

**TOWN OF EAST KINGSTON, NH
SELECTMEN'S PUBLIC MEETING MINUTES
TUESDAY, FEBRUARY 17, 2009**

6:30PM Public Hearing - SB2

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

Others Attending: Gary Hinz, Teresa Pendell, Hank Lewandowski, Dan Guilmette, Matthew Dworman, Pat Mazur, Carol Freeman, Ray Donald, and a dozen more in attendance representing the over 55 community developments.

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

SB-2: Chairman Caron called the Public Hearing to order at 6:30PM, to discuss rescinding RSA 40:13, known as SB-2, as required by state statute, RSA 40:14,VII, per the citizens' petition submitted for the ballot.

Chairman Caron opened the meeting for any questions. Chairman Caron responded to the question of why a public hearing was being held, and he responded, it is required by state statute.

The question was asked why are the Board of Selectmen opposed to keeping SB-2? Chairman Caron & Mr. Poelaert both responded that they are OK with SB-2.

Mr. Pendell stated that he liked Town Meeting, and wants to overrule what was approved at Town Meeting last year.

Mr. Pendell stated that he voted against it last year. It was acknowledged that it passed last year by a 3/5 vote, and will need a 3/5 vote to pass this year to rescind it.

Mrs. Teresa Pendell stated that it was a citizens' petition, and not a Selectmen's article. Thirty-two people signed it in favor of rescinding SB-2.

Mr. Poelaert added that Mr. Pendell was behind it, and is the author of the article. Mr. Pendell responded that parents came to him and he said he would try to write the article, but he didn't have time to do it, so he asked his wife to write it, and she did, then she gave it to the parents who signed it, then she (Mrs. Pendell) submitted the citizens' petition to the Selectmen's Office. Mr. Pendell stated, yes, he was approached.

Mr. Guilmette inquired about what parents? Mr. Pendell responded he was approached by 4 parents at their son's swim class at PEA.

Mr. Pendell added that he said the parents talked to him, saying they don't understand the articles if voting by ballot.

Mr. Guilmette responded by attending the deliberative session (with SB-2), that this is the process that helps them to get informed.

Mr. Poelaert stated that with Town Meeting, if you didn't go, you didn't get to vote. Now, with SB-2, you can vote all day long by ballot on everything, and if you are out of Town on that day, you can get an absentee ballot and vote.

Chairman Caron added that this year, with SB-2, they are going to get a list of those who ask for an absentee ballot from the Town Clerk, and a mailer will be sent to them informing them all about each article. In fact, we have the revised Selectmen's Insert ready for signature tonight.

Mr. Pendell stated you can amend the articles at the deliberative session, and with Town Meeting you can amend them on the floor. Mr. Pendell referred to a deliberative session with Town Meeting vs. deliberative session with SB-2 and was corrected that only with SB-2, is there a deliberative session held.

Mr. Lewandowski informed the audience that he sponsored the SB-2 citizens' petition for the last two years and was fortunate to have it pass with the required 3/5 vote last year.

He stated he felt it is not fair to the voters who can't make it to Town Meeting, for whatever reason, to have no say in what is passed. With SB-2, everyone can vote by ballot and people can be informed. He does not think people should be intimidated by the way they vote at Town Meeting, and with SB-2, they vote in privacy. If we have Town Meeting and you can't go, you lose the right to vote on what is offered.

Mr. Pendell stated there are pluses and minuses to both systems.

Mr. Lewandowski stated that with all the Warrant Articles presented at Town Meeting, you have to be there at Town Meeting to vote. Articles of interest may not come up until late in the evening, and you have to wait for them to come up to vote on them. With SB-2, you can vote all day, 8:00AM – 7:00PM, by ballot privately. It is his experience in this Town that with anything important, people do what is right.

Mr. Poelaert informed the audience that at the deliberative session a man spoke up loudly to ask people to use the microphone because he couldn't hear, he was not trying to be bad. He just can't hear well.

Mr. Matthew Dworman added with Town Meeting, the election of officers and the Planning Board (zoning amendments) articles are voted by ballot and only the warrant articles are voted on at Town Meeting. Mr. Dworman stated that at the deliberative session, 111 people made the decision for everyone.

Mrs. Pendell stated that with Town Meeting you have the right to go.

Mr. Dworman stated SB-2 is new for everyone, including the Moderator. It is everyone's right to vote.

Chairman Caron asked if there were any other questions. A gentleman stated a hand vote is taken at Town Meeting and for the last 5 years that he has lived in Town, special interest groups have attended Town Meeting, and the Town gets about everything they want. He gave an example the voters have passed the building of a new library and a new police station in the last couple of years. He added the Town shouldn't worry about what they want.

Chairman Caron stated that, in the past, the articles have been justified and the voters have passed the articles.

Mr. Poelaert added the rule seems to be the Town votes no twice, and on the 3rd year, they vote yes.

Chairman Caron asked if there were any other questions or comments.

Chairman Caron **MOTIONED** to close the Public Hearing on SB-2 at 6:45PM. Mr. Poelaert seconded. Motion carried 3-0.

Chairman Caron resumed the Selectmen's Public meeting at 6:45PM. Mr. Poelaert seconded. Motion carried 3-0.

MINUTES: Chairman Caron stated the amended 1/20/2009 Selectmen's Meeting Minutes approved at the 2/2/09 meeting were re-amended by Mr. Pendell after himself & Mr. Poelaert signed them. Chairman Caron stated that they either have to resign the minutes as approved at the 2/2/09 meeting, or rescind the motion to amend the original minutes and accept them as written.

Mr. Poelaert asked what he had changed. Mr. Caron read: originally it stated, "Mr. Pendell added that Ray Donald told him he knew minutes were altered," and David changed it with ink and initialed it to say, "Mr. Pendell stated a former selectman chair stated in deposition for another lawsuit that the minutes were altered and it was common practice."

On the last page, it had stated "Mr. Poelaert added the Chairman has the latitude in his responsibilities to conduct business for the day to day stuff," and Mr. Pendell changed it with ink and initialed it to say, "Mr. Poelaert added the Chairman has the latitude in his responsibilities to conduct business as he sees fit."

Mr. Donald was in attendance at the meeting and asked the Chairman for permission to address the Board, as his named was being discussed. Chairman Caron agreed.

Mr. Donald stated that he does not ever remember discussing with David of changing any minutes. He stated he is aware that during a meeting, if two Selectmen agree to change the documents in a formal meeting, they can be amended, but no changes are ever made after the Selectmen have signed them, **ever**.

Chairman Caron **MOTIONED** to sign the amended minutes as approved at the 2/2/09 meeting. Mr. Poelaert seconded. Motion carried 3-0.

MINUTES: The Board reviewed the Selectmen's Meeting Minutes dated 2/02/09. Mr. Pendell **MOTIONED** to approve & sign the meeting minutes as written. Mr. Poelaert seconded. Motion carried 3-0.

REGISTER: The Board reviewed the check register. Mr. Pendell **MOTIONED** to approve and sign the check register dated 2/5-2/11/2009 in the amount of \$78,103.43. Mr. Poelaert seconded. Motion carried 3-0.

VETERANS' EXEMPTION: The Board reviewed veterans' exemption applications. It was noted they each met all of the necessary criteria to qualify for the \$500 veterans' exemption. Chairman Caron **MOTIONED** to approve and sign the following:

Robert & Anne Rossi, 130 Sanborn Road, MBL #07-03-06, \$500.

Gerald Macier, 21 Clement Lane, MBL #11-02-02, \$500

Robert & Jeanne Clark, 5 Clark Road, MBL #10-04-08-06, \$500

Dolores Zeller, 8 Cornerstone Road, MBL #06-02-10-05, \$500

Mr. Poelaert seconded. Motion carried 3-0.

TC/TC REQUEST FOR DISBURSEMENT OF FUNDS: The Board reviewed a Request for Disbursement of Funds submitted by TC/TC Barbara Clark. Mr. Poelaert **MOTIONED** to approve and sign the request for \$38.27 for overpayment of property taxes on MBL #02-02-03. Mr. Pendell seconded. Motion carried 3-0.

SELECTMEN'S INSERT: The Board reviewed an updated Selectmen's Insert, revised after the deliberative session, with additional explanations of the amended warrant articles. Mr. Pendell

MOTIONED to approve and sign the insert as presented. Mr. Poelaert seconded. Motion carried 3-0. The Insert will be provided in the Town Report and on the website to inform voters prior to voting on March 10th by ballot.

WAGNER: The Board acknowledged receipt of a letter from Audrey Wagner, dated 2/17/2009, requesting a waiver of the interest & penalty fee of \$100.95 for a late payment of property taxes. After discussion, Mr. Poelaert **MOTIONED** to approve to split the difference (\$50.48). Mr. Pendell seconded. Motioned carried 3-0.

DELIBERATIVE SESSION: Ms. Gallant stated the Deliberative Session was held on 2/2/09, and appreciation was expressed to Principal Jim Eaves for setting up the multi purpose room prior to the meeting at 7:00PM, and to Keri Marshall, interim Moderator, due to the passing of Moderator Larry Smith.

DRA: The Town has been notified the sales ratio for tax year 2008 has been set at 95% by the Dept. of Revenue Administration.

HEALTH OFFICER: The current appointment for Health Officer expires 2/25/09. To date, there has been no one looking to be nominated for the 3-year state appointed position. The current Health Officer does not wish to be re-nominated.

WA #11: It was noted the Planning Board did not conduct a public hearing in January, as required by statute, for a Citizens' Petition submitted to the Planning Board for a Zoning Amendment change. The question has arisen, if the article is passed by the voters would it become an ordinance? It was noted if the article fails, it will be a moot point, but if it passes, should funds be expended for a legal opinion before or after the vote? After discussion, the Board agreed to wait until after the vote to contact legal counsel for clarification and proper procedures.

RECREATION COMMITTEE: The Board acknowledged receipt of the 1/14/2009 meeting minutes for their review.

ZBA: The Board acknowledged receipt of the 1/22/09 ZBA agenda, meeting minutes, & Notice of Decision for their review.

SAFETY COMMITTEE: The Board acknowledged receipt of the 1/28/09 Safety Committee Meeting minutes for their review.

BACKGROUND CHECKS: The laws have recently changed for submitting an application for a background check. Along with the application, fingerprinting is now also required, and the cost has increased from \$15.00 to \$54.25 for a background check. It was noted the most recent hire (for the fire dept.) was required to go through the new process. (RSA 41:9-b).

WM: The Board acknowledged receipt of the total tonnage Waste Management picked up for the year 2008. (Recycling: 166.46 tons + solid waste of 815.80 tons = 982.26 total tonnage for year 2008).

AUDITORS: The auditors completed the 2008 annual audit for the Town of East Kingston and were pleased with the results.

WEBSITE: It has been suggested the town ordinance book be available on the website. It was noted it is a source of revenue as the books are sold. The Board agreed to look at it.

APPRECIATION: The Board acknowledged receipt of a thank you from the family of Al Richard for the Town's donation in his memory.

BUDGET & WARRANT: It was noted the budget and warrant were posted at the Town Offices, Town Clerk's Office, Jewett's General Store, Post Office, EK Elementary School and on the Official website.

At Mr. Pendell's suggestion, it was agreed to add the Library as an additional posting place for the warrant for next year.

ELECTION DAY: The election by ballot will be held on Tuesday, March 10, 2009 at the EK Elementary School from 8:00AM – 7:00PM.

ELECTRICIAN: The Adm. Asst. presented an estimate from an electrician to perform work at the Police Station and at the Town gas pumps. Chairman Caron **MOTIONED** to approve the two quotes at \$380 + \$410 to conduct the work as stated, including the diesel pumps, as well as the gas pumps. Mr. Poelaert seconded. Motion carried 3-0.

POUND SCHOOL: Joanne Brandt contacted the Selectmen's Office to ask permission to put up a corkboard at the Pound School. The Board of Selectmen agreed that would be fine.

CALENDAR: The following dates were noted: 2/19 Planning Board meeting, 2/25 Candidates night @ Library, 2/26 accounts payable and payroll processing, and 3/2 Selectmen's Meeting. It was noted Ms. Gallant would take vacation time in March.

EKFA: Mr. Pendell informed the audience that at the recent EKFA meeting, they discussed checking with the EK Fire Dept. about renovating the kitchen area of the fire station.

GUILMETTE: Mr. Dan Guilmette asked if he could speak to new business before the Board goes into a non-public session.

He asked the Board members what their individual position is on the town center district expansion by the citizens' petition (extend from current Freeman Street to westerly edge of North Road and South Road). Mr. Poelaert responded he is against it, Mr. Caron against, and Mr. Pendell against.

HINZ: Mr. Gary Hinz asked if he could ask for clarification regarding Warrant Article #11, the citizens' petition to expand the Town Center District. Mr. Hinz referred to a comment that the petition would go back to the Planning Board, and in accordance with RSA 675:4, method of adoption by petition, he explained the Planning Board was required to conduct a public hearing, and they did not.

He was seeking clarification, if it passes what will happen? Chairman Caron responded that at the deliberative session he read the article, based on the recommendation of town counsel. If it passes, they will need to obtain an opinion from town counsel.

Mr. Hinz added that the Planning Board is submitting an application to Plan NH to study the guidelines for a commercial zone. Chairman Caron referred the questions to Mr. Pendell, who is on the Planning Board. Mr. Pendell stated that they are looking into expanding the commercial zone.

MAZUR: Mrs. Pat Mazur wanted to give the Board of Selectmen a Christmas tree update. She informed them they had 48 tags on the Christmas tree at the Library, and 24 children received Christmas gifts. 46 of the 48 tags were taken, and the remaining two received gift certificates. The EKFA donated \$200, with

which she bought eight \$25 food gift cards, and the Recreation Committee donated \$100. It was a success and worked out great. She stated Carol Freeman helped her through the ice storm to make the deliveries. She went through the school nurse.

Mr. Poelaert added that since the Town has no one serving in Iraq at this time, could they transfer the remaining money to something else. He suggested dissolving the account. Ms. Freeman suggested putting the money to the Food Pantry, and Ms. Mazur agreed with her suggestion.

Upon motioning to go into a nonpublic session, the audience left the meeting.

NONPUBLIC SESSION: Chairman Caron **MOTIONED** to go into a nonpublic session at 7:30PM under RSA 91-A-3, II: para (c.) Matters which, if discussed in public would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting. The Board was polled and the results of the poll were: Robert A. Caron – Yes, Richard S. Poelaert – Yes & David R. Pendell, Jr.

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 February 17, 2009. The results of the poll were: Robert A. Caron – Yes, Richard S. Poelaert – Yes & David R. Pendell, Jr.

Chairman Caron **MOTIONED** to adjourn this Selectmen's Non public meeting at 7:45PM. Mr. Poelaert seconded. Motion carried 3-0.

DONALD: Mr. Poelaert, again, asked Mr. Pendell about his statement about what he said at the 1/20/09 meeting, and that he lied in front of people tonight. Mr. Pendell responded he did not mention Ray Donald by name. Mr. Poelaert asked Mr. Caron if he said Ray Donald, he responded yes. Mr. Poelaert asked Ms. Gallant if he stated Ray Donald, and she said yes, and Mr. Poelaert added that Fire Chief Richard was also in attendance at that meeting, and he is sure that if he asked him, he would say you (Mr. Pendell) mentioned Ray's name in public. Mr. Pendell said no, he did not say Ray Donald, and Mr. Poelaert responded you lied, you did say Ray Donald.

ELECTION: The booths will be set up on Mon., March 9th. Snacks, Lunch & Dinner will be provided to the election workers on the 10th. Mr. Poelaert offered to be at the election on March 10th, 8AM – 12 noon, and Mr. Caron offered he could cover the end of the day until 7:00PM when the polls close. Mr. Pendell stated he is trying to get the whole day off. Chairman Caron stated the new booths have been delivered to the school, and the old ones have been disposed of.

Chairman Caron **MOTIONED** to adjourn this Selectmen's Public Meeting at 7:47PM. Mr. Poelaert seconded. Motion carried 3-0.

Respectfully submitted,

Deborah G. Gallant
Administrative Assistant

Robert A. Caron

Richard S. Poelaert

David R. Pendell, Jr.