

**TOWN OF EAST KINGSTON, NH
SELECTMEN'S PUBLIC MEETING MINUTES
TUESDAY, JANUARY 20, 2009**

6:45pm – Fire Chief Sam Richard

Attending: Selectmen Robert A. Caron, Richard S. Poelaert & David R. Pendell, Jr.

Others Attending: Fire Chief Sam Richard.

Chairman Caron called this Selectmen's Public Meeting to order at 6:30PM.

MINUTES: The Board reviewed the 1/13/2009 Selectmen's Public Meeting Minutes. Mr. Poelaert **MOTIONED** to approve and sign the minutes as written. Mr. Pendell seconded. Motion carried 3-0.

REGISTER: The Board reviewed the check register. Mr. Poelaert **MOTIONED** to approve and sign the check register dated 1/15/09 in the amount of \$58,045.04. Mr. Pendell seconded. Motion carried 3-0.

VETERANS' EXEMPTIONS: The Board reviewed two veterans' exemption applications. Ms. Gallant noted both had met all of the necessary requirements to qualify for the \$500 exemption. Mr. Poelaert **MOTIONED** to approve and sign the veterans' exemptions for Randy & Dorothy (Wilson) Reagan at 33 Sanborn Rd. & David & Barbara Lambert, 20 Cornerstone Rd. Mr. Pendell seconded. Motion carried 3-0.

ESTIMATE: The Board acknowledged receipt of an estimate for replacing doors at the fire station. Fire Chief Sam Richard explained what needed to be done and praised the work of Mr. LeClair regarding the recent installation of windows for the East Kingston Fire Association. Mr. Poelaert **MOTIONED** to expend up to \$1,500 to replace the doors at the fire station, as explained in the estimate. Mr. Pendell seconded. Motion carried 3-0.

CORRESPONDENCE: The Board acknowledged receipt of a letter dated 1/16/09 from David Sullivan praising the Town's Police Department for his recent dealings with them.

A letter was received from the East Kingston Energy Committee informing the Board of receiving a \$500 grant from the New England Grass Roots Fund, and have scheduled meetings at the Library to discuss reducing carbon emissions in Town.

FEMA: At a meeting held on 1/15/09 in Exeter regarding FEMA funds for the ice storm & back to back snowstorms in Dec. 2008, EOC Deputy Director, Jason Laing, Road Agent, Matt Gallant & Fire Chief, Sam Richard attended.

Fire Chief Sam Richard stated the dates covered will be 12/11-12/23/08, and qualified expenses will be reimbursed at 75%.

Mr. Poelaert stated "shortcomings" were determined during the "state of emergency," and Fire Chief Richard responded he has spoken with Director Mark Cook, Police Chief R. Simpson, and Road Agent M. Gallant, regarding the issues and concerns, and how to better track the information when a state of emergency arises.

It was noted the kitchen at the Fire Station needs to be renovated. Fire Chief Richard stated he is putting together a list of things.

Mr. Pendell stated the EKFA has discussed renovating the kitchen facilities at several of their meetings. Mr. Pendell suggested coordinating the efforts to renovate the kitchen with the EKFA.

Mr. Poelaert stated the lease reflects the Town is the tenant, and the EKFA is the landlord. Maybe they could help with funds to do a good job.

Mr. Pendell offered to bring it up at the February EKFA meeting.

SB-2: In accordance with stated statute, a public hearing must be held on the citizens' petition received to repeal SB-2. The Adm. Asst. suggested 2/17/09 at 6:30PM at the Town Offices. The Board members agreed that date would meet all the necessary requirements for the proper timeframe.

PLANNING BOARD: The Board acknowledged receipt of the Planning Board meeting minutes dated 1/15/2009 for their review.

PLAN NH: Mr. Pendell stated he had been contacted by the Planning Board Secretary, Barbara White, today and was asked to bring to the Board of Selectmen the PLAN NH Charette Program.

The Planning Board members discussed it at a recent meeting and were in favor of submitting an application for assistance. Mr. Pendell stated the flyer from Plan NH explained they help towns plan for the town's future, and would expect a donation at the end. He further stated Planning Board member Ron Morales filled it out, and he provided copies to the Board members. Barbara White asked him to ask the Board of Selectmen to write a letter in support of the program. Mr. Pendell added the letter should be written by the Planning Board meeting on 2/19/09. The architects volunteer their time and give their input to the towns. It was noted they would ask for a donation of \$2,500.

Mr. Pendell suggested submitting the application, see if the Town is accepted, and then they could decide whether or not to move forward with it and to have the funds to cover it. The other Board members agreed and further agreed to write a letter of support.

MEETING: The Board was reminded of a meeting on 1/23/09 hosted by the Greater Haverhill Chamber of Commerce.

FIRE DEPT.: Fire Chief Sam Richard met with the Board at 6:55PM to discuss the dilapidated barn located at 120 Depot Road.

Fire Chief Richard explained, in chronological order, what has transpired since his first contact with the owner of the property last May/June 2008.

He noted Mr. Griggs' daughter manages the mobile home park. Fire Chief Richard explained he had offered to burn the barn for a fire department training, and Mr. Griggs agreed, but the list of items that needed to be done prior to were not done on his part. He tried contacted him several times. He did not receive a letter authorizing the Town to conduct the burn, nor did he remove the hazardous materials or take insurance off the building. He acknowledged a lot of background work must be done prior to any burn for training purposes. During the August/September timeframe he was given 30 days to comply, and Fire Chief Richard received no response. During October, he was able to speak directly with him, and he did acknowledge that he had received the letters and phone messages left by the Chief to contact him. Mr. Griggs was asked to have the barn removed before winter set in. When Mr. Griggs acknowledged he needed to get an excavator, he asked for more time, to which the Chief gave him until the end of the year (12/2008).

Fire Chief Richard stated with all the snow we have now, the walls are starting to fall out and the roof is caving in. He feels it is a safety issue.

Fire Chief Richard asked the Board how they would like to proceed. It was noted there is an RSA that allows the Board of Selectmen the authority to demolish the barn and charge the owner.

If billed and not paid by the owner, the Town can lien the property.

Fire Chief Richard asked if the Board wanted him to contact the State Fire Marshal's Office and have him visit the site for his opinion.

Mr. Poelaert suggested contacting Mr. Griggs directly and scheduling an appointment with him, at his office, to discuss the matter. He would prefer a person-to-person communication. Fire Chief Richard suggested he and the Building Inspector attend the meeting. The Board members agreed it would be appropriate to have the Fire Chief and Building Inspector/Code Enforcement Officer meet with Mr. Griggs.

The Board members also agreed that if one of the Selectman was available, he could also attend with them.

Mr. Pendell inquired about a burn in spring 2009. Fire Chief Richard responded, yes, maybe they could burn it for fire department training, but they would all need to do the preliminary work required beforehand.

NONPUBLIC SESSION: Chairman Caron **MOTIONED** to go into a nonpublic session at 7:15PM under RSA 91-A-3, II: para. (a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted. The Board was polled and the results of the poll were: Robert A. Caron – Yes, Richard S. Poelaert – Yes & David R. Pendell Jr. - Yes.

The Board was polled and determined the divulgence of the information would render the proposed action ineffective and the information will be withheld from the public during the public meeting Minutes of January 20, 2009. The results of the poll were: Robert A. Caron – Yes, Richard S. Poelaert – Yes & David R. Pendell, Jr. – Yes.

Chairman Caron **MOTIONED** to adjourn this Selectmen's non-public meeting at 7:40PM. Mr. Poelaert seconded. Motion carried 3-0.

FIRE DEPT.: Fire Chief Richard reported he attended the recently held annual meeting of the Seacoast Chief Fire Officers Association, and stated it went very well.

CALENDAR: 1/29: Accounts payable and payroll processing, & 2/2/09 Deliberative session at the Elementary School.

LEGAL FEES: The Board acknowledged receipt of correspondence from Town Counsel, Upton & Hatfield, regarding the recent lawsuit David Pendell filed against fellow Selectmen Robert Caron & Richard Poelaert, which was dismissed by the Rockingham County Superior Court, and further denied his request for monetary relief, relative to the Pound School.

It was noted the total cost of legal fees from Upton & Hatfield for the case totaled \$4,141.56.

Mr. Pendell submitted the application for a copy of the transcript of the proceedings to the Board. He stated he had received it at his home last Wednesday or Thursday. Mr. Caron responded he had inquired about filing a request for a copy for the record. He was waiting to hear from the Court on how much it was going to cost.

The Board reviewed the paperwork, and thought it would be about \$330.00. Chairman Caron asked if the Board of Selectmen should pay for the transcript, or the Town should pay for it, and further stated if the Town pays for it, it is a Town document.

Mr. Poelaert stated it is part of the record, and they should order it. The Board members agreed to order the transcript for the Town's record. Mr. Pendell added that if it is public record, we can make copies of it.

Mr. Pendell **MOTIONED**, based on the letter from Upton & Hatfield, that if the warrant article passes to take deed to the Pound School, that the Town lease it for zero dollars to the Friends of the Library for 10 years.

Mr. Poelaert stated you cannot do that for liability purposes. The Friends of the Library are not insured by the Town.

Chairman Caron added it has always been the intention of the Selectmen to utilize the building for meetings by various groups, and the used bookstore operated by the Friends of the Library.

Chairman Caron stated the lawsuit cost \$4,141.56, plus the transcript fee of approximately \$330.00, depending on the number of pages.

Chairman Caron asked if the Town should pick up the legal costs or what your thoughts are? Mr. Poelaert responded, he does not think the Town should have to pay for it. Chairman Caron suggested passing the bill over to David Pendell for payment.

Mr. Poelaert added that if the lawsuit had gone the other way, he (David) was demanding them (Robert & Richard) to pay \$20,000 each to offset the tax rate. In good faith, he can't ask the Town to pay.

Mr. Poelaert added he has been working on his hands and knees to turn off hot water heaters (at Town buildings) to save costs for the Town. He added that there was never any discussion of being sued. The first time he heard anything, he was served by the Sheriff.

Chairman Caron **MOTIONED** to take the legal fees from Upton & Hatfield of \$4,141.56, and issue a bill to David Pendell, with a request to pay within 30 days. Mr. Pendell stated he will appeal it.

Chairman Caron continued his motion with Option 2 being that Mr. Pendell forgo his next two years of Selectman's pay to reimburse the costs incurred, or Option 3, he could resign, if he chooses, for personal issues. Mr. Poelaert seconded. Motion carried 2-1.

Mr. Poelaert asked Mr. Pendell, Why do you think we are going to kick the Friends of the Library out? Why didn't you just come to the Selectmen in a public meeting and ask the question? Why didn't you just ask us? If we went against it and it was on record, you could make idiots out of us. We were never going to NOT allow the Friends of the Library to use the Pound School.

Mr. Poelaert asked, why, with no warning, did you sue? Why ask us (Rob & I) to pay out of our own pockets?

Mr. Pendell asked who went to Bart and asked him to work with the school to change the deed? Mr. Poelaert responded, you Dave, you went to the school first (Apr. 08).

It was noted Vito Kasinskas brought a copy of the deed to the Pound School to a Selectmen's Meeting (around April 2008). Mr. Poelaert added he had already seen the deed in early summer (2007) from Deb.

Mr. Pendell stated the Board of Selectmen had agreed the Friends of the Library utilizing the building satisfied the use of the building.

Mr. Poelaert added School Board member Bob Nigrello said if the Town doesn't accept the building, he won't spend school money on it, and School Board member David Miller suggested he would sell it to the Town for \$1.

Mr. Poelaert asked Mr. Pendell, why not just ask the question and have the answer in the public record.

Chairman Caron stated he went to the School Board meeting in August 2008.

Mr. Pendell responded if he gets a \$4,000 bill, he will appeal it, and get Bart's entire case and spend more money.

Mr. Poelaert responded, if you want to spend more of the Town's money, you must be crazy. He added you basically stated in court that the documents were altered, and you accused legal counsel, Deb, and the school, of changing minutes. How do you ever expect to work with these girls after accusing them of altering public documents?

Mr. Pendell responded that in the last meeting minutes Matt Gallant corrected Rob about the increase in highway costs included leasing equipment, and Matt said it wasn't for that, and it was not shown in the minutes.

Mr. Pendell added that Ray Donald told him he knew minutes were altered.

Mr. Pendell asked why he was not informed that Tim Conti left his position. At the last meeting he found out, and Rob Dick and Deb knew.

Mr. Pendell stated it is important to him that all information pass through these meetings.

Mr. Poelaert asked why he left the last Selectmen's meeting where there was no discussion about the Fire Dept., and went directly to the Fire Department and pulled Ed Warren from a training session? If you have a problem, why not see the Fire Chief? Mr. Pendell responded he did not go to talk about Fire Dept. business. Mr. Poelaert asked him why he thought things were not good with the fire department, and Mr. Pendell responded he didn't say that. Mr. Poelaert stated Ed said you did. He further stated you have got to stop changing your stories.

Mr. Poelaert stated Mr. Pendell is continuously stirring the pot, and Mr. Pendell responded, no I'm not.

Mr. Poelaert stated he (David Pendell) listened at the East Kingston Fire Association meeting about them working with the Marcella's to deed an access road, and then went to the Recreation Committee meeting and told them what they are trying to do (ref. Foss Wasson Field). Mr. Pendell responded he is on the committee, and a member of the fire association.

Mr. Poelaert stated he has tried his best to work with Mr. Pendell. We have never said one word that we would not let the Friends of the Library use the Pound School. Never!

Mr. Pendell stated he wanted to know when the procedure started for a quit claim deed to the Pound School. He stated they had agreed the Friends of the Library were the reason used to utilize the building.

Chairman Caron responded by reading from the Attorney's correspondence, "Now that this suit is behind all of you, I hope that you will work together to cause the deed to be amended so as to ensure that everything you have done to make this a successful municipal building is legal. At this point, the Board of Selectmen has effectively taken this building from the Library Trustees and proceeded to use it as a municipal building, subject to the control and direction of the Board of Selectmen. I applaud your efforts, and saw nothing in the record that suggested that the Library Trustees want to retain this building or incorporate the cost of operating it into their budget. The final, logical step in the process is to refine the deed to eliminate any question about what you have done."

Mr. Pendell stated Deb had told him it was a Town building. Mr. Pendell stated he was told we didn't need to do anything, and then he finds out we are changing the deed.

Mr. Poelaert stated Mr. Pendell got upset when they voted to only have the Chairman and the Administrative Assistant contact the Attorney. He added that it is not uncommon for towns to have the Chairman and Administrative Assistant be the contacts. It would have been wrong if it was only to let one Selectman not be able to contact the attorney, but it was both you & me (Pendell & Poelaert). We were not just excluding him.

Mr. Poelaert added the Chairman has the latitude in his responsibilities to conduct business for the day to day stuff.

At 8:25PM, Chairman Caron **MOTIONED** to adjourn this meeting. Mr. Poelaert seconded. Motion carried 3-0.

Respectfully submitted,

Deborah G. Gallant,
Administrative Assistant

Robert A. Caron

Richard S. Poelaert

David R. Pendell, Jr.