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**APPROVED**  
TOWN OF PELHAM  
BOARD OF SELECTMEN MEETING  
MINUTES  
July 7, 2015  
**APPROVED – July 21, 2015**

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

**PRESENT:** Mr. Hal Lynde, Mr. William McDevitt, Mr. Doug Viger, Mr. Paul Leonard,  
Ms. Amy Spencer (joined the Board after being appointed and sworn in), Town  
Administrator Brian McCarthy

**ABSENT:** None.

**PLEDGE OF ALLEGIANCE**

**MINUTES REVIEW**

**June 9, 2015**

**MOTION:** (McDevitt/Viger) To approve the June 9, 2015 meeting minutes as amended.

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

**June 23, 2015**

**MOTION:** (McDevitt/Leonard) To approve the June 23, 2015 meeting minutes as amended.

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

**ANNOUNCEMENTS**

- **2016 Board of Selectmen – Town budget review beginning July 14<sup>th</sup> with: Senior Center, Town Clerk/Tax Collector/Elections, Assessing Department, Treasurer, Trustee of the Trust Funds, Budget Committee, Town Celebrations, Debt Service/Interest-Principle and Legal**
- **Pelham Community Spirit Summer Concert Series on the Village Green – July 8<sup>th</sup> 6pm**
- **Nashua Regional Planning Commission – open Commissioner positions – Apply with a Volunteer Application by July 28<sup>th</sup>**

**OPEN FORUM**

No one came forward.

**APPOINTMENTS**

41 **Board of Selectmen Candidate Interviews:**

- 42 – **Robert Molloy**  
43 – **S. Amy Spencer**  
44

45 Mr. Lynde welcomed the candidates and thanked them for applying.  
46

47 Mr. Robert Molloy came forward to discuss his qualifications and interest in being appointed to the  
48 Board of Selectmen. He knew the importance of serving on Town boards through his experience on  
49 the Zoning Board of Adjustment.  
50

51 Mr. McDevitt explained that the Selectmen meet weekly during the summer for budget review and  
52 questioned if Mr. Molloy would be able to make that type of time commitment. Mr. Molloy  
53 answered yes; with the exception of the August 11<sup>th</sup> meeting.  
54

55 Mr. Leonard wanted to know the one thing Mr. Molloy loved about the Town. Mr. Molloy replied it  
56 was the community spirit and the Town's commitment to improvement. Mr. Leonard asked what one  
57 thing Mr. Molloy would change if given the opportunity to do so. Mr. Molloy felt the Town was  
58 always changing. He felt development for the best interest of the Town should be reviewed and  
59 balanced with the associated costs so as to not burden the taxpayers.  
60

61 Mr. McDevitt wanted to know if Mr. Molloy would consider serving on another board if he wasn't  
62 appointed to the Board of Selectmen. Mr. Molloy answered yes. He felt serving on any Town board  
63 was important and would be honored to do so.  
64

65 Ms. Amy Spencer came forward to discuss her qualifications and interest in being appointed to the  
66 Board of Selectmen. She spoke of being a current member of the Budget Committee which allowed  
67 her to gain experience about the individual departments, and personnel. She also serves on the Board  
68 for New Hampshire Kids Count. She told the Board she would be honored to serve on the Board.  
69

70 Mr. McDevitt asked if Ms. Spencer would be able to meet the summer schedule time commitment of  
71 the Board. Ms. Spencer answered yes. Mr. McDevitt questioned Ms. Spencer if she would remain on  
72 the Budget Committee if she were not appointed to the Board of Selectmen. Ms. Spencer answered  
73 yes.  
74

75 Mr. Leonard wanted to know what she felt the number one thing Pelham had going for it. Ms.  
76 Spencer felt it was the Town's people who are always friendly and committed. Mr. Leonard  
77 questioned what one thing she would change. Ms. Spencer replied if she were appointed she would  
78 take time to listen and be a team player. She spoke of the drug epidemic that New Hampshire was  
79 experiencing and would be interested in knowing what Pelham was doing to address the issues. She  
80 wanted to be part of the solution while balancing the tax burden on residents.  
81

82 **REQUEST FOR NON-PUBLIC SESSION**  
83

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

**ROLL CALL:** Mr. Lynde-Yes; Mr. McDevitt-Yes, Mr. Viger-Yes; Mr. Leonard-Yes  
84 The Board entered into a non-public session at approximately 6:58 pm.

**MOTION:** (Viger/Leonard) To *not* seal the minutes of the non-public session.

BOARD OF SELECTMEN MEETING/July 7, 2015

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

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87

The Board returned to public session at approximately 7:05 pm.

**MOTION:** (Viger/Leonard) To appoint S. Amy Spencer to fulfill the role of Selectwoman until the next Town Meeting.

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

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91

The Assistant Town Clerk Linda Newcomb conducted Ms. Spencer's swearing in. Ms. Spencer then joined the Board.

**Junkyard License Renewal Hearings:**

92  
93  
94  
95  
96

- **Coombs & Sons**
- **Jack Mansur's Auto**
- **Jean-Guy's Used Autos and Parts**

97  
98  
99  
100

Coombs & Sons – Norman Coombs came forward. The Selectmen reviewed the application. Mr. McDevitt commented that the required review steps had been met. Mr. Lynde added that the necessary inspections had been completed.

**MOTION:** (Leonard/Viger) To renew the Junkyard License for Coombs & Sons for the period of July 1, 2015 until June 30, 2016.

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

101  
102

Jack Mansur's Auto – Jack Mansur came forward. The Selectmen reviewed the application. Mr. Lynde saw that a portion of item #4 didn't have an answer. The question was if the storage salvage was visible from roadways. Mr. Mansur answered no. Mr. Lynde noted that the necessary inspections had been completed.

**MOTION:** (Leonard/Viger) To renew the Junkyard License for Jack Mansur's Auto for the period of July 1, 2015 until June 30, 2016.

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

108  
109

Jean-Guy's Used Autos and Parts – Jean-Guy Bergeron came forward. The Selectmen reviewed the application. Mr. Lynde asked in the future that any court decree or justice ruling referenced in the application be attached with specific section highlighted. He saw that the question regarding storage salvage being visible from roadways was left blank. Mr. Bergeron replied the answer to the question was no. Mr. Lynde noted that the necessary inspections had been completed.

**MOTION:** (Leonard/Viger) To renew the Junkyard License for Jean-Guy's Used Autos and Parts for the period of July 1, 2015 until June 30, 2016.

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

117  
118

**Planning Director Jeff Gowan with Mark Fougere of Fougere Planning & Development, Inc.**

- 119 – **Senior Recreation Impact Fee Schedule Adjustment**
- 120 – **Status of High School Impact Fees**

121

122 Planning Director Jeff Gowan came forward with Mark Fougere of Fougere Planning & Development  
123 to discuss the recommended reduction of the Senior Recreation Impact Fee schedule. To begin, Mr.  
124 Gowan provided the Board with Mr. Fougere's credentials and experience. Mr. Fougere spoke of the  
125 first time he came in front of the Board in 2008. At that time, the project was still in its infancy and  
126 they made educated guesses on the cost based on the proposed building size. Subsequently, the Town  
127 decided upon a smaller project. Now that the project has been completed and was up and running a  
128 reduced fee is being brought forward because they can only be used for future growth, not present  
129 needs. Mr. Fougere recommended that the Town watch the funds coming in so they may cease once  
130 \$163,000.

131

132 Mr. Lynde questioned if the revised fee had any bearing on those who had already paid. Mr. Fougere  
133 answered no; the existing fee schedule was based on assumptions known at the time. Mr. McDevitt  
134 confirmed that the impact fee schedule was legally defensible. Mr. Fougere felt it was defensible  
135 based on the conservative approach taken when determining the schedule.

136

137 Mr. Gowan noted they had collected \$55,570 by the end of June, which was approximately one third  
138 of what would be collected in total. Ms. Spencer questioned if the fees were coming from taxes paid  
139 on a regular basis or if it was assessed similar to a betterment tax. Mr. Gowan explained that the fee  
140 was collected at the time a building permit was issued. This was done in conjunction with the Impact  
141 Fee Enabling Ordinance passed by the voters. Mr. Fougere noted the purpose of an impact fee is to  
142 offset the cost of new development within the community that placed burdens on existing capital  
143 facilities. He told the Board he was hired to review the high school addition project that just began.

144

145 The Board discussed the following motion: *To modify the Recreation Impact Fee for the Senior*  
146 *Center down to the fees proposed by the Planning Board identified in Table IV of the Recreation*  
147 *Impact Fee Study Update.* Mr. McDevitt made the motion. No second was offered. Mr. Viger  
148 stated he didn't agree with the way they moved forward with the situation and didn't feel it was in  
149 their best interest.

150

151 Mr. McDevitt questioned what would happen if they didn't pass a motion. Mr. Gowan replied they  
152 would have to keep collecting the larger fee, which he felt would be problematic. Mr. Leonard  
153 wanted to know at what point they would stop collecting a fee. Mr. Fougere stated the portion he  
154 assessed would be \$163,000; once that amount was collected the fee would end. They've already  
155 collected \$55,570.

156

157 Ms. Spencer questioned why Mr. Viger felt the fee wasn't in the Town's best interest. Mr. Lynde  
158 pointed out there was a motion on the floor. He asked Mr. McDevitt to take over as Chairman. He  
159 then seconded the motion and resumed as Chairman. Mr. Viger stated it was not budgeted or planned  
160 for the taxpayers. He said the Board authorized Mr. Gowan to over expend his budget to pay for the  
161 service, which he didn't feel was in the Board's purview to do. He didn't believe in the principle of  
162 moving forward with it. Ms. Spencer inquired if it would be problematic to continue collecting the  
163 fee at the higher level and wanted to know if it would be more prudent to discontinue collecting any  
164 fee if the motion were to fail. Mr. Lynde explained an impact fee for the Senior Center was  
165 established several years ago based on current and future needs. At that time an estimate was  
166 determined and had been collected as people applied for building permits. The Board was now  
167 reviewing a revised study based on known costs. With this knowledge, Mr. Lynde felt the Town  
168 would be in an untenable position if they collected more than they should. Mr. Gowan noted that the

BOARD OF SELECTMEN MEETING/July 7, 2015

169 fee schedule being proposed was included in last year's budget. He noted it was the school impact  
170 fee that fell under the concern noted by Mr. Viger. Mr. Viger apologized.

171

172 Mr. McDevitt reviewed the Board's options.

173

**MOTION:** (McDevitt/Lynde) To modify the Recreation Impact Fee for the Senior Center  
down to the fees proposed by the Planning Board identified in Table IV of the  
Recreation Impact Fee Study Update.

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

174

175

176 **Acting Highway Agent Frank Ferreira – Highway Equipment Issue**

177

178 Acting Highway Agent Frank Ferreira came forward to discuss the status of the 2005 Ford F550  
179 dump truck. He explained it was a front line truck (with 129,000 hard miles) and over the past four  
180 years approximately \$27,553 had been spent for repairs. Presently the truck was in need of repairs  
181 with an estimated cost of \$4,300. Photographs were submitted to the Board for review. Mr. Ferreira  
182 asked the Board whether he should have the truck fixed, or seek to replace it.

183

184 Mr. Lynde noted the truck had known safety issues, given that the cab had rotted out and there were  
185 cracks in the frame. He felt the truck needed to be replaced as soon as possible. The Board received  
186 proposals/quotes for replacement cab/chassis and cab/dump body totaling approximately \$61,000.

187

188 Mr. McDevitt questioned if there had been a warrant article at the last Town Meeting to replace the  
189 truck. Mr. McCarthy answered no. Mr. McDevitt wanted to know where money would come from.  
190 Mr. McCarthy believed they could include the vehicle in the lease program, as was done with the Fire  
191 and Police vehicles. Mr. Viger didn't believe the Board could obligate future dollars on a lease  
192 program without Town Meeting vote. Mr. Lynde agreed. He said in the past when confronted with  
193 similar situations, they had done a lease/purchase agreement subject to voter approval.

194

195 Mr. McCarthy told the Board that the truck would need work prior to the winter season; therefore a  
196 decision was needed to either spend money on an aging vehicle or if they wanted to make a change.

197

198 Mr. Leonard believed going forward with a new truck was the right thing to do given they couldn't  
199 weld patches and repair salt rusted steel. He suggested reviewing the value of adding a rubber  
200 undercoating as part of the quote to the new vehicle.

201

202 Mr. Viger asked that Mr. Ferreira include a vehicle inventory when presenting the Highway  
203 Department budget.

204

205 Mr. McDevitt questioned if there was room in the Highway Budget for a new truck (first year's  
206 lease). Given the past winter, Mr. McCarthy didn't believe there was a lot of wiggle room in the  
207 budget. They'd been able to stabilize, but there was a question as to what weather would be coming.  
208 He said they could review hard numbers for leasing as well as a straight purchase and sit with the  
209 Finance Director. Mr. Lynde replied the Selectmen would conduct a six month budget review at their  
210 regular meeting in two weeks. He asked that they receive a presentation to replace the truck and a  
211 process for doing so. Mr. McDevitt also wanted information in the event they didn't repair/replace  
212 the truck. Mr. Ferreira noted the truck was used every day. If he had to he would take money out of  
213 the paving budget and put those roads off until next year.

214

215 Mr. Viger suggested laying out the lease option with an exact dollar figure for the first year. Also  
216 ensure an 'escape clause' be run through legal and is approved by the vendor.

217

218 **Police Chief Joseph Roark - Review 1<sup>st</sup> draft of Noise Ordinance**

219

220 Police Chief Joseph Roark came forward for the review / discussion of the draft Noise Ordinance. He  
221 felt they needed to discuss if a noise ordinance was necessary and if yes, how thorough it should be.  
222 At present the Town has no noise ordinance. When complaints are received, Officers typically ask  
223 people to cease and desist the annoying noise and at most times people are compliant. If people  
224 refuse to comply with a friendly warning, the only way to combat a problem is to arrest them for  
225 disorderly conduct or summons them for disorderly conduct under the criminal statute. A noise  
226 ordinance would allow a level of enforcement below the criminal side of it. A person could be cited  
227 and issued a ticket; they would have the choice to pay the fine or bring it to district court. Chief  
228 Roark felt there was a place and necessity for a noise ordinance and the task of the Board to decide  
229 what level ordinance. He presented a fairly detailed ordinance but would prefer a more streamlined  
230 version based on common sense with the exception of noise from construction, live entertainment,  
231 etc. and possibly include permits.

232

233 Mr. Lynde stated the Board put forward a warrant article to establish a noise ordinance. He noted it  
234 would be a tool for the Police to have steps prior to court actions.

235

236 Mr. Leonard agreed with having a less specific ordinance than what was presented. He questioned if  
237 there were standard decibel ratings that could be included. Chief Roark was leery of noise measuring  
238 instruments/devices. He felt including phrasing to a reasonable standard would be preferred. Mr.  
239 Leonard wanted to know how to enforce business/industrial noise. Chief Roark recalled a situation  
240 where the Town came to an agreement with a company when it was reasonable to use certain  
241 machines. He commented that the ordinance would be a tool to take the first steps before issuing a  
242 summons.

243

244 Mr. Viger pointed out that Town Meeting vote approved having a noise ordinance (Article #14,  
245 March, 2015). He said it was now up to them to craft how it would be carried out and enforced.

246

247 Ms. Spencer agreed with the taxpayers with having an intermediate step. She cautioned paring the  
248 wording down too much as vagueness could open the Town up for challenge. She suggested  
249 maintaining specific categories that would put the officers in a stronger position where a case to be  
250 challenged.

251

252 There was a brief discussion regarding the types of 'noise' that could be covered in an ordinance,  
253 such as a barking dog and fireworks. Chief Roark pulled a complaint report for fireworks between  
254 July 1<sup>st</sup> - 7<sup>th</sup>; in total there were five complaints, three of which were separate people in one  
255 neighborhood. He noted that the Police don't act upon fireworks until they receive a complaint.

256 Mr. Leonard felt there were areas that offered simplicity and could possibly state '*including but not*  
257 *limited to*' and / or '*contemporary community standards*'. Such wording would be a happy medium.  
258 Chief Roark told the Board he would be happy to redraft a noise ordinance. He felt it should be  
259 thoughtful and reviewed several times so everyone was aware of it.

260

261 With the voters approving to enact a noise ordinance, Mr., Viger questioned if the Police Department  
262 could act on loud noises without having specific wording in place. Chief Roark replied they couldn't  
263 act on it unless they had an ordinance. An intent to have one was irrelevant. Mr. Lynde questioned if  
264 a Town Meeting vote would be necessary once the ordinance was redrafted. Chief Roark believed  
265 only a Board vote would be necessary to accept and adopt the ordinance. It was his impression that

266 the prior Town Meeting vote gave the Selectmen the authority to enact the ordinance. Mr.  
267 McDevitt's plain reading of the RSA was that it required Town Meeting action. He felt it was  
268 important to have the voters weigh in. The Board discussed how to proceed. They asked Chief  
269 Roark to revise the ordinance and submit back to the Board for further review.

270  
271

272 **Nashua Regional Planning Commission – Commissioner Appointments**

273

274 Mr. Lynde explained the function of the Nashua Regional Planning Commission ('NRPC'). Pelham  
275 is allowed three representatives, one of which is recommended to be a Selectmen's Representative.  
276 Mr. Lynde would like to be the Selectmen's Representative. He recognized David Hennessey seated  
277 in the audience and understood he was seeking reappointment as a commissioner. Mr. Hennessey  
278 told the Board he would like to be reappointed given he was NRPC Chairman.

279

280 Planning Director Jeff Gowan came forward and informed the Board that the NRPC prefers  
281 commissioners to have staggered and specific terms.

**MOTION:** (McDevitt/Spencer) To appoint David Hennessey as NRPC Commissioner to a  
term expiring June 30, 2019 and Harold Lynde as NRPC Commissioner to a term  
expiring June 30, 2017.

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

282  
283

284 **OTHER BUSINESS**

285

286 **Auctioneer Services RFP Update**

287

288 Mr. McCarthy informed there were no responses to the Auctioneer Services RFP and asked the  
289 Selectmen if he could pursue an auction company. Mr. McDevitt recommended contacting two or  
290 three auction companies directly. He volunteered to work with Mr. McCarthy. There was no  
291 objection.

292

293 **Evaluate Unfinished / Unused Space in Municipal Building – Discuss possible future uses**

294

295 Mr. Lynde wanted to get a process started to review/evaluate the unfinished /unused space within the  
296 Municipal Building. Mr. Viger felt Mr. McCarthy should have the authority to inform departments  
297 what areas they could use. Mr. Lynde simply wanted to review the areas for possible future uses.  
298 Mr. Leonard agreed and felt Mr. McCarthy could inform the Board of space needs and how they  
299 could be used.

300

301 Ms. Spencer questioned if any groups expressed interest in using the space. Mr. Lynde replied that  
302 the School Administrative Unit was interested in some of the space; however, it got voted down at  
303 Town Meeting. Currently the rooms are being used for storage by Parks & Recreation, Theater, and  
304 the storage for the various Town offices. Mr. McCarthy noted he had been in the process of purging  
305 and reorganizing the areas. The last part of the process is to put together a proposal for the Selectmen  
306 to review.

307

308 **Fin-Lyn Update and Legal Budget Impact**

309

310 Mr. Lynde spoke of the legal action brought forward by the Fin-Lyn Trust with regard to the fire  
311 station. He explained that the Town originally went to court to challenge the standing. The plaintiff  
312 was found not to have standing; they challenged the ruling through an appeal to the Supreme Court.  
313 The Supreme Court found the plaintiff to have standing. The Town unsuccessfully attempted to  
314 negotiate a deal. The parties have since gone to court. The Judge reviewed the property, trees (near  
315 Sawmill Road), fire station roof and rock wall. They are now awaiting final ruling. There was a  
316 brief discussion regarding the mounting costs. Mr. McCarthy believed the case would end with a cost  
317 to the Town upward of \$70,000.

318

319 **Property Liability Trust ('PLT') Status**

320

321 Mr. McCarthy commented that the Town recently wrote a letter of support for PLT and their goal of  
322 trying to continue providing insurance coverage and writing insurance contracts. He stated PLT  
323 appreciated Pelham's correspondence and had been overwhelmed by the amount of correspondence  
324 received from all the towns. On June 30<sup>th</sup> PLT filed a petition to the Bureau of Security Regulations  
325 under the Secretary of State to allow them to continue to write new and renew coverages, binders and  
326 obligations for the towns in New Hampshire. Mr. McCarthy stated once he hears the response from  
327 the petition, he will update the Board.

328

329 **Bridge Update**

330

331 Mr. Lynde spoke of a meeting he attended with Mr. McCarthy, Planning Director Jeff Gowan and  
332 Quantum Engineering's Lisa Martin and Jim Bouchard regarding the status of the Willow Street  
333 Bridge. He explained that the bridge was designed with a 4ft.-5ft. wide sidewalk on the northern side.  
334 As the sidewalk drops off there is a culvert, which the Town agreed to add an unpaved insert for  
335 pedestrian traffic. The Department of Transportation ('DOT') has indicated they won't pay for the  
336 paving of the entire bridge unless the Town agrees to pave/pay for that insert portion at the culvert,  
337 which will have an added cost of approximately \$40,000. Mr. Lynde stated the cost fell within the  
338 amount of money appropriated. He added that the cost (including contingencies) fell approximately  
339 \$200,000 less than what was stated in the warrant article for the project. Mr. Lynde told the Board  
340 the Quantum needed an answer and he told them to assume to go ahead. Quantum is finalizing  
341 paperwork for submission to DOT so Pelham can be put on the State's project list. Quantum informs  
342 there are a couple towns that have projects scheduled for next year; however, they don't have their  
343 project package ready. The hope is for Pelham to be moved up on the list because of having  
344 everything ready.

345

346 Mr. Lynde provided a status of the Abbott Bridge and Main Street Bridge and the proposals being  
347 recommended for each. A copy of the information will be forwarded to the Board.

348

349

350 **TOWN ADMINISTRATOR / SELECTMEN REPORTS**

351

352 Mr. McCarthy updated the Board regarding the Kinder Morgan pipeline project. He stated the New  
353 Hampshire Pipeline Coalition met with Congresswoman Ann Kuster to discuss the concerns with the  
354 pipeline. The coalition's concern is the multiple resource reports that have not been completed.  
355 These reports should be reviewed prior to scoping hearings, which are scheduled for later in the  
356 month. The coalition has requested Ms. Kuster's assistance to delay the scoping hearings.

357

358 **REQUEST FOR NON-PUBLIC SESSION**

359

**MOTION:** (Leonard/McDevitt) Request for a non-public session per RSA 91-A:3,II, a&e



BOARD OF SELECTMEN MEETING/July 7, 2015

(Personnel; Consideration or negotiation of pending claims or litigation)

**ROLL** Mr. Lynde-Yes; Mr. McDevitt-Yes, Mr. Viger-Yes; Mr. Leonard-Yes;  
**CALL:** Ms. Spencer

360

361

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 8:57 pm.

362

363

364

The Board returned to public session at approximately 9:40 pm.

365

366

**MOTION:** (Leonard/McDevitt) To seal the minutes of the non-public session indefinitely.

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

367

368

369

**ADJOURNMENT**

370

**MOTION:** (Leonard/Viger) To adjourn the meeting.

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

371

372

The meeting was adjourned at approximately 9:40 pm.

373

374

375

376

Respectfully submitted,  
Charity A. Landry  
Recording Secretary