr. Gleason felt it would be helpful to have DOJ review the policy. Mr.
124 Spencer suggested asking DOJ for an example policy.

125
126 For clarity, Mr. McDevitt understood the intent for drafting a policy would be to state specifically if a gift
127 is made to the Town under \$10,000 they won't put it into an expendable trust fund. Mr. Gleason said they
128 were trying to establish a threshold for any expendable trust fund to have a minimum of \$10,000. Mr.
129 Viger understood that less than \$10,000 was not cost effective to manage. Ms. Bergeron suggested
130 someone who wanted to donate could deposit into an existing trust fund, compatible to what they intended
131 the donation to be used for.

132
133 Mr. Leonard asked if a donation could be used for a general betterment purpose and used across
134 departments. Ms. Spencer questioned how broad or narrow the purpose must be. Mr. Gleason replied it
135 had to be specific enough that they could evaluate the intent of the donor. He noted if a fund was principal
136 based or not would have the same administrative costs. Mr. Gleason told the Board they would ask DOJ

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for a template policy for Selectmen review. He said they could let a donor know they don't accept anything less than \$10,000; however, if donor wanted to donate less than that they could contribute into an existing trust fund. Ms. Bergeron noted they had trust funds for basically everything with the Town.

Mr. Gleason stated they were working with the DOJ to establish a mechanism where they could increase the principal per the inflation factor that the government uses. Ms. Bergeron added they were trying to figure a better allocation method so earnings do earn more than the principal. Mr. Gleason said there were approximately fifteen trust funds that have restricted principals.

Mr. Viger understood that the Selectmen agreed to explore a policy and review such with the Trustees and DOJ. Ms. Bergeron with contact DOJ for an example and forward a copy to Mr. McCarthy.

Mr. Gleason noted the Trustees 2017 budget contained \$1,000 for data input for DOJ that would not be happening. He asked that the money be encumbered for next year. Mr. McCarthy made a note to encumber the funds.

OTHER BUSINESS

Review – Draft of “Use of Town Property” policy

The Selectmen were provided with a first draft of the Use of Town Property Policy. Mr. Viger said the Board was looking to put together a policy for the use of Town fields, parks and facilities, which at this time included: Village Green, Pelham Veteran's Memorial Park, Raymond Park, Soccer Fields, Newcomb Field, Muldoon Park, Lyons Park, Meeting House Park and Sherburne Hall. He asked that the Board review the draft and have a discussion at their next meeting.

Mr. McDevitt recalled Sherburne Hall had its own use policy. Mr. McCarthy was aware. Mr. McDevitt discussed the use of Village Green and the requirement for groups to carry insurance policies. Mr. Spencer warned about setting up discretionary prohibitions. Mr. McDevitt believed the Town's insurance company indicated there were certain specific conditions under which insurance is required (i.e. using equipment, serving food, etc). Mr. Spencer questioned if terms such as 'equipment' were defined in the Town's insurance policy. Mr. McCarthy explained he sent the draft use policy to Primex (Town's insurance company) who had their counsel review and suggest amendments. Ms. Spencer believed specific terms (for things such as equipment) should already be defined in the Town's insurance policy and recommended the Use of Town Property policy refer to the Town's insurance policy for definitions.

Under definitions, Mr. McDevitt saw reference to the 'Charter' and asked if that was the Town Charter of 1746. Mr. McCarthy replied that language was added in by Primex. Mr. McDevitt replied the Charter didn't specify park and recreation. Mr. Lynde commented that Parks. & Recreation was established by Town Meeting in the early 1970's. Mr. McDevitt commented he had some concerns with some of the prohibitions and asked to speak to Mr. McCarthy separately. There was no objection. He then questioned the closing time for parks and believed PVMP, Raymond and Muldoon were open dawn to dusk. Mr. Viger noted the sign for Muldoon Park indicates the park is open dawn to dusk unless the lights are in use, because then its designated by the program. Mr. McCarthy replied the policy could be tailored to the Town's specific needs.

Under prohibition, Mr. Lynde questioned if the restriction only applied to the use of vehicles, boats, aircraft and animals. Mr. McCarthy answered yes. Mr. Lynde commented that the Town had mandatory recycling, except in the parks. He felt the policy should include language for such. He felt any organization that used the parks should set up a policy for recycling. Mr. McCarthy said they could.

Ms. Spencer asked if the Board could submit written comments to Mr. McCarthy to include in the next draft copy. Mr. Viger answered yes.

Mr. McDevitt spoke about snowmobiles and commented it had been a long time practice to not prohibit snowmobiles on Town land. He believed there were trails that went through Town land. Mr. McCarthy said he would check into it. Mr. McDevitt felt the Board should consider removing snowmobiles as a prohibited vehicle. He reviewed other editorial points.

Ms. Spencer reiterated that she would submit her comments to Mr. McCarthy for inclusion in the next draft for discussion at a later meeting.

Review – Special Town Meeting Voter’s Guide

The Board was provided with a proposed voter’s guide for the June 24th Special Meeting.

Mr. Lynde felt the guide should start by saying the warrant article was exactly the same as the article approved in March and to indicate the only reason they were voting again is because of an error made in the process which invalidated the article. Mr. McCarthy felt it served a purpose for the voters to have a fresh recollection. He said the proposed wording was identical to the voter’s guide for last year’s election. He said the language explained the intent of the warrant article.

Mr. Leonard was in favor of leaving the language as Mr. McCarthy had written it since it was the same article being voted on. He said the only reason they were voting again was because of a technicality.

Ms. Spencer was in favor of pointing out to the voters that the language was identical to what was on the warrant that passed in March. The Board discussed how they would like the proposed voter’s guide amended. Rather than indicating there had been a ‘clerical error’, they preferred to state there had been improper notice. Ms. Spencer suggested the following: *“This article is identical to the article concerning the same subject on the March 16, 2017 warrant. The original article on the March 16, 2017 ballot was invalidated due to the improper notice of certain property owners who were required by Statute to receive individual notice”* The remaining language would remain as proposed. The Board agreed.

Mr. McDevitt suggested sending the guide out relatively soon since people were already picking up absentee ballots.

Mr. Lynde asked that a copy of the revision be circulated. Mr. McCarthy said he would do so. He will also provide Town Counsel with a copy for comment.

Mr. Viger stated there had been a question regarding which budget postage would come from. Mr. McCarthy replied it would come out of Planning. Mr. Lynde noted there was a line for ballot clerks in the Town Clerk’s budget. As a matter of principle, Ms. Spencer felt the associated costs should come out of the Planning budget because that was the source of the issue. Mr. McDevitt and Mr. Viger agreed. There was no further discussion.

Discussion – Care of Town-owned trees

Mr. McDevitt said in years past he’s discussed the maintenance of Town-owned trees, but hadn’t pursued it aggressively. He’d like the topic to remain on the Selectmen’s ‘radar’ until they figure a solution. He noted there were approximately 121 decorative or ornamental trees planted in Town, which includes the new trees planted along Marsh Road, Village Green, Lyons Park, Muldoon Park and Pelham Veteran’s Memorial Park. He spoke about the health of the trees and was concerned that they needed professional

care. He believed they should consider some money in the 2018 budget. Mr. Viger suggested exploring funding through trust funds or the Parks and Recreation 80's Fund. Mr. McCarthy questioned if the Forestry Committee had money for tree care. Mr. McDevitt replied they had money for the care and maintenance of the forest. He said they could be approached for a discussion. Mr. McCarthy recalled they had done an RFP in the past for an arborist, but had no response. Mr. McDevitt noted there was money in a trust fund for the Village Green trees; however it was only intended for the trees on the Village Green. He told the Board he would speak with Mr. McCarthy regarding options to understand the costs.

Discussion – Further discussion on the Elderly Tax Exemption

Mr. McDevitt asked that the Board postpone the discussion to their next meeting.

TOWN ADMINISTRATOR / SELECTMEN REPORTS

Mr. Lynde discussed the recent Planning Board meeting and the hearing that came before them.

There were no other reports.

REQUEST FOR NON-PUBLIC SESSION

MOTION: (Lynde/Spencer) Request for a non-public session per RSA 91-A:3,II,a (Personnel)

ROLL Mr. Viger-Yes; Mr. Lynde-Yes, Mr. McDevitt-Yes; Ms. Spencer-Yes;

CALL: Mr. Leonard-Yes

It was noted that when the Board returned, after the non-public session, the Board would not take any other action publicly, except to possibly seal the minutes of the non-public session and to adjourn the meeting. The Board entered into a non-public session at approximately 8:01pm.

MOTION: (McDevitt/Spencer) To leave non-public session.

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

MOTION: (McDevitt/Spencer) To indefinitely seal the non-public meeting minutes.

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

The Board returned to public session at approximately 9:18pm.

ADJOURNMENT

The meeting was adjourned at approximately 9:19pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary