

**TOWN OF EAST KINGSTON, NH
SELECTMEN'S PUBLIC MEETING MINUTES
MONDAY, MARCH 30, 2009
6:45pm – David Sullivan
7:00pm – Fire Chief Sam Richard**

ATTENDING: Selectmen Matthew B. Dworman, Richard S. Poelaert & David R. Pendell, Jr.

OTHERS ATTENDING: David Sullivan, Fire Chief Sam Richard, Ed Warren, Police Chief R. Reid Simpson, Teresa Pendell, Joanne Dworman, Carol Freeman, R. Scott Urwick, Duncan MacLeod & Clint Furnald.

Matthew Dworman announced he would be tape-recording this meeting and called this Monday, March 30th Selectmen's meeting to order at 6:30PM.

MINUTES: The Board reviewed the Selectmen's Public Meeting Minutes dated 3/16/09. Mr. Pendell **MOTIONED** to approve as written. Mr. Poelaert seconded.

Chairman Dworman stated he wanted to change the minutes on page 1 from: He added that he ran on the premise of transparency, and would see if he could get a voice recording on Comcast. He admitted that is what he said, but meant to say: He added that he ran on the premise of transparency, and would see if he could get a *telecast* recording on Comcast. Also, on page 4, he wanted to change, "He added he would take the Health Officer and Property Assessments," (under the Areas of Liaison of Responsibility) and change to: *Mr. Poelaert added Mr. Dworman would then take the Health Officer and Property Assessments.*

Mr. Pendell **MOTIONED** to approve the 3/16/09 Selectmen's Public Meeting Minutes as amended. 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 3/25-3/27/09 in the amount of \$457,316.98. Mr. Poelaert seconded. Motion carried 3-0.

VETERAN'S EXEMPTIONS: The Board reviewed two veterans' exemptions applications. Mr. Poelaert **MOTIONED** to approve a veterans' exemption of \$500 for F. Crabb, 24 Autumn Lane, MBL #16-02-04-24, and \$500 for R. Jackson, MBL #8-2-19-29, noting both met all the necessary criteria. Mr. Pendell seconded. Motion carried 3-0.

APPOINTMENTS: The Board reviewed three renewed appointments, noting recommendations from the Conservation Commission and the Library Trustees.

Mr. Pendell **MOTIONED** to approve and sign an appointment for Marilyn Bott, as a Conservation Commission Member effective 4/1/09 – 3/31/2012; (Her current appointment is effective through 3/31/09); and Richard S. Urwick, as a Conservation Commission Member effective 4/1/09 – 3/31/2012, (His current appointment is effective through 3/31/2009); and for David R. Pendell, Jr. as an Alternate Trustee of the Library, effective 4/1/09-3/31/2010, (His current appointment is effective through 3/31/2009). 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 the Town Clerk/Tax Collector for an overpayment of property taxes to Savarese Development, LLC, in the amount of \$107.71 for MBL #10-4-8-8. Mr. Pendell **MOTIONED** to approve and sign the Request as submitted in the amount of \$107.71 for MBL #10-4-8-8. Mr. Poelaert seconded. Motion carried 3-0.

MS-2: The Board reviewed the MS-2, Report of Appropriations. It was noted it is the default budget of \$2,436,000 plus approved Warrant Article #14 for \$25,000 (for SCBA's), and Warrant Article #19 for \$35,800 (for road repairs), for a total of \$2,496,800 for the 2009 budget.

Mr. Poelaert **MOTIONED** to approve and sign the MS-2, Report of Appropriations Actually Voted as presented for the Department of Revenue Administration. Mr. Pendell seconded. Motion carried 3-0.

The Adm. Asst. provided the Board members with the expenditures to date for the 1st quarter at \$615,334.15, or 25%. She also provided them with a breakdown of each department with the default figures, expenses to date, balance, and the percentage expended for their review. She noted each Department Head/Elected Official has been provided their default budget and expenditures to date.

HEALTH OFFICER: The Board acknowledged receipt of a letter of interest from R. Scott Urwick for the vacant position of Health Officer for the Town dated 3/23/09. Mr. Urwick was in attendance and the Board asked if he was willing to do the job. He replied that he is happy to do it. He added that the Board of Selectmen can act as Health Officer, on his behalf, if he is out of Town. He noted that he travels and is out of Town at times, but at this point does not see it as a problem. Should it change, he would let the Board know. It was acknowledged that the Board of Selectmen nominate him to the State for a 3-year term.

Mr. Pendell **MOTIONED** to nominate R. Scott Urwick to the State of NH for the 3-year vacant position of Health Officer for the Town of East Kingston. Mr. Dworman seconded. Motion carried 3-0.

Based upon the above motion, the Board members signed the proper documentation for the State.

MADEJ: The Board acknowledged receipt of a letter of resignation from Eugene Madej for the position of Cemetery Sexton, effective 3/27/2009.

Chairman Dworman **MOTIONED** to accept the resignation from "Gene" Madej. Mr. Poelaert seconded, with reluctance. Motion carried 3-0. The Board agreed a letter of appreciation should be forwarded to him.

MCLEOD: The Board acknowledged receipt of a letter dated 3/23/09 from Malcolm McLeod regarding his complaint of the East Kingston Estates development by Savarese Development, LLC.

The Board reviewed a letter of response, stating DES has not yet issued any Administrative Order; therefore, it is not appropriate to issue a cease and desist order at this time.

Mr. Pendell **MOTIONED** to approve and sign the letter of response as written. Mr. Poelaert seconded. Motion carried 3-0.

SULLIVAN: Mr. David Sullivan met with the Board at 6:45PM to discuss the question he had at the last meeting. He would like to ask Mr. Dworman tonight whether or not he and David Pendell discussed the Chairmanship of the Board prior to the meeting (of 3/16/09). Mr. Dworman responded there is nothing more to discuss. He met with David Pendell several weeks prior and was told by him that if elected he will nominate him as Chair. Mr. Sullivan asked if he spoke with Mr. Pendell between the time he was sworn in and the meeting of 3/16. Mr. Dworman responded no communication at all, not even an email, and this won't be brought up again. Mr. Sullivan stated that if they had, it would have been illegal, and Mr. Dworman acknowledged that it would have been.

Mr. Sullivan stated he does not want to beat a dead horse, but wants to know when Mr. Pendell will reimburse the Town for legal costs for suing the other two Board of Selectmen personally. He said Mr. Pendell wanted the two other Selectmen to pay personally, and why should we, the taxpayers, pay for you to sue?

Mr. Pendell responded he wants him to be satisfied with an answer, so I will tell you why and what I did.

I had a problem with the Pound School, not the deed, but what went down. I called the Right to Know Chairman, John Lalley, and explained it to him, and because the Right to Know Law doesn't have a lot of meat in it, he advised me to sue, so that's what I did. I spoke with the town attorney and represented myself. I paid the court costs myself. The (Town) lawyer represented Dick & Rob. John Lalley told him he could have hired an attorney, but he chose not to and represented himself. He is sorry to the Town for the way it went down. It is not fair. He can't pay with his household the way it is. He added fair is fair. The Board of Selectmen spent \$20,000 for the library and offered he would give up his stipend if the prior Board of Selectmen would pay back those costs. Mr. Sullivan thanked him for an answer to his question.

FIRE CHIEF: At 6:50PM, Fire Chief Sam Richard met with the Board to discuss Deputy Fire Wardens. He provided a letter dated 3/30/09 to the Board members asking for consideration of additional appointments. He noted currently, himself, Matt Gallant, and Forest Warden Adam Mazur all are permitted to issue burn permits.

He stated that he feels bad that they are not able to keep up with the demand for permits. He stated, for example, they issued permits prior to the weekend, and upon returning Monday morning, 11 residents had contacted the Fire Dept. wanting permits that did not get issued.

He has spoken with the District Ranger, John Dodge, and he has agreed that it would be a good idea to have officers issuing agents. Fire Chief Richard is recommending his "officers," currently Capt. Ed Warren as Deputy Forest Warden, and his Lieutenants, Ed Decatur III, John Daniels, and Sarah Gallant as Permit Issuing Agents. He stated that this would allow the residents more opportunity to burn. He would have the officers rotate the weekend coverage so all burn permits could be issued. Fire Chief Richard added that Capt. Matt Gallant supports the request and is currently a Deputy Forest Fire Warden. He further added he has not received any support from Adam Mazur.

Mr. Poelaert inquired if Fire Chief Richard would be willing to give Adam Mazur one more chance to offer his support of this recommendation to the State. The Board of Selectmen are in agreement with the recommendation, and John Dodge is, but they would also like to have Mr. Adam Mazur's support.

Fire Chief Richard agreed he would be happy to contact Mr. Adam Mazur one more time and ask him, but noted he does not show up for any trainings and, to date, he has not received any letter of resignation.

Mr. Pendell **MOTIONED** to recommend the appointments of Deputy Forest Warden for Ed Warren and Permit issuing agents for Ed Decatur III, John Daniels, and Sarah Gallant as recommended by the Fire Chief. Mr. Poelaert seconded. Motion carried 3-0.

Fire Chief Richard stated he will try one more time to meet with Adam to work together. He further noted Mr. Dodge has also been unable to set up any meetings with Adam either.

Mr. Pendell noted that the East Kingston Fire Association will be meeting on Sunday, April 5, 2009.

PLANNING BOARD: The Board acknowledged receipt of the Planning Board meeting minutes dated 3/19/09 for their review.

The Planning Board has also submitted a letter (received by the Selectmen's Office on 3/26/09) recommending the Board of Selectmen renew the contract between the Town of East Kingston Planning Board and the Rockingham Planning Commission (RPC) for circuit rider services. It was noted the current contract expires 6/30/09 and the RPC will forward a new contract in June for signature by the Board of Selectmen that will be

effective for one year from 7/1/09 – 6/30/10. It was noted last year’s contract was extended from April to June 2009 to coincide with RPC’s fiscal year.

ZBA: The Board acknowledged receipt of the ZBA meeting minutes dated 3/26/09 for their review.

The Board was also provided with a packet of information from the ZBA applicant, Diana Whitmore, stating she requests an appointment with the Board (on 4/13/09) to discuss approving a home occupation permit for her. Mr. Pendell stated that her Attorney, John Rattigan, had contacted him after the ZBA meeting to discuss what she wants to do. He added he knows him from dealing with the Library. Mr. Poelaert stated that he will reclude himself from the matter at the meeting, as he is an abutter. Mr. Pendell asked him if he had an opinion, and Mr. Poelaert responded he will stay out of it, as he is an abutter. Mr. Warren and Mr. Sullivan, as both are members of the Planning Board, stated she had come before the Planning with a plan for a dog kennel and when she went to the ZBA, the scope of her plan went from 10 dogs to 3.

DRAGON MOSQUITO: The Board acknowledged receipt of the Public Notice from Dragon Mosquito stating the mosquito program begins April 20, 2009 in East Kingston. Also, a copy of the completed special permit application has been provided to the Selectmen’s Office.

GILCHRIST: The Adm. Asst. explained the Selectmen’s Office had received a letter dated 3/13/09 from Richard Gilchrist, 10 Sanborn Road, with a complaint about “the dirt and sod strewn about” his front yard from the winter snow plows. The letter was forwarded to Road Agent, M. Gallant, and he reported to the Selectmen’s Office that upon inspecting the property, he found it to be all cleaned up and no issue to deal with.

ELECTION: The Adm. Asst. explained the Selectmen’s Office had received an invoice for the printing of the ballots for the Election with the Accuvote machine. She inquired whether or not the Town would be covering the full cost including the printing of the East Kingston School ballot, or not. The Cooperative School ballot is paid from the School District. In the past, the Town has covered the cost, with a printer producing paper ballots and now with the voting machine, the company prints the ballots. She stated the school portion is \$739.60 and the Town portion is \$2,282.27, for the total invoice of \$3,021.87.

Mr. Poelaert stated that when the Town agreed to purchase the machine, the school and the Town were each going to pay half of the cost. When the Town received the machine, the school decided not to cover any share of the cost.

Discussion ensued. Chairman Dworman asked Mr. Pendell to contact the EK School Board and discuss the matter with them to get an understanding from them whether or not they would be willing to pay their share or not. Mr. Pendell agreed to contact Bob Nigrello, a School Board member.

TOWN TOUR: The Board members agreed to conduct the Annual Town Tour in accordance with RSA75:8 on Friday, April 3, 2009 at 8:30AM with Selectmen Matt Dworman, David Pendell, and Adm. Asst. Deb Gallant in attendance.

SOLID WASTE: Adm. Asst. Deb Gallant informed the Board, Mr. Rob Caron had planned to be at the meeting, but due to another commitment, he is unable to attend. He asked Ms. Gallant, on his behalf, to present an East Kingston Solid Waste and Re-Cycle Committee Proposal. Chairman Dworman agreed a committee to look at several proposals for trash/recycle removal would be a good idea. It was noted the current contract with Waste Management expires 12/31/09. Mr. Pendell suggested “Letters of Interest” to be on the committee should be posted on the website and they could appoint committee members. The Board agreed. Mr. Pendell stated his wife, Teresa would be interested in being on the committee.

Mr. Pendell **MOTIONED** to ask for letters of interest for a committee to review proposals for a trash/re-cycle contract. Mr. Poelaert seconded. Motion carried 3-0.

Chairman Dworman added they will also look at what the best route will be to serve the elderly housing developments. Mr. Ed Warren, a Planning Board member, explained the recent warrant article and what steps will need to be taken to get to the point of service for the developments.

It was agreed that any new contract will have to include a clause regarding the elderly housing developments.

POWWOW POND: The NH Department of Environmental Services has provided the Town Offices with a copy of the NH Volunteer Lake Assessment Program for the Powwow Pond.

POUND SCHOOL: The Adm. Asst. informed the Board the Town Hall will be opening in April for use after the 15th and the tables currently located at the Pound School will need to be returned to the Town Hall for the April Ham & Bean Supper held by the Grange. It was suggested that the Town purchase tables (lightweight and folding) for the Pound School as the Committees (Planning Board, Zoning Board of Adjustment, and others) have decided to continue to use the Pound School for meetings.

Mr. Pendell **MOTIONED** to purchase four 8 ft. tables. Mr. Poelaert seconded. Motion carried 3-0. Mr. Ed Warren and Mr. David Sullivan offered to obtain and deliver the tables to the Pound School.

YOUTH FISHING POND: The Adm. Asst. inquired about replacing a sign for the Youth Fishing Pond. It was noted it is stocked for the annual Fishing Derby held by the Recreation Committee. Mr. Pendell inquired whether there is a necessity for a sign. Discussion ensued, and Police Chief Simpson added the fishermen do follow the truck. Mr. Pendell **MOTIONED** to replace the sign. Mr. Poelaert seconded. Motion carried 3-0.

FIRE DEPT.: Mr. Poelaert inquired to Fire Chief Sam Richard the status of the barn located at Barton's Mobile Home Park. Fire Chief Richard responded, he is still trying to set up an appointment to meet with Mr. Griggs, along with the Building Inspector. Chairman Dworman suggested a letter be forwarded to him stating the next steps to be taken. Mr. Pendell explained to Mr. Dworman the situation. The suggestion was made to have the Fire Chief and the Building Inspector contact him first and schedule a meeting, and if necessary, the Board can ask for him to meet with them to discuss the removal of the barn. Fire Chief Richard agreed to try again to contact Mr. Griggs to schedule a meeting.

INTERSECTION: The Adm. Asst. informed the current Board members that back in 2007, the Board members at that time had requested the DOT (Department of Transportation) to install stop signs or flashing lights at the intersection of NH Rt. 107A & NH Rt. 108. A letter dated 4/11/07 from the DOT, stated they did not recommend the installation of a flashing beacon, stating their criteria was not met. Ms. Gallant stated, due to the recent fatality at that location, would the Board like to re-submit the request? Mr. Poelaert suggested sending the request along to State Reps. Kim Casey & Maggie Hassan, as well.

Mr. Poelaert **MOTIONED** to forward a letter to the DOT, Kim Casey & Maggie Hassan requesting a stop sign (or flashing beacon/lights) at the Intersection of 107A & 108. Mr. Pendell seconded. Motion carried 3-0.

REVALUATION: It was noted the Warrant Article to cover the cost of conducting the required revaluation by the Dept. of Revenue Administration failed at the election held on March 10, 2009. The Capital Reserve Fund has approximately \$50,000, and the article would have withdrawn \$43,500 from the fund to cover the cost. The Adm. Asst. informed the Board she is looking into all options, and will report to the Board upon receipt of all of the information. She is waiting to hear back from Town Counsel.

FURNALD: The Adm. Asst. informed the Board Mr. Clint Furnald was not on the agenda, but in attendance. She explained he is working with the Rockingham County Conservation District and the East Kingston Conservation Commission to convey a conservation easement. A stipulation of removing a mobile home was required before the closing. Ms. Gallant stated she has a signed letter from the Building Inspector that the mobile home has been removed. She has been asked for the Board's approval that the condition has been met, noting that a partial concrete slab remains, some cinder blocks, and other debris left by the demolition. She reported that both the reps. from the Conservation District, Mary Currier and the Conservation Commission Chair Denny Quintal, are satisfied that the mobile home as required has been removed. They both are requesting final approval from the Board of Selectmen to move forward to schedule a closing date.

Mr. Poelaert asked Mr. Furnald if he would be making a good faith effort to clean up the area. Mr. Furnald responded definitely it is our interest long term to fix it up. Mr. Furnald stated that it became an issue with someone living there, and the mobile home had to be removed.

Mr. Pendell **MOTIONED** to accept that Mr. Furnald has met the requirement of removing the mobile home. Mr. Poelaert seconded. Motion carried 3-0.

Ms. Gallant inquired as to the Selectman that would be available for the closing on this matter. It is usually conducted in the morning. Chairman Dworman responded he would be available.

Ms. Gallant will contact the Conservation District and inform them of the Board's approval, in order to set the closing date.

COMCAST: Mr. Pendell stated he had contacted Comcast. He wants to know how cable was set up in Town. Mr. Poelaert responded a long time ago, probably 15-20 years ago. In response to Mr. Pendell, Ms. Gallant stated the Town does receive a cable franchise fee each year from Comcast.

AREAS OF LIAISON RESPONSIBILITY: Chairman Dworman informed Mr. Pendell that he would like to change the Areas of Liaison Responsibility with the Police Department under his responsibilities, and the Trustees of the Trust Funds under Mr. Pendell. Mr. Pendell agreed.

NONPUBLIC SESSION: Chairman Dworman **MOTIONED** to go into a nonpublic session at 7:30PM under RSA 91-A-3, II: para. (e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled. The results of the poll were: Matthew B. Dworman - Yes, Richard S. Poelaert - Yes & David R. Pendell, Jr. - Yes.

Chairman Dworman **MOTIONED** to adjourn this Selectmen's Non Public Meeting at 7:53PM. Mr. Pendell seconded. Motion carried 3-0.

Mr. Furnald, Mr. Urwick, Mrs. Freeman, Mr. MacLeod, and Mrs. Pendell returned to the meeting.

FURNALD: Mr. Clint Furnald asked if he could speak to the Board on another matter. As a follow up to the easement, he presented a document requesting the Board of Selectmen sign tonight 3/30, or tomorrow 3/31. He provided a copy of the proposed letter to each member for their review. He stated his reasoning as he has been told that the property taxes are established each year on April 1st. He believes that his taxes would be considerably lower if his property reflects the conservation easement prior to April 1. It was acknowledged that the mobile home has been removed, and that it will be deleted from his property card on that parcel. It was acknowledged that the easement covers several parcels in Town.

Mr. Pendell asked what the hold up is. Mr. Furnald responded that at first he thought the trailer could stay, and then he was informed that it could not. He wanted the Board to sign the conservation easement deed tonight without the closing and transferring of funds.

Mr. Poelaert suggested that he could always seek an abatement from the Town when he receives his tax bill, as an option. Mr. Poelaert added it would matter whether you delayed us, and not us (Town) delaying you.

Mr. Furnald suggested that he convey the rights to his property by 3/31/09 to the Town and would agree to closing after that.

Ms. Gallant stated that she would recommend contacting the Rockingham County Conservation District and see if it is a possibility or not. The Board members stated they did not want to set a precedent, and in the past, everything has been done at the closing. They do not want to handle it any differently.

Mr. Furnald thanked the Board for their consideration and left the meeting at 8:07PM.

MACLEOD: Duncan MacLeod asked if he could ask two questions of the Board. They responded yes.

Mr. MacLeod explained that he was a snowbird and not in Town on Election Day (3/10/09).

He came home and read the deliberative session minutes and reviewed the outcome of the election on the official Town website.

He asked with the Capital Reserve Fund for the Revaluation, doesn't the Board of Selectmen have the authority to expend it? He received a response that, when the fund was originally set up, the Board of Selectmen were not named as agents. They plan to ask to make that change at the next election.

Mr. MacLeod was informed of several options the Board is looking into, conducting a Special Town Meeting, pay in 2010, or pay out of the budget.

Mr. MacLeod stated that the article was written incorrectly reflecting, "to raise and appropriate" when the funds are already there in a capital reserve fund. Mr. MacLeod was informed that the article was written correctly, in accordance with the Department of Revenue Administration. It has to state to raise and appropriate first, and then where the money is coming from follows. Mr. Poelaert added all of the warrant articles are sent to DRA for approval, as written, before they go on the ballot, and it is DRA that determines the correct wording.

Mr. Pendell added that he remembered at the last Town Meeting when Matt Gallant amended an article from the floor that DRA had to approve it as it was amended, and they had to wait to get approval from them.

Mr. MacLeod questioned the long-term capital reserve fund for the fire department. He stated the Town has a 6-year plan, and wanted to know why large expense items like the masks (SCBAs), were not included. Mr. Dworman responded that they had not planned that far out. He added the fire dept. needed to replace 15, and purchased 5 out of last years' budget, planned to purchase five within the 2009 budget, which failed, so it is not in the default budget, and received the approval from the warrant article to purchase five more.

Mr. MacLeod stated with now being SB-2, and it being a small Town, he thought a budget committee to help prepare the expenses would help.

He further added he was surprised at the outcome of the vote. Mr. Dworman responded at the deliberative session all passed.

It was further noted that the school budget passed because the Cooperative default budget was higher, so they got the word out to vote the budget and they think people did the same for the East Kingston School budget.

Mr. Pendell added he thought the PAC committee did a good job with the School budget. He stated he is on the Cooperative School Advisory Budget Committee and thought the same could work to get people to defend the budget.

Mr. MacLeod stated since moving to Town he has been on the Salary Review Committee and the Selection of the Fire Chief Committee. He stated both processes were very good.

Mr. MacLeod added he wanted to be honest with you, and stated he is very interested in the Town, and complimented both Deb & Cheryll of the Selectmen's Office, and added he thinks the official website is very good. He enjoys reading the meeting minutes of the Selectmen & Planning Board, etc., and added the minutes have been very good.

Mr. MacLeod asked if the website would be having somewhere to ask questions and get responses. Mr. Poelaert responded the original intention was to try to get to that point.

Ms. Gallant reported that she often receives questions through email and responds directly to the person.

At 8:30PM, Mr. MacLeod thanked the Board for letting him ask the questions and left the meeting.

Mr. Pendell **MOTIONED** to adjourn this Selectmen's Public Meeting at 8:30PM. Mr. Poelaert seconded. Motion carried 3-0.

Respectfully submitted,

Deborah G. Gallant
Administrative Assistant

Matthew B. Dworman

Richard S. Poelaert

David R. Pendell, Jr.