

APPROVED
TOWN OF PELHAM
BOARD OF SELECTMEN MEETING
MINUTES
September 17, 2013
APPROVED – October 15, 2013

CALL TO ORDER - approximately 6:30PM

PRESENT: Mr. William McDevitt, Mr. Robert Haverty, Mr. Doug Viger, Mr. Hal Lynde,
Town Administrator Tom Gaydos

ABSENT: Mr. Edmund Gleason

PLEDGE OF ALLEGIANCE

MINUTES REVIEW:

September 3, 2013

MOTION: (Viger/Haverty) To approve the September 3, 2013 public meeting minutes as amended.

VOTE: (3-0-1) The motion carried. Mr. Lynde abstained.

September 10, 2013

MOTION: (Lynde/Viger) To approve the September 10, 2013 public meeting minutes as written.

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

OPEN FORUM

Mr. Mike Sherman came forward to speak about the dangers of parade floats and safety concerns of children possibly being injured. He discussed the recent Old Home Day parade, during which there were people on the floats throwing candy and games off the vehicles into the crowds. This was of concern because children were running into the street to collect the candy etc.. He was also concerned about safety as he witnessed float drivers not paying attention to the activity of the crowd or children in the area. Mr. Sherman felt there should be some changes to make parades safer for children. Mr. McDevitt felt the topic should be brought back to the Old Home Day Committee. He recalled in the past candy not being allowed on the floats. He said he was a member of the Old Home Day Committee and would bring the concern back to them.

Knowing that there was a planned movie night on Village Green, Mr. Sherman asked if the area had been sprayed for mosquitoes. Mr. Gaydos said the area had been sprayed.

Mr. Haverty noted that Old Home Day wasn't the only parade in Town. He felt the Selectmen/Town should be mindful of that fact going forward. Mr. Lynde said the organizers of any parade had to have a permit on a State road. He suggested having the Police Department and/or Highway Safety

Committee provide comment. Mr. McDevitt felt it would be a good idea to have the Police Chief provide an opinion and asked Mr. Gaydos to note the subject for further discussion.

ANNOUNCEMENT(S):

- There will be a presentation of the results of the Flood Study, Wednesday, September 18, 2013 at 6:30pm in Sherburne Hall.

APPOINTMENT(S):

Dotty Marsden, Town Clerk/Tax Collector – Online payments Beginning October 1, 2013

Ms. Marsden spoke about the availability of online payments. She said the Town Clerk/Tax Collector's office would be introducing E-Registration starting October 1, 2013. This is an online service for residents to renew motor vehicles, dog licensing, vital records and property tax payments with the option to pay by credit, debit card or ACH transfer from a checking account. For online payments Master Card, Visa, Discover and American Express can be used. Citizens will be able to go to the Town Clerk website at pelhamweb.com and process their transaction by paying with debit, credit card or ACH at their convenience 24-hours a day, seven days a week. The E-Reg information will be contained on the monthly renewal notices mailed out with instructions on how to proceed. There are fees involved depending on the type of payment the citizen chooses to pay with. There is a \$1.50 internet transaction fee, plus a minimum credit/debit card processing of \$1.50 or 2.95% of the payment (whichever is greater). If a citizen chooses ACH form of payment, there would be a \$3 total charge (consisting of \$1.50 transaction fee and \$1.50 ACH convenience fee). Citizens will also be able to get estimates on new registrations directly on the E-Reg site (pelhamweb.com).

Mr. McDevitt said the fees charges are being transferred to the processor; the Town was not making a profit.

PUBLIC HEARING – 2nd of Two Public Hearings in accordance with RSA 36:A, regarding a proposal to purchase property of approximately 56.50 acres, defined as Map 33 Lot 2-61, Old County Road. This lot is being acquired for use as conservation land.

Conservation Commission Chairman and Forestry Committee member Paul Gagnon came forward to discuss a parcel of interest for purchase. He said they started with a 70 acre parcel at 19 Old County Road that contained a house, barns and sheds. He said the Town was not interested in those structures, so they subdivided the parcel into two pieces; the 13 acre portion (containing the structures) will be sold to someone other than the Town, and the remaining 57 acres is being proposed for the Town to acquire for a price of \$310,000. Mr. Gagnon discussed the Town owned parcels in the surrounding area and said if the Selectmen decided to acquire the proposed parcel it would bring the block of conservation land up to approximately 500 acres. He said since their last meeting with the Selectmen, the subdivision plan was reviewed and signed off on by the Planning Board. The plans have been completed by Herbert Associates at no charge as a favor to the Town, and are on their way to the Trustees for signature. Mr. Gagnon said they hoped to close on the plans by next Thursday.

Mr. McDevitt opened the public hearing to welcome public input. No one came forward. The Board had no further questions/comments.

MOTION: (Lynde/Haverty) To acquire approximately 56.5 acres defined as Map 33 Lot 2-61 on Old County Road.

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

Joseph Maynard, Benchmark Engineering - Alteration of Valley Hill Road

Mr. Joseph Maynard of Benchmark Engineering, representing Bettencourt Corp., came forward to discuss the proposed alteration to Valley Hill Road. His client was in the process of purchasing the Hill Top Convenience Store and Deli located at the corner of Valley Hill Road and Mammoth Road. The plan has been through the Zoning Board of Adjustment and Planning Board to allow the transformation of the convenience store into a Dunkin Donuts with a drive-thru. As the project went through the Planning Board process, there were discussions regarding Valley Hill Road having two 'legs' that split the road at the Mammoth Road intersection. Mr. Maynard provided a brief history of Valley Hill Road, which was actually located along the steep stretch of road to the south of the parcel. The shorter, straight portion was a cart path formed over time to become a paved section of road having a steep section of grade associated with it. There is a triangular piece of land located between the two 'legs' of Valley Hill Road. At a Planning Board site walk, Mr. Maynard's client made a purchase and sales agreement with the owner of that triangle piece of land to fulfill some offsite improvements to allow the project to move forward.

Mr. Maynard discussed the proposed improvements. He said they were proposing to lengthen Valley Hill Road so they would have a more gradual approach to Mammoth Road. Currently the grade came off Mammoth at approximately 12%. They proposed to cut the 'hump' out of Valley Hill Road at the subject driveway by about three feet and alter the roadway into the subject site. Mr. Maynard said in order for him to realign Valley Hill Road, being it was a Town road, he would need the Selectmen's permission and their help with the application process to the Department of Transportation ('DOT'). He noted that his client would be responsible for the cost of the off-site work. Mr. Maynard said there was one abutter in the direct Mammoth Road area with a driveway that came off Valley Hill Road (in the long 'leg' portion). That portion of Valley Hill Road would be discontinued, and ultimately become the driveway for that abutter. He said he spoke with the resident to let them know what was coming forward (for a plan) and that he would have a discussion with the Selectmen. He said he would be providing the abutter with plans to let them know what was happening with the intersection improvements. Mr. Maynard was hopeful that the project could move forward so his client could have construction completed and have the store open sometime in December. For that to happen, the pavement binder course would need to be done this year so they could obtain a certificate of occupancy.

Mr. Maynard then told Selectmen that at a future time (after off-site improvements were done) they would like to come back to the Board with a realign of Valley Hill Road. There were two sections of the area that would become residual land of the old Valley Hill Road segment; one would be directly adjacent to the new Dunkin Donuts site, the other would more than likely be discontinued and dedicated to the abutter for their private driveway.

Mr. Haverty said he was present for the Planning Board site walk, but not present at the meeting when the project was approved. This was his first time seeing the proposed intersection. He had concern for the abutter who would inherit approximately 100ft. of driveway through the process. He questioned how the abutter felt about gaining the additional driveway they would be responsible for maintaining. Mr. Maynard said he spoke to the wife of the abutter and explained he would be meeting with the Selectmen and once he 'pinned down' the alignment he would forward them plans. He told them to call him; he would be more than happy to explain what would be occurring. He said there was difficulty with the abutter's driveway; he couldn't have it go straight out to Mammoth Road or connect to Valley Hill, because it would create a conflict with the new intersection. He understood that he would need to have further conversations with the abutter. He felt because the Valley Hill

136 intersection had a blind corner, anything they did would be an improvement for the abutter. Mr.
137 Haverty questioned if the intention was to donate land to the abutter. Mr. Maynard said that was the
138 intention given the abutter's driveway would across the land. The abutter who currently has frontage
139 on Valley Hill Road will in the end have frontage on Mammoth Road. Mr. Haverty asked if the
140 abutter would have to change their address and if their property value would be affected having it on
141 a State road, versus a Town road. Mr. Maynard didn't have an answer. Mr. Haverty commented that
142 there seemed to be a lot of unknowns for the abutter. He said while he voiced his support for the
143 business and very much believed it was the right one for the location, he was hesitant for the abutter
144 and wanted to make sure they were being taken care of.

145
146 Mr. Gaydos asked what would happen to the excess property to the north area of Valley Hill Road.
147 Mr. Maynard said it would go along with the property for Dunkin Donuts and have a right-of-way
148 across it.

149
150 Mr. McDevitt approached the displayed plan for clarification of how the abutter's driveway was
151 currently situation and how it would be altered with the new alignment of Valley Hill Road. Mr.
152 Maynard sketched on the plan to show how the proposed layout of the abutter's driveway.

153
154 Mr. Viger, who was a resident on Valley Hill Road, discussed the intersection and sometimes difficult
155 traffic flow of vehicles coming out of the existing convenience store. He was in favor of the
156 improvements, but echoed Mr. Haverty's concerns for the abutters on Valley Hill Road. He would
157 like to hear feedback from them prior to the Selectmen acting on their behalf and changing the
158 entrance in and out of their home.

159
160 Mr. Gaydos believed there would need to be an agreement made with the abutter. Mr. Maynard said
161 at some point he should have a written agreement to move forward with them.

162
163 Mr. Lynde understood that the proposal was to ask the abutter to accept additional land, which would
164 be an extension of their driveway. Mr. Maynard said that would be the best option for them, instead
165 of leaving it as a right-of-way. Mr. Lynde assumed the abutter wasn't obligated to accept the land.
166 Mr. Maynard replied if they chose not to he would have to look at other options for realigning their
167 driveway. Any realignment would need to be worked out with them. He pointed out that the abutter
168 owned frontage further up on Valley Hill Road that was along a wooded buffer. He said if they
169 wanted, a driveway could be constructed off Valley Hill Road. He felt the best situation was to give
170 the abutter frontage out onto Mammoth Road. Mr. Lynde understood that Mr. Maynard was seeking
171 the Selectmen's permission on the realignment of Valley Hill Road. Mr. Maynard said he would like
172 to move forward with the State permitting process, which would take some time. The State was
173 already made aware of the proposal, but the applicant needed to be the Town of Pelham because of
174 the alterations to a Town road. He said if the Selectmen would schedule him to another meeting, he
175 would speak with the abutter to work things out.

176
177 Since the Town would be the applicant in this case, Mr. Haverty recommended the Board appointing
178 a representative to work with Mr. Maynard and the abutter. He didn't recommend moving forward
179 any further until that conversation occurred. Mr. Maynard said he would be thankful to have a
180 Selectman contact to meet with the abutter on site for a discussion to move the process forward.

181
182 Mr. McDevitt believed the Board was indicating they didn't object to the project or the road, but had
183 a concern for the neighbors who were most affected and not represented at the table. He said the
184 Board would ask Mr. Haverty to be the contact. Mr. Gaydos asked if Mr. Haverty would also receive
185 the Selectmen's authorization to sign the application, since the key questions were known.

187 There was further discussion regarding the alignment of Valley Hill; Mr. Maynard believed the
188 proposal for acquiring the triangle piece of land was the best solution they were able to come up with
189 without reconstructing a couple thousand feet of Valley Hill Road. Mr. Haverty believed the whole
190 thing was tied together inseparably and they needed to solicit the abutter's opinion and get their
191 approval before the plan proceeded.

192
193 There was no objection to Mr. Haverty having the authorization of the Board to sign on their behalf if
194 it was felt that the abutter was satisfied with the proposal.

195
MOTION: (Lynde/Viger) To authorize Mr. Haverty to sign on the Selectmen's behalf, the
approval of the Board, as long as he was satisfied that he abutters were satisfied.

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

196
197 **Surrey Lane Extension**
198

199 Mr. McDevitt said there was an appointed added to the schedule and asked Mr. Gaydos to provide
200 comment. The discussion was in relation to the Town extending Surrey Lane from St. Margaret's as
201 an emergency way to have a second avenue should Route 38 be blocked. Mr. Gaydos said the Fox
202 family petitioned the Superior Court to have a hearing for an injunction on the construction of that
203 road. Town Attorney John Rattigan received an e-mail from the Fox's attorney, Attorney Robert Best
204 indicating there was a proposal; that proposal was given to the Selectmen. Mr. McDevitt read aloud
205 the proposal executed by the parties Kathy Corey-Fox and Warren Fox ('Fox') and delivered
206 September 17, 2013. Fox opposes and objects to the Town's connection and extension of Surrey
207 Lane.
208

MOTION: (Haverty/Lynde) To authorize Mr. McDevitt to sign the agreement proposed in the
document dated September 17, 2013 submitted by Kathy Corey-Fox and Warren
Fox.

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

209
210 Mr. McDevitt signed the agreement and handed the document to Mr. Gaydos.
211

212 Attorney Robert Best of Bianco Professional Association, representing the Kathy Corey-Fox and
213 Warren Fox, came forward to speak to the Selectmen. Ms. Kathy Corey-Fox also came forward for
214 the discussion. Attorney Best began by saying they were glad to reach an amicable resolution to the
215 situation. It was understood that the agreement didn't require the Selectmen to engage them in any
216 kind of conversation or to take any action after having their opportunity to speak. They hoped their
217 comments would have the Selectmen think about the project (Surrey Lane extension) and maybe
218 consider differently about parts of it.
219

220 Attorney Best provided a brief history and stated that the Surrey Lane extension project had been on
221 and off the table for approximately twenty three years. Surrey Lane became property of the Town
222 (1979-1980) as part of the latest addition of the subdivision in that area. Through research and
223 conversations, Ms. Fox had learned the intent of deeding the property to the Town was not so it
224 would be available for a future road, but was to deliberately keep it from becoming a road. It was
225 noted that the developer had wanted to construct the road in 1980, but the Town, through the Planning
226 Board, wasn't going to let them. They understood that once the property was deeded to the Town it
227 was the Town's decision regarding what to do with the property. Attorney Best said they simply
228 hoped to have a little input in the process.

Attorney Best covered the items they felt were the most important and critical issues they wanted to present to the Selectmen:

- 1) As the project is developed, it was believed there would be an impact on the drainage (ground water runoff) from St. Margaret's Drive. St Margaret's Drive runs downhill (sloping East to West) with water running down the road across the Drouin property, into a catch basin that ends up in a pond on the Fox property. The construction of the road and development of property may enhance that runoff and direct additional water into the pond;
- 2) The Drouin property septic field is in the right-of-way setback from proposed the Surrey Lane extension. In the past water has collected and ponded over that septic field. There was concern that the road may exacerbate the situation and potentially wash over and contaminate the pond on the Fox property;
- 3) The proposal includes an 18inch drainage pipe underneath the extension that would drain from West to the East toward the pond. The challenge with having an 18inch inflow and a 12inch outflow into the pond was the potential of bringing a vastly greater amount of water into the pond that could potentially leave it through the outflow. The pond doesn't infiltrate directly into the ground. It exits the pond going to Golden Brook then into Beaver Brook and into the Merrimack River. The pond is an important resource that could affect other wetlands;
- 4) At the edge of the pond is a bedrock well that supplies drinking water to four houses. Because of the age of the bedrock well, it was uncertain whether the casing is set into the bedrock as done in modern construction. There was always the possibility that road salt, drainage etc. going into the pond could affect the well. The well is located approximately 15ft. from where the Surrey Lane extension is proposed;
- 5) It was reiterated that the pond isn't self-contained and leads to Golden Brook, Beaver Brook and into the Merrimack River;
- 6) There are underground electric utilities and plumbing in the vicinity of the proposed Surrey Lane extension construction.

Attorney Best hoped that the items discussed were interesting to the Selectmen so they would have the engineer in charge of the project consider them.

Mr. McDevitt said the Board wouldn't engage in a back and forth discussion because they would be at several disadvantages. He believed the Town's engineer, Keach Nordstrom had spent a considerable amount of time reviewing the issues. He said as a courtesy to Attorney Best's clients, he would encourage the Board to have Keach Nordstrom review the specific comments raised and how they would be addressed.

Mr. Lynde heard a comment that there was a drinking water source that was in or near the pond. Attorney Best said there was a bedrock well that sat on the end of the pond that served one house; there were four houses that had a deeded right to access that well. Ms. Corey-Fox commented that the well served 20 Surrey Lane and 19 St. Margaret's Drive.

Mr. McDevitt noted that Mr. Drouin sent a lengthy e-mail outlining his concerns. He asked that Mr. Drouin's concerns be addressed in Keach Nordstrom's response. Mr. Gaydos said on Wednesday he would take the recording of the meeting and forward to Keach Nordstrom for review and respond in writing. That response would be sent to Mr. Drouin, Attorney Best and Ms. Corey-Fox.

Stan Walczak, Transfer Station Director – Review and Vote on Final Amendment to Transfer Station Rules and Regulations

Mr. Walczak told the Board that he had incorporated the amendments suggested by the Board and resubmitted for further review.

MOTION: (Haverty/Viger) To adopt the draft, dated September 17, 2013, as the Rules and Regulations for the operation of the Town of Pelham New Hampshire Transfer/Recycling Facility.

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

OTHER BUSINESS

NH Department of Transportation ('DOT') – New 10-year Plan for Pelham

Mr. McDevitt stated that the State DOT came out with its 10-year transportation plan and contained two items from Pelham; 1) Daniel Gionet Bridge red listed and scheduled for replacement in 2017, 2) Willow Street Bridge scheduled for replacement in 2022. He said the Town was trying to do what it could to move up the date for the Willow Street Bridge.

Mr. Gaydos said the Willow Street Bridge was not red listed, and know how bridge constructed worked, the State tended to give priority to red listed items. He said the engineering, preliminary and final design would be completed and said at some point the Town might decide to do the bridge on its own given that 80% of engineering costs could be recouped from the State. He said the bridge was primarily in failure because of the amount of traffic going over it.

The Board transitioned into a discussion regarding the next agenda item –

Willow Street Bridge RFP - Update

Mr. Gaydos said the item was on the agenda, not for discussion, but rather to find out how the Board would like to proceed. The request for RFP has been put out and responses have been received. He asked if the Board wanted to participate or authorize one or two Selectmen to move forward. It was explained that last year's Town Meeting authorized the release of some of the money in capital reserve to get the engineering done, which was eligible for 80% funding by the State. The concern was that the State funding would go away. Mr. Gaydos told the Board that they were going through the State's required process (qualification based assessment) to be able to get the 80% funding. There were approximately nine companies that submitted letters of interest, of which at least five should be brought in for discussion. Mr. Gaydos asked how the Board wanted to proceed with the process.

The Board wanted each Selectman to have the opportunity to weigh in with comments. Mr. McDevitt asked that the Selectmen provide comment to Mr. Gaydos and for Mr. Gaydos to obtain Mr. Gleason's feedback. An agenda item will be included at the next meeting.

New Fire Station Costs – Update

Mr. Gaydos told the Board they were down to punch list items and there was approximately \$120,000 remaining. He summarized the items that would be addressed and noted they had a two year warranty during which time all the 'glitches' would be worked out. There was a comment on the Town message board regarding vinyl panel that were not installed by specification. This vinyl expands and contracts with heat. Mr. Gaydos said the company would come back in the Fall (during cooler weather at no cost to the taxpayers) to attach them properly so they wouldn't buckle.

TOWN ADMINISTRATOR / SELECTMEN REPORTS

Mr. Lynde spoke about the Pelham Community Coalition; a group working to raise awareness of substance abuse in Pelham. There will be a program of events on October 1st; each school will have age-appropriate presentations and challenged to take a pledge to remain substance-free. Parents will have a presentation of the information in the evening. During Old Home Day the coalition had a booth to ask people to sponsor students at the high school to cover the cost of the dog tags given to those who pledge to remain substance-free. Over one hundred people signed up to sponsor students. The children from St. Patrick's School were invited to attend an event. Also, through the Library Director's contacts, homeschoolers have been invited to be included in the presentations. Mr. Lynde said it had been a heartwarming experience to be involved with. He then commented that the Nashua Regional Planning Commission was pleased to hear that Pelham had a prescription drug drop box at the Police Station, which they will advertise on their website.

Mr. Viger said the Budget Committee had started their budget reviews. They had reviewed Town buildings on September 7th and would review the school buildings September 21st. He said the Budget Committee was happy with the Selectmen's approach and results during the budget process.

Mr. McDevitt reported that there had been discussions with Sovereign Bank regarding the preservation of the mural on the back wall of the bank.

REQUEST FOR NON-PUBLIC SESSION

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

ROLL

CALL: Mr. McDevitt-Yes; Mr. Viger-Yes; Mr. Haverty-Yes; Mr. Lynde-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 7:55pm.

The Board returned to public session at approximately 8:17 pm.

MOTION: (Viger/Lynde) To seal the minutes of the non-public session indefinitely.

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

ADJOURNMENT

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

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

The meeting was adjourned at approximately 8:17 pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary