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APPROVED
TOWN OF PELHAM
BOARD OF SELECTMEN MEETING
MINUTES
May 12, 2015
APPROVED – May 26, 2015

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CALL TO ORDER - approximately 6:30PM

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PRESENT: Mr. Hal Lynde, Mr. William McDevitt, Mr. Doug Viger, Town Administrator
Brian McCarthy

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ABSENT: Mr. Paul Leonard

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PLEDGE OF ALLEGIANCE

MINUTES REVIEW

April 28, 2015

MOTION: (McDevitt/Viger) To approve the April 28, 2015 meeting minutes as amended.

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

ANNOUNCEMENTS

➤ **Robert Haverty resignation as Selectman**

Mr. Lynde regretfully informed that Mr. Haverty had tendered his resignation to the Board of Selectmen. He read the resignation aloud. He stated Mr. Haverty tried to balance increased work responsibilities and family health issues; however, they were more than could be handled. Mr. Lynde appreciated the work Mr. Haverty had done for the Town during his eight years of service. Mr. McDevitt stated Mr. Haverty was dedicated and would be greatly missed. He understood his decision was difficult to make and would welcome him back at any time. Mr. Viger stated both personally and professionally he was great friends with Mr. Haverty. He will miss him tremendously. Mr. McCarthy added that Mr. Haverty had been a great resource and mentor as he entered the position of Town Administrator. He echoed the Selectmen's sentiments and also found Mr. Haverty to be a pleasure to work with both professionally and personally. He added Mr. Haverty always remained focused on the wellbeing of the Town and wished him well.

MOTION: (Viger/McDevitt) With deep regret the Selectmen accepted the resignation of Robert Haverty from the Board of Selectmen.

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

BOARD OF SELECTMEN MEETING/May 12, 2015

36 Mr. Lynde indicted the Selectmen were authorized to select a replacement when a Selectman leaves
37 the Board. The term would be until the next Town Meeting. There was a brief discussion regarding
38 what process they would take. It was decided, that people interested in the position should submit a
39 volunteer application and cover letter of interest to the Board of Selectmen by May 22, 2015. They
40 hoped to make an appointment within the next four weeks.

- 41
42
43 ➤ Town of Pelham now accepting bids for 2004 Ford Crown Victoria 4-door sedan with
44 169,381 miles. Send sealed bids to the Selectmen's Office - due no later than May 23, 2015.

- 45
46
47 ➤ Salem Farmer's Market - withdrawal of request

48 The Selectmen were informed that the Salem Farmer's Market would be remaining in Salem. Mr.
49 Lynde understood the farmer's market group was working with Pelham Community Spirit to see if a
50 second farmer's market could be set up in Pelham. Mr. Viger stated anyone interested in starting a
51 farmer's market should explore the possibility of having Pelham's own farmer's market. He hoped
52 someone would come forward to run a market as it would be an asset to the community.

- 53
54 ➤ Annual Council on Aging Strawberry Festival – Saturday, June 13, 2015 10am – 2pm

55
56
57 **OPEN FORUM**

58
59 No one came forward.

60
61 **APPOINTMENTS**

62
63 **Patty Crooker, Public Health Emergency Preparedness Coordinator for the Greater Nashua**
64 **Region – Public Health Emergency Preparedness Plans**

65
66 Mr. Lynde stated through his participation with Pelham Community Coalition in dealing with
67 substance abuse, he came to know Ms. Crooker and members of her team.

68
69 Ms. Patty Crooker, Public Health Emergency Preparedness Coordinator for Greater Nashua Region,
70 came forward to provide a discussion in accordance with Public Health Network Services grant
71 deliverables regarding their emergency preparedness plans. Pelham, along with twelve other
72 communities (totaling approximately 200,000 people) is part of the Greater Nashua Public Health
73 Region. Part of the Greater Nashua Public Health Advisory Committee's ('PHAC') job is to work
74 with communities to assist them in being prepared for public health emergencies. Their plans
75 supplement the local municipality's plans. The Pelham site is maintained by Fire Chief James
76 Midgley and a team of responders (professional and citizen volunteers). Ms. Crooker outlined the
77 coalitions they worked with at the local level and provided a summary of programs within the region,
78 such as Public Health Emergency Preparedness and Substance Misuse Prevention.

79
80 Mr. McDevitt was curious where funding came from. Ms. Crooker replied funding for the Public
81 Health Network Services Grant was split; 1) the Public Health Emergency Preparedness is divided
82 between the federal program through Health and Human Services and the state program for Centers
83 for Disease Control and Prevention; and 2) the Substance Misuse Prevention is funded through a
84 block grant at the federal level as well as a New Hampshire Charitable Foundation. She noted in the

85 coming year the health networks would be hiring a full-time staff person to look at substance use in
86 terms of the treatment and recovery care.

87

88 Mr. Lynde questioned if the Town's Citizen Emergency Response Team and Medical Reserve Corps
89 tied in to programs being discussed. Ms. Crooker answered yes; they have funding set aside to
90 coordinate and work together with regard to trainings, drills and events. Mr. Lynde thanked Ms.
91 Crooker and appreciated the support provided to the Town.

92

93 Mr. McCarthy commented he would create a portal on the Town's website for citizens looking for
94 information. Ms. Crooker said she would coordinate with Mr. McCarthy to share information.

95

96 **Jeff Gowan, Planning Director**

97 **1) Letter of Recommendation for Fund 42 Disposition**

98 **2) Garland Wood Project**

99

100 Planning Director Jeff Gowan came forward and began by discussing Fund 42, which was an aging
101 voluntary contribution for anticipated improvements during the construction of the Lawrence Corner
102 Estates project. At the time, the Planning Board believed the State was about to engage in a project
103 within the vicinity and felt there was need for improvements to Mammoth Road. The Town's share
104 for the road improvement was believed to be \$20,000; however, the State didn't do the project and
105 the fund had since held the balance. Mr. Gowan stated the Lawrence Corner Estates project has been
106 completed and the Town had accepted the extension of Lawrence Corner Road. He recommended
107 returning the sum of money to the person it was collected.

108

MOTION: (McDevitt/Viger) To return the voluntary contribution to Mr. Souza, the payor of
the voluntary contribution, as the money is not going to be used.

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

109

110 Joining Mr. Gowan for the Garland Wood Project discussion was Steve Keach of Keach Nordstrom
111 (Planning Board's engineering review firm), Richard Green of Green & Green, developer of Garland
112 Wood Project and Joe Coronati of Jones & Beach Engineers (developer's engineering firm). Mr.
113 Gowan told the Selectmen that the Planning Board had approved a conservation subdivision that
114 would preserve scenic vistas and a number of other things that earned it respect and extra density.
115 The approval is conditioned upon Selectmen approval of improvements to Town roads that serve as
116 entrances to the project: 1) Pasture Lane (formerly Garland Lane) and 2) Fineview Circle.

117

118 Mr. Coronati described the improvements beginning with Fineview Circle, which presently ends with
119 a paved cul-de-sac. The proposal is to create a vegetated island in the middle of the cul-de-sac that
120 would create a separation between the existing development and new subdivision; it will also act as a
121 traffic calming measure. There will be two similarly landscaped cul-de-sacs within the subdivision.
122 The three cul-de-sacs will be maintained by the homeowner's association. Mr. Coronati discussed
123 Pasture Lane, which was currently approximately 18ft. wide and provided access to two homes. The
124 proposal is to widen Pasture Lane to 26ft. using Town standards. He explained that the water well
125 system is being located on the Currier Road portion of the subdivision. They need to run the water
126 line under Pasture Lane to access the development and submitted a request to the Selectmen for
127 permission to do so.

128

129 Mr. McDevitt asked Mr. Keach if he had reviewed the plans and if there are any concerns regarding
130 the planned changes to the roads. Mr. Keach began by discussing the proposal for Fineview Circle.

BOARD OF SELECTMEN MEETING/May 12, 2015

131 He informed during Planning Board hearings abutters had requested traffic calming in that area; he
132 believed the landscaped cul-de-sac would work as such. He supported the proposal as prepared.

133

134 With regard to the Pasture Lane (formerly Garland Lane) reconstruction was reviewed early in
135 project. Mr. Keach knew it would require an upgrade based on the size of the project and the belief
136 that the majority of traffic would access the development in that location off Currier Road. Also, he
137 didn't believe that the existing road base would be sufficient to handle the increased volume,
138 regardless of the width. He's having the developer build the road using a reclaimed stabilized base
139 method of construction, which will allow for the existing pavement to be ground in place and used as
140 construction material under the new roadway. Mr. Keach described the water lines that would come
141 out of the preserved field area near Currier Road from the water system. The lines will be laid in
142 using the same standards as used by Pennichuck Water. He told the Selectmen that Mr. Coronati had
143 done his job and the Planning Board had approved the project.

144

145 Mr. Viger questioned if the water house and water mains would remain under control of the housing
146 association or turned over to Pennichuck Water. Mr. Green replied it would remain with the
147 homeowner's association. Mr. Viger confirmed that the Town would not be responsible for
148 providing water to the community within the subdivision. Mr. Green stated that was correct. Mr.
149 Viger then confirmed that the landscaping within the cul-de-sacs (including Fineview Circle) would
150 be the responsibility of the homeowner's association. Mr. Green answered yes.

151

152 Mr. Gowan noted that the complete road system within the development would be Town roads and
153 built to full Town standards. The vegetated cul-de-sacs within the project were considered open
154 space and would be maintained by the homeowner's association.

155

156 Mr. Lynde asked for clarification of the roadway within the development and where the existing road
157 (Garland Lane) was located. Mr. Coronati pointed out the location onto Currier Road leading into
158 Pasture Lane (formerly Garland Lane). He showed the location of the new roadway through the
159 development that connected from Currier Road to Fineview Circle, which would be opened up from
160 a cul-de-sac to a through road using traffic calming measures. There will also be two small cul-de-
161 sacs within the development. Mr. Coronati highlighted the areas of open space that would be
162 preserved.

163

164 Mr. Gowan stated the applicant was seeking approval of the two road improvements as described,
165 which included running the water line under Pasture Lane. The approval will allow the homeowner's
166 association to maintain the vegetated island (at Fineview Circle) that is outside the project.

167

168 Mr. McDevitt inquired if a bond would be held for the water line running under Pasture Lane. Mr.
169 Gowan replied Mr. Keach typically calculated bonds. Mr. Keach anticipated sureties being held for
170 the two offsite improvements. He believed Mr. Gowan would work with Town Counsel and the
171 applicant's counsel to create a project development agreement. Several months ago the applicant
172 was made aware that sureties would be required and wouldn't be held any longer than necessary to
173 ensure work has been done correctly.

174

175 Mr. Viger wanted to know if the Fire Department approved any measures for fire suppression. Mr.
176 Coronati stated there would be two 30,000 gallon cisterns. Mr. Gowan added that the cistern
177 location would be in a location specified by the Fire Department.

178

179 Mr. Lynde confirmed there would be an easement for hikers, snowmobiles etc. Mr. Gowan answered
180 yes. He explained that a trail has been contained, for the most part, within the property. There are

181 two places where it skirts just outside their property onto an abutter's property. The abutter met with
182 Mr. Gowan and the developer on occasion. The abutter was supportive and would continue to give
183 permission for that portion of the trail to be on their property as long as the rules were followed. Mr.
184 Gowan pointed out there was a 'plan B' alternative described in the easement in the event there were
185 any problems in the future. The Border Riders (Pelham snowmobile club) would maintain the trail
186 and post it with proper signage. The trail will be accessible to non-motorized vehicles except during
187 the appropriate time of year for snowmobiles.

188

189 Based on information provided, Mr. Viger saw that the homeowner's association would be in control
190 of any private wells drilled on the property. He asked if the Town could get legal opinion on whether
191 such a stipulation could be upheld. Mr. Gowan replied he hadn't requested legal opinion as it was a
192 recent piece of the project. He would do so at the request of the Board. Mr. Green stated they
193 addressed irrigation wells within the homeowner's association documents. He noted it was clear if
194 someone decided to drill an irrigation well, they would have no control over the amount of water
195 coming out of the well. There would be a wireless, key-coded lock box set up by the irrigation
196 specialist and monitored by the homeowner's association. Mr. Gowan told the Board that Town
197 Counsel would be reviewing the homeowner's documents as a whole; it would be easy to add in. He
198 also noted that the Department of Environmental Services ('DES') put the wells through rigorous
199 testing to ensure there was adequate water. The DES is extremely conservative in what they assume
200 the water needs will be.

201

MOTION: (McDevitt/Viger) To grant the developer authorization to move forward and make the described improvements, approved by the Planning Board and Keach Nordstrom, to both Pasture Lane and Fineview Circle; and to authorize crossing a Town road with a water line for the purpose of connecting the water system to the homes within the development.

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

202

203

204 **Paul Gagnon, Conservation Commission Chair - Kinder Morgan Representation for**
205 **Conservation Commission**

206

207 Conservation Commission members Paul Gagnon and Kaela Law came forward to discuss Kinder
208 Morgan representation for the Conservation Commission. Mr. Gagnon asked Selectmen approval to
209 hire a wetland scientist to advise the Conservation Commission and assist them through the process
210 of the gas pipeline Federal Energy Regulatory Commission ('FERC') applications. He felt there may
211 be some opportunity for Kinder Morgan to pay some of the costs; however, there is an upfront cost to
212 hire the wetland scientist.

213

214 Mr. Gagnon spoke of the Coalition of Conservation Commissions he's been attending every other
215 Friday. He explained that the New Hampshire Association of Conservation Commissions ('NACC')
216 had a wetland scientist make a presentation to the coalition to discuss what communities should do to
217 prepare for the Kinder Morgan pipeline. He believed the wetland scientist vetted by the NACC
218 would be the best person to assist Pelham. He summarized the items that the wetland scientist could
219 assist Pelham, such as to help identify the location of the stratified drift aquifer that could be
220 forwarded to FERC. The aquifer ran under most of the Town, including through the southern prime
221 wetland. Mr. McDevitt informed that a detailed map of the aquifer was done years ago. He believed
222 it was of the Town and the whole southern quadrant of the State. Mr. Gagnon told the Board he was

BOARD OF SELECTMEN MEETING/May 12, 2015

223 seeking authorization for the initial meeting with an estimated cost of \$680. The initial meeting will
224 allow the scientist to put together a refined estimate that may cost in the range of \$8,000 for the
225 whole process up until when Kinder Morgan files their final application near the end of the year. He
226 proposed taking the cost from the current use fund, which was intended to be used to protect
227 conservation lands. He hoped to get Kinder Morgan to refund the cost.

228

229 Mr. Lynde felt for the Town's protection, they should pursue the advice of the wetland scientist. The
230 Board gave support and made the following motion:

231

MOTION: (McDevitt/Viger) To authorize the Conservation Commission to spend up to \$700
from the current use fund balance to hire a wetland scientist for an initial
consultation on the proposed Kinder Morgan pipeline impact on Town lands.

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

232

233 **OTHER BUSINESS**

234

235 **Kinder Morgan – Ongoing discussion**

236

237 Mr. McCarthy submitted two letters to the Board and requested approval to send them out. The first
238 was to Kimberly Bose, Secretary to the Federal Regulatory Commission that indicated the Town's
239 opposition to the Kinder Morgan pipeline by listing the potential impacts to the community. He
240 informed the Board he learned Kinder Morgan was not providing a 30-day notice of the project to
241 abutters, as prescribed by law. Therefore, the second letter was addressed to the project manager and
242 quoted RSA 371:2-A which indicates the requirement to provide homeowner's 30-day written notice
243 of a date and time people will come onto their property for the purpose of surveying.

244

245 Mr. Viger had no objection to Mr. McCarthy sending the two letters on behalf of the Selectmen.

246

247 Mr. Lynde brought up the point regarding the stratified drift aquifer as referenced by Mr. Gagnon
248 earlier in the meeting. Mr. McCarthy replied he would meet with Mr. Gagnon to obtain a brief
249 synopsis of the concerns relating to the aquifer and add them to the letter. Mr. Lynde said if the
250 Selectmen had any questions they would provide them to Mr. McCarthy.

251

252 The Selectmen granted Mr. McCarthy the authority to send the two letters he referenced.

253

254 Mr. McCarthy provided the Board with a copy of RSA 371:2-A (eminent domain). He read the RSA
255 aloud, which he felt was clear as to what Kinder Morgan could and could not do. The interpretation
256 by Mr. McCarthy as well as the New Hampshire Municipal Association ('NHMA') that they had the
257 right to enter abutter property for the purpose of the project. Mr. McDevitt commented that Kinder
258 Morgan was a public utility and defined within the RSA. It was not illegal for them to be on a public
259 road. If Kinder Morgan enters a resident's property, it is a private matter between the resident and
260 Kinder Morgan; there is no criminal penalty in the law.

261

262 Mr. Viger found it troubling that there was no language providing homeowners the opportunity to say
263 Kinder Morgan couldn't enter their property. The language only states homeowners had to be
264 notified by certified letter at least 30-days prior to entry. Mr. McDevitt believed that type of
265 situation was a matter for Superior Court; it didn't involve the Town. He suggested homeowners
266 review their deeds and the easement language.

267

268 Mr. Lynde believed the only easement currently existing was for the power line. He noted the
269 pipeline would essentially be outside of that easement. To the best of his knowledge, Mr. McCarthy
270 added there had not been a plan put forward that indicated a definitive track for the pipeline. Mr.
271 Lynde stated there were no easements for the area needing to be surveyed for the pipeline. He
272 stressed that the Town had to make its case with factual information, such as indicating that there
273 was an aquifer and enabling the Conservation Commission to hire a wetland scientist to identify
274 areas that may be impacted.

275

276 Mr. McCarthy told the Selectmen that the Pipeline Coalition was putting a pamphlet/mailer together
277 and was seeking permission to place a drop-off box at Town Hall to collect them from residents.
278 There was a brief discussion regarding the request, which had not been allowed in the past. There
279 was concern about setting a precedent. The Selectmen did not grant permission for a drop box at
280 Town Hall. It was noted there may be private organizations in Town that would be in favor of
281 having a drop box.

282

283 **Update on Light Program**

284

285 Mr. Viger reported Pelham was still in the queue awaiting application approval.

286

287 **Village Green Ash Trees**

288

289 Mr. McDevitt suggesting holding discussion until Mr. Leonard was present as he had a discussion
290 with the County Forester. The item will be carried forward to a later agenda.

291

292 **Library Tree Replacement**

293

294 Mr. McDevitt requested authorization from the Board work with Mr. McCarthy and Boyden
295 Landscaping to replace a tree at the library that had been relocated and was now dead. The tree
296 would be replaced with a good size oak of the same type. Funding will come from the Village Green
297 Tree Fund.

298

MOTION: (Viger/McDevitt) To authorize Mr. McDevitt to work with Mr. McCarthy and
Boyden Landscaping to replace a dead tree at the Library, with funding from the
Village Green Tree Fund.

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

299

300 **April 2015 Revenue & Expense Review**

301

302 The Board was provided with an up to date revenue and expense report for review. Mr. Viger asked
303 Mr. McCarthy to ensure that the Budget Committee receives a copy of the report. The Selectmen
304 reviewed the report and felt the Town was in a good position with the budget being spent by only
305 27%. Mr. Lynde asked that a revenue report be provided for review.

306

307 **TOWN ADMINISTRATOR / SELECTMEN REPORTS**

308

309 Mr. McCarthy updated the Board regarding the actions taken by the New Hampshire Pipeline
310 Coalition. Letters were sent to the State Senators and Representatives voicing opposition to the
311 Kinder Morgan project. The coalition has interviewed three attorneys for possible employment to
312 defend in the matter. He noted they would make a selection and determine costs at their next

313 meeting. He found it unsettling that some members of the (13 town) coalition felt the attorney fee
314 should be adjusted by the length of pipeline running through a specific town. He made it clear that
315 Pelham wouldn't hold the lion share of the expense should the coalition hire an attorney.

316

317 Mr. Viger questioned what Pelham would gain by endorsing an attorney. Mr. McCarthy felt Pelham
318 would gain an attorney who felt they could argue a successful case to thwart the project from coming
319 through the community. He felt once the final numbers were determined the Selectmen would have
320 the opportunity to discuss what Pelham's contribution would be.

321

322 Mr. McCarthy reported that the repairs to the Library had been done. Unfortunately during the
323 process there were more areas of significant concern found. He learned during construction of the
324 Library there was little to no caulking used, which has caused water to get in behind boards and
325 windows creating the problems now seen. There are several areas of the building that have rotted
326 wood. Mr. McCarthy spoke of the area in need of critical repair around the window in the front right
327 of the building, which would be done in the next week. In the next budget cycle he will include
328 painting the building, which was done during original construction thirteen years ago.

329

330 Mr. Viger was appreciative that Mr. McCarthy was able to put together a plan to review and budget
331 maintenance projects for Town buildings. Doing so will help the Town keep ahead of problems and
332 save money. He thanked Mr. McCarthy.

333

334 Mr. McCarthy ended by reporting they received a letter from FEMA indicating they would include
335 reimbursement for a percentage of the roof clearing expenditure (associated with winter storms).

336

337 Mr. McDevitt asked the Selectmen to consider giving approval to the Garden Club to prune shrubs
338 and removing a tree in front of Town Hall (Marsh Road side of building). The Board had no
339 objection.

340

341

342

343 **REQUEST FOR NON-PUBLIC SESSION**

344

MOTION: (Viger/McDevitt) Request for a non-public session per RSA 91-A:3,II, a&e
(Personnel; Consideration or negotiation of pending claims or litigation)

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

CALL:

345

346 It was noted that when the Board returned, after the non-public session, the Board would not take any
347 other action publicly, except to possibly seal the minutes of the non-public session and to adjourn the
348 meeting. The Board entered into a non-public session at approximately 8:30pm.

349

350 The Board returned to public session at approximately 8:45 pm.

351

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

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

352

353

354 **ADJOURNMENT**

355

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

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

356

357 The meeting was adjourned at approximately 8:45 pm.

358

359

Respectfully submitted,

360

Charity A. Landry

361

Recording Secretary

362

363

364