

APPROVED
TOWN OF PELHAM
BOARD OF SELECTMEN MEETING
MINUTES
February 17, 2015
APPROVED – March 3, 2015

CALL TO ORDER - approximately 6:00PM

PRESENT: Mr. Edmund Gleason, Mr. William McDevitt, Mr. Hal Lynde, Mr. Doug Viger (arrived after public session commenced), Mr. Robert Haverty, Town Administrator Brian McCarthy

ABSENT: None.

REQUEST FOR NON-PUBLIC SESSION(S)

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

VOTE: (3-0-0) The motion carried. Mr. Gleason, Mr. Lynde, Mr. McDevitt. (Mr. Haverty arrived after non-public had commenced)

It was noted that when the Board returned, after the non-public session, the Board would then take up the items on the agenda and conduct their public meeting. The Board entered into a non-public session at approximately 6:00pm.

The Board returned to public session at approximately 6:30PM.

MOTION: (McDevitt/Lynde) To adjourn the non-public session of February 17, 2015.

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

MOTION: (Haverty/Lynde) To seal the minutes of the non-public session of February 17, 2015 indefinitely.

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

PLEDGE OF ALLEGIANCE

MINUTES REVIEW

January 20, 2015

MOTION: (Lynde/McDevitt) To approve the January 20, 2015 meeting minutes as amended.

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

26 **ANNOUNCEMENTS**

- 27
- 28 ➤ **2015 Town Meeting – will be held Tuesday, March 10, 2015 at Pelham High School, 85**
- 29 **Marsh Road, Pelham, NH from 7AM to 8PM;**
- 30 ➤ **2014 Annual Town Reports and Voter Guides will be available on March 3, 2015.**
- 31 **Voter Guides will be mailed to each residence. If you have not signed up to receive the**
- 32 **Town Report by mail, you can pick up a hard copy or CD copy at the following**
- 33 **locations: Town Clerk's Office, Selectmen's Office or Public Library;**
- 34 ➤ **New Pelham Town Website design unveiled and fully functional.**
- 35 **(www.pelhamweb.com)**
- 36

37 **OPEN FORUM**

38

39 No one came forward to address the Board.

40

41 **APPOINTMENTS**

42

43 **PUBLIC HEARING: The first of two hearings regarding a proposal to purchase**

44 **approximately 0.30 acres of a 5.04 acre lot, defined as Map 33 Lot 1-158-24 (26 Scenic View**

45 **Drive); and to purchase approximately 6.4 acres of an 11.7 acre lot, defined as Map 33 Lot 1-**

46 **158-21 (22 Scenic View Drive), both to be acquired for use as conservation land.**

47

48 Conservation Commission representatives Paul Gagnon and Karen MacKay came forward to discuss

49 the proposed land purchases. Using a color coded map of the Town, Ms. MacKay showed the Board

50 the location of the proposed lots that were in between the Gumpas Pond conservation area and

51 Merriam-Cutter area. There is an existing trail system that will be preserved for the future with the

52 acquisition of the lots. The landowners were both open to the possibility of selling a portion of their

53 back land to the Town, being that both lots were oversized, lot line adjustments (versus subdivisions)

54 were proposed so each lot would remain in conformance with regulations. Ms. MacKay and Mr.

55 Gagnon walked the Town land lot lines and the proposed lots to ensure the existing trail would

56 continue to have access and determined it would, with a slight adjustment.

57

58 Ms. MacKay noted they decided not to have an appraisal done due to the associated cost of doing so

59 and because they were only interested in a small portion of the lots. They would like to purchase

60 approximately 6.4 acres of Map 33 Lot 1-158-21 (22 Scenic View Drive) for \$45,000 and they would

61 like to purchase approximately 0.30 of Map 33 Lot 1-158-24 (26 Scenic View Drive) for \$5,000.

62 Ms. MacKay told the Board the cost was a little on the high end of what they would usually spend;

63 however, the connection being created was extremely important and allows for approximately 600+

64 contiguous acres. The closing of the sale would most likely be in late March.

65

66 Mr. Lynde felt it would be a great purchase based on the ability of creating a contiguous parcel from

67 Sherburne Road through to Hinds Lane (Gumpas Pond).

68

69 Mr. Gleason questioned what funds would be used for the purchase. Mr. Gagnon replied it would

70 come out of current use funds and therefore not be a tax burden.

71

72 Mr. Gleason noted that the second public hearing would be held in two weeks. On behalf of the

73 Town he thanked Mr. Gagnon and Ms. MacKay for all their efforts and good work. Mr. Gagnon told

the Board even though the parcels were small it didn't make the process easy. He added Ms. MacKay had lead the effort and done a lot of work for about a year to bring the process to this point.

Kinder Morgan Project Update: Selectmen discussion on actions taken to date and strategic plan going forward.

Mr. Gleason stated the agenda item was intended for discussion by the Board only and would not be requesting public input at this time. There will be open house discussions; a list will be provided. He told the public the Selectmen were vigorously pursuing Kinder Morgan to conduct an open house/public participation meeting in March with Pelham. He provided a brief synopsis of what had transpired to date. The Selectmen were sent a letter January, 2014 from Kinder Morgan informing a project would be coming forward; they pursued information and open dialog, but received no response despite repeated requests from the Town to Kinder Morgan. In November, 2014 the press indicated the project would come through Pelham and wanted the Town's reaction. The Town again contacted Kinder Morgan and informed they were very displeased information was coming from the press and not Kinder Morgan. Kinder Morgan then contacted the Town and held an 'exploratory' meeting on December 11, 2014. Also present was Liberty Utilities, who wasn't directly interested in the project, but may be interested in purchasing gas if the project came to fruition. During the meeting in December, Kinder Morgan promised Pelham they would conduct an open house in January, 2015 at Sherburne Hall. They also stated the gas availability for the Town would be solely the responsibility of Liberty Utilities; however, Liberty would only pledge to contract for gas from Kinder Morgan (which would be a separate discussion). Kinder Morgan indicated there were no distribution points planned for Pelham; Liberty would investigate future/potential distribution points, but would make no commitment. They also indicated they would be contacting all the abutters.

Mr. Gleason stated a press release came out January 12th listing open house dates, in which Pelham was ignored. At that time Mr. McCarthy contacted the President of Kinder Morgan to express the Town's utmost displeasure with the manner in which the project was being handled and keeping information from Pelham. Kinder Morgan has now contacted the Town and promised to conduct an open house in March, 2015. Mr. Gleason informed Pelham was pushing for two things: 1) a public meeting between the Selectmen and Kinder Morgan representatives in Sherburne Hall to explain the impact to Pelham and what the beneficial effects will be; and 2) subsequent public meeting during which the public will participate and be allowed to express their views/concerns and ask questions and receive answers.

Mr. Gleason outlined what the Selectmen had done, such as 1) directed Town Administrator to participate in a 17-town coalition to investigate available options; 2) Selectmen Lynde appointed to a Nashua Regional Planning Commission ('NRPC') subcommittee assigned to assess impacts and options; 3) State Representatives have been made aware and promised to follow up on the situation and concern that Kinder Morgan was not being responsible and forthright with Pelham; 4) Selectmen McDevitt, Lynde and Gleason attended an informational meeting (Feb. 6th) in Windham to try to gather information from other views; and 5) Selectmen plan to attend area open house meetings. Mr. Gleason noted that the Conservation Chairman Paul Gagnon had been contacted by conservation groups throughout the State. He hoped for the Board's concurrence to delegate Mr. Gagnon as the representative to participate in conservation meetings and report back to the Board.

Mr. Gleason hoped after the Board discussed the situation to have a strategy moving forward.

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123 Mr. McCarthy discussed the 17-town coalition (New Hampshire Pipeline Coalition). When
124 information began streaming through the press two months ago, he started receiving telephone calls
125 from other town administrators/managers whose communities potentially would be affected by the
126 pipeline. They decided to form a coalition to work in unison with a goal to collectively review the
127 project and decide if it will benefit or hurt the communities. Two weeks ago the coalition held a
128 meeting that was attended by representatives from the offices of Senator Shaheen, Senator Ayotte,
129 Congressman Guinta and Congresswoman Kuster. The coalition wanted the representatives to hear
130 their frustration in dealing with Kinder Morgan. The coalition interviewed an attorney because they
131 felt they were getting to a point where it was difficult to determine fact and fiction and were seeking
132 accurate feedback. The attorney would review information from Kinder Morgan to ensure its
133 validity so it could be brought back to the communities. The second critical goal of the coalition is to
134 hire an environmentalist to examine the project and determine if there would be any problems with
135 conservation issues, potential impacts to well water etc. Mr. McCarthy noted his goal was to speak
136 with members of Pelham's Conservation Commission and Historical Society and learn how the
137 project may impact the community. The cost of the attorney and environmentalist will be split
138 between the communities participating in the coalition.

139
140 Mr. McCarthy stated he had received citizen correspondence that communicated concern regarding
141 the project. One person questioned if the project/process could be slowed down to allow time to
142 digest and understand information. In turn, Mr. McCarthy contacted Governor Hassan's office to
143 inform he'd received citizen correspondence requesting that the project slow down. He was told
144 there was nothing to slow down at this time as Kinder Morgan was in the 'pre-filing' stage
145 (educating communities phase) and had not officially filed with the Federal Energy Regulatory
146 Commission ('FERC') and didn't intend to file until October, 2015. The Governor's office voiced
147 concern about the pipeline crossing some State of New Hampshire conservation property. Mr.
148 McCarthy asked if a representative from the Governor's office would attend the open house meeting
149 in Pelham and was told they would. Also, he will be 'kept in the loop' and informed of any updates
150 received by the Governor's office. Mr. McCarthy was contacted by Beverly Woods, the Executive
151 Director of the Northern Middlesex Council of Governments. That coalition was successful in
152 thwarting Kinder Morgan's attempts to install a pipeline from Pepperell, MA to Hollis, NH. They
153 provided informational packets for review. Mr. McCarthy will make the information available for
154 download on the Town website.

155
156 Mr. McDevitt asked for more information regarding the reason for bringing an attorney 'on board'.
157 Mr. McCarthy envisioned the attorney's role as being legal advice for what the communities could do
158 regarding the proposed project. Hypothetically, if a community were to present an objection, it
159 would be wise to have legal opinion as to how to proceed.

160
161 Mr. Gleason felt it was important to emphasize there was little the Town could do in terms of
162 impacting the project since it was under FERC's control/decision. Mr. McCarthy believed the voices
163 of the Governor, Senator, Congresswoman and Congressman would be heard.

164
165 Mr. McDevitt wanted to be clear that Kinder Morgan hadn't met with the Board. When the Town
166 received a letter, two Selectmen had an exploratory discussion. He questioned Mr. McCarthy if
167 Kinder Morgan sent a request to survey Town land. Mr. McCarthy answered yes; they have since
168 been forwarded to the New Hampshire Municipal Association for review. Mr. McDevitt asked to
169 review what the Town received. He then read aloud a portion of a newspaper article indicating that
170 Merrimack hired a lawyer for pipeline guidance. Mr. McCarthy commented they were part of the
171 coalition. He explained the coalition was in the preliminary stages of obtaining legal advice; a
172 sample contract (for services) had been forwarded to him earlier in the day. The coalition will have a

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173 discussion regarding such at their next meeting and he will then have information to present to the
174 Selectmen for review. Mr. McDevitt discussed attending a meeting in Windham, which was well
175 attended. He learned if a person received a request for a survey, they could take an affirmative action
176 and indicate people weren't allowed on their land. He felt the Town should know exactly what they
177 should do before signing anything and sending it back. He suggested posting (in the Town Hall
178 corridor) a copy of tax maps highlighting where the proposed pipeline would run through Town. He
179 noted there was a lot of incorrect information coming out. There was also concern being brought
180 forward regarding the safety of and accidents within pipelines (as published in USA Today). He also
181 referenced a local government guide put out by the Pipeline Safety Trust, who claimed to be a
182 credible independent organization.

183
184 Mr. Lynde reiterated there was a lot of information. He stated the Nashua Regional Planning
185 Commission ('NRPC') had created an Energy Facilities Advisory Committee for fact finding. He
186 felt for the Town to make an informed decision, they should back it up with credible data. He
187 believed there were several groups gathering data and felt there was time prior to Kinder Morgan
188 filing in October. Mr. Lynde stated they had the power of a voice and the power of representatives.

189
190 In Mr. Gleason's opinion, Kinder Morgan had not been forthright with the Town thus far. They were
191 learning of new information every day. From what he learned, there is no perceived economic or
192 environmental benefit to Pelham. His initial interest was to try and get gas to Pelham but had since
193 understood it was a separate issue from Kinder Morgan. Kinder Morgan is a transmission facility
194 and Liberty Utilities is a distribution company. He stated safety, inconvenience and disruption to
195 abutters far outweighed any benefits. The concern regarding the incineration zones has not been
196 addressed. He felt Kinder Morgan should discuss in an open environment how these concerns will
197 be corrected. He noted there would also be concerns with heavy equipment and noise. A response
198 has not been given in connection with the EMI interference and local communications. Mr. Gleason
199 didn't understand why Kinder Morgan planned to come through the electric lines and not through the
200 existing gas lines. Based on all the concerns, he saw no reason why the Selectmen should back the
201 project until Kinder Morgan provided information.

202
203 Mr. Viger questioned what steps were next and if citizens had been notified and would have an
204 opportunity to give opinion. Mr. Gleason believed some abutters had received notification letters in
205 December. Mr. Viger questioned what residents could do if the project was approved to go through
206 their property. Mr. McCarthy suggested residents seek some type of legal advice if they had any
207 questions/concerns regarding correspondence from Kinder Morgan. He noted the Town received
208 letters regarding their parcels on February 13, 2015 that requested authorization to access the
209 properties. He found it interesting there was no place on the correspondence to decline the request to
210 enter properties. He forwarded the correspondence to NHMA for review and opinion; once a
211 response is received, he'll apprise the Board.

212
213 Mr. Lynde questioned if the NHMA response would also be applicable to private land owners. Mr.
214 McCarthy replied his concern was in the interest of the Town; however, he would send a follow up
215 question to NHMA. Mr. Lynde believed they should hold their judgment until the impact could be
216 understood.

217
218 Based on the letter received by the Town, Mr. Viger was concerned with there being no opportunity
219 to deny permission to enter a property. Mr. McDevitt asked to see a copy of the letter received by
220 the Town. He then read information aloud within a FERC document that pertained to natural gas
221 companies obtaining rights-of-way through eminent domain. Mr. McCarthy provided the Board with
222 a copy of the letter received by the Town. Mr. McDevitt reviewed the letter and didn't see where a

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223 person could indicate 'yes' or 'no' to having their land surveyed. During a meeting in Windham, it
224 was noted ignoring the Kinder Morgan letter could imply consent/permission. He believed the Town
225 should find out how to react. Mr. Gleason noted a copy of the letter had been forwarded to NHMA
226 for review/comment. Their response will be provided to the Board.

227
228 Mr. Gleason stated the Town was doing everything they could under the circumstances. He
229 recommended giving Mr. McCarthy the authorization to continue involvement with the 17-town
230 coalition and provide the Board with their recommendations. He felt Mr. Lynde should continue his
231 activity with the NRPC and the Selectmen should appoint Conservation Chairman Paul Gagnon as
232 their representative to meet with the various conservation groups that were seeking input. He wanted
233 to continue to vigorously push Kinder Morgan to meet with the Selectmen and also conduct a public
234 hearing/open house in Pelham. Based on what they currently knew, and the absence of meaningful
235 information from Kinder Morgan, Mr. Gleason asked if the Board would be comfortable issuing a
236 statement that they were not in support of the activity until such time as information was provided.

237
238 Mr. Viger saw no benefit to Pelham, and at present was not inclined to support the activity.

239
240 Mr. Haverty had no philosophical disagreement with issuing the statement. He also saw no benefit to
241 the Town and in contrast saw environmental and safety impacts to residents. He was unclear what
242 weight an objection from the Town would carry, other than being on record as objecting. Mr.
243 Gleason commented by having a discussion, it would let people know where the Selectmen stood on
244 the issue. In his opinion the project had no identified benefit to the Town.

245
246 Mr. Lynde felt it would be better to let the 17-town coalition form a position and support it, rather
247 than making a statement at this time. He wasn't comfortable with the proposed activities and had
248 recently learned that most of the gas would come through Town to be exported to another country.
249 He believed the Board could make a statement indicating their concern but believed an official
250 statement would have more impact with the backing of factual information, data and backing of other
251 towns. Mr. McDevitt suggested flipping the situation around and have Kinder Morgan prove that the
252 project is a good idea as opposed to everyone trying to prove it was a bad idea. Mr. Lynde supported
253 Mr. McDevitt's suggestion. He agreed they needed to provide information showing the pipeline
254 would be good for Pelham.

255
256 Mr. Haverty pointed out they had an existing easement and may not have to prove it would be a good
257 idea based on an enabling act. He commented that the Town would have other opportunities to
258 weigh in regarding construction hours, noise levels, pollution etc. He was leaning toward taking a
259 softer approach by lending support to the 17-town coalition and get a better understanding regarding
260 the Town's rights. Mr. Viger said possibly the coalition was waiting for one community to take the
261 lead and state they were against the project. Mr. Haverty replied there wasn't a lack of people
262 standing up and saying they didn't want the pipeline. There were plenty communities standing up
263 and saying no. Mr. Gleason commented that they wanted to do the pipeline in Massachusetts;
264 Massachusetts fought them and they came to New Hampshire because it would be easier. He felt
265 they should be sent a strong message saying we don't want the activity in our back yard unless
266 there's a strong benefit to do so. He didn't want to wait until October to find out they should have
267 taken a stand sooner. He stated Pelham had given ample opportunity to Kinder Morgan to come into
268 Town and explain what they wanted to do and they have in turn ignored Pelham.

269
270 Mr. McDevitt suggested stating the Town did not at the present time support the Kinder Morgan
271 proposal and await proof from Kinder Morgan that there is any benefit to the Town of Pelham. Mr.
272 Lynde replied they would come in and speak of tax revenues being a benefit. He added they needed

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information to make an informed decision. Mr. Haverty suggested if the Town was going to issue a statement they should go beyond saying they question the benefit to the Town and articulate the fact they feel there is a danger of negative consequences.

Mr. Gleason suggested saying there was no perceived benefit to Pelham. The risk and disruption of services and especially safety concerns dictate that we don't support this project. Mr. Viger added the risks don't outweigh the benefit to the Town. Mr. McDevitt believed everyone was saying the same thing.

Mr. Lynde didn't want to ask Kinder Morgan to come in and tell the Town the activity was a good thing; they probably couldn't do so. He suggested stating at the present time the Pelham Board of Selectmen could find no reason to support the gas line and were in the process of fact finding.

Mr. Gleason pointed out a Union Leader article that reviewed Kinder Morgan accidents across the country. There were more than twenty accidents that were serious enough to be reported to the Pipeline and Hazardous Materials Safety Administration. Based on the perceived risk to the Town, Mr. Gleason could not back the project and believed the Board should state Kinder Morgan would have to convince them otherwise.

Mr. McDevitt suggested the statement: *Based on the information we have, we do not at the present time support the Kinder Morgan proposal.* Mr. Lynde agreed with the language.

MOTION: (McDevitt/Lynde) To state the position of the Board of Selectmen as: *Based on the information we have, we do not at the present time support the Kinder Morgan proposal.*

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

The Selectmen unanimously voiced support of Mr. McCarthy continuing his involvement with the 17-town coalition.

MOTION: (McDevitt/Haverty) To appoint Conservation Chairman Paul Gagnon as the representative to the conservation group.

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

Paul Gagnon (was seated in the public) came forward. He stated there were fourteen million people in New England, half of which lived in Massachusetts. Massachusetts rejected the gas pipeline. He pointed out that the pipeline wouldn't help New Hampshire. Mr. Lynde believed the Board understood that point.

Mr. Gleason closed the discussion. He indicated there would be ample opportunity going forward for resident participation. He strongly recommended people attend the upcoming open houses and forward concerns to the Selectmen.

OTHER BUSINESS

Mr. Viger stepped away.

**Highway Safety Committee: Recommendations on street lighting at the following:
Benoit & Mammoth Road intersection; Sherburne and Mammoth Road intersection; and
Main Street/Route 38/Atwood Road.**

Planning Director Jeff Gowan came forward for the discussion. He stated that the Highway Safety Committee ('HSC') met February 5th to discuss intersection illumination streetlights; one through citizen request and two in connection with the New Hampshire Department of Transportation ('DOT') de-energize program. Based on their review of the information, they had the following unanimous opinions:

- 1) Sherburne Road / Mammoth Road intersection – the lack of a (illumination) streetlight at the intersection does not compromise public safety because the wide open nature of the intersection makes lighting it very difficult. Additionally, the safety issues at the intersection have little to do with visibility and everything to do with the lack of proper traffic control infrastructure improvements such as an additional turning lane, traffic signal or roundabout. The HSC finds no negative impact to public safety from the light being removed/de-energized.
- 2) Main Street/Route 38/Atwood Road intersection – the intersection benefits from the ambient light of the adjacent commercial buildings and parking lots. Additionally, two fully-functional streetlights remain near this intersection and the traffic signal located at the intersection make it very visible. The HSC finds no negative impact to public safety from the light being removed/de-energized.
- 3) Benoit/Mammoth Road intersection – it was the HSC opinion that the significant taxpayer cost to establish and maintain an illumination streetlight at the intersection would not yield any measurable improvement to public safety.

MOTION: (Lynde/Haverty) To ratify the Highway Safety Committee's recommendation on the intersections of Sherburne Road / Mammoth Road and Main Street/Route 38/Atwood Road.

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

MOTION: (Lynde/McDevitt) To ratify the Highway Safety Committee's recommendation on the intersection of Benoit/Mammoth Road.

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

Mr. Viger returned to the Board.

Atwood Road – E911 Clarification

Planning Director Jeff Gowan showed the Board an aerial view of Atwood Road. The portion of the road renamed to Peaceful Drive was the small portion located in front of the Atwood Cemetery. This change did not require any residential addresses to change. If anyone has additional questions, Mr. Gowan stated he would be happy to review the information with them.

TOWN ADMINISTRATOR / SELECTMEN REPORTS

Mr. McDevitt informed the Pelham Garden Group would hold a presentation on invasive plants on Thursday (February 19th) at the Congregational Church beginning at 7pm. The public is invited to attend. Light refreshments will be served.

Mr. Lynde reported that the Pelham Community Coalition (dedicated to awareness and solutions to substance abuse) invites the public to their next strategizing session, Saturday, February 21, 2015 beginning at 9am at the Fire Station community room.

On behalf of the Board, Mr. Gleason commended the Highway Department and hired contractors for doing a fantastic job under the recent adverse weather conditions. He also commended the Police and Fire Departments who had been very responsive during recent storms.

Mr. Gleason reported there had been a recent meeting with Quantum relative to the Willow Street Bridge; they discussed the upcoming preparation work in connection with finalizing the design. This work will necessitate closing Willow Street for two days between the hours of 7am-5pm. Police Captain Toom was present for the meeting and has a Policing plan in order. A Citizen Observer notice will be issued to the public to inform of the activity.

ADJOURNMENT

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

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

The meeting was adjourned at approximately 8:22pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary