

**TOWN OF EAST KINGSTON, NH
SELECTMEN'S PUBLIC MEETING MINUTES
MONDAY, APRIL 13, 2009**

7:00PM - Diana Whitmore

7:15PM – Fire Chief Sam Richard

ATTENDING: Selectmen Matthew B. Dworman, & Richard S. Poelaert. (David R. Pendell, Jr.- absent).
Others Attending: Diana Whitmore, Fire Chief Sam Richard, Planning Board Member Ed Warren, Joanne Dworman, Carol Freeman, Duncan MacLeod, Joey Freeman, & Rob Caron.

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

MINUTES: The Board reviewed the Selectmen's Public & Non public Meeting minutes dated 3/30/09, and the Annual Town Tour minutes dated 4/3/2009.

Mr. Poelaert **MOTIONED** to approve and sign the Selectmen's Public Meeting Minutes. Chair Dworman seconded. Motion carried 2-0.

Mr. Poelaert **MOTIONED** to approve and sign the Selectmen's Non-Public Meeting Minutes. Chair Dworman seconded. Motion carried 2-0.

Mr. Poelaert **MOTIONED** to approve and sign the Selectmen's Annual Town Tour Minutes. Chair Dworman seconded. Motion carried 2-0.

REGISTER: The Board reviewed the check register dated 4/2-4/3/2009. Chair Dworman **MOTIONED** to approve and sign the check register dated 4/2-4/3/09 in the amount of \$43,287.87. Mr. Poelaert seconded. Motion carried 2-0.

VETERANS' EXEMPTION: The Board reviewed a veterans' exemption application for Donna Reed Davis, noting she has met all of the necessary criteria, with her husband David Dominianni as the veteran. Chair Dworman **MOTIONED** to approve and sign the application as presented for a \$500 veterans' exemption for MBL #13-03-11, 73 South Road. Mr. Poelaert seconded. Motion carried 2-0.

CURRENT USE: The Board reviewed a current use application for MBL #05-01-05, as submitted by Claypond Development. Chair Dworman **MOTIONED** to approve the application for current use for MBL #5-01-05 as presented, noting the \$45 fee has been paid. Mr. Poelaert seconded. Motion carried 2-0.

LUCT: The Board reviewed a land use change tax assessed on the Riley property, 47 North Road, MBL #15-01-12, as it became disqualified with an approved lot line adjustment. Chair Dworman **MOTIONED** to approve the LUCT as recommended by the assessors, in the amount of \$245 for the release of one acre, due to disqualification. Mr. Poelaert seconded. Motion carried 2-0.

ABATEMENTS: The Board was presented with recommendations from the assessors for abatements filed. Chair Dworman **MOTIONED** to grant the following abatements:

Case #08-15	MBL #01-01-24	Including Interest \$460.74
Case #08-09	MBL #08-02-46-3A	Including Interest \$71.08
Case #08-14	MBL #09-07-14	Including Interest \$4,355.09
Case #08-08	MBL #16-02-04-12	Including Interest \$231.00

Case #08-19 MBL # 08-02-19-06 Including Interest \$8.13
Case #08-18 MBL #08-02-19-07 Including Interest \$80.44
Case #08-16 MBL #12-03-05 Including Interest \$695.99
Case #08-17 MBL #12-03-21 Including Interest \$134.50
Case #08-11 MBL #08-02-19-05 Including Interest \$12.70

Mr. Poelaert seconded. Motion carried 2-0.

Mr. Poelaert **MOTIONED** to DENY the following:

Case #08-10 MBL #14-03-05
Case #08-13 MBL # 08-02-19-36
Case #08-21 MBL #07-03-54

Chair Dworman seconded. Motion carried 2-0.

HEALTH OFFICER: The Town is in receipt of correspondence from the State of NH dated 04/08/09 confirming the appointment of Richard Scott Urwick, as Health Officer. His term expires on 4/3/2012.

BUDGET: The Board acknowledged receipt of the 1st quarter budget figures, noting the income is at 24% and the expenditures at 25% as of 3/31/2009.

The Adm. Asst. informed the Board members we are in receipt of the federal share of 75% of the costs incurred during the "State of Emergency" declared last December (2008) due to the ice storm and heavy snowstorms that followed in the amount of \$46,419.66.

LHS: The Adm. Asst. reported Mr. Pendell had attended a recent East Kingston School Board meeting and it was decided the cost of operating the Accuvote voting machine, at this time, will be covered in full by the town. The School voted to not pay their share of the cost of \$739.60, (for the printing of the school ballot), as it was not a budgeted amount for them. In the future, they may be able to include the cost. It was further noted the Cooperative School Finance Officer offered to investigate the cost for the six towns of the SAU and possibly be able to negotiate a better rate.

Mr. Poelaert added when he was on the School Board the town had approached them to cover 50% of the cost of purchasing the machine and they initially had agreed to it, but then the warrant article asked for the town to purchase one machine, and it was approved, so they felt the town purchased it all and they didn't share in the cost.

School Board member Bob Nigrello is saying that technically they did not renege on the deal.

Mr. Rob Caron added that the town is saving by having the machine count the votes automatically, versus paying election workers all day long at the polls and then additional hours (after the polls close) to hand count the votes.

Mr. Poelaert noted the Town Clerk ordered 825 ballots for the first election w/SB-2 and suggested less be ordered to save costs in the future, since only about 500 voted.

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

The ZBA will meet on 4/23rd to approve a Notice of Decision and submit it to the court by 4/24.

POUND SCHOOL: The Board was informed Mr. Ed Warren delivered new tables to the Pound School and took the old ones back to the Town Hall as the Town Hall re-opens on April 15th. The Grange is scheduled to host a ham & bean supper later in the month. The Planning Board, Zoning Board of Adjustment and other committees will continue to meet at the Pound School.

CRF: The Board was informed the Trustees of the Trust Fund, on 4/8/09, closed the Highway Salt Shed Capital Reserve Fund, as approved by Warrant Article #18 at Town Meeting 2009 and the amount of \$36,170.32 was transferred to the unreserved fund balance. With the approval of Warrant Article #19, \$35,800 will be added to the highway department budget to repair roads that were not done in 2008. The difference of \$370.32 will remain in the unreserved fund balance.

DOT: A letter was forwarded to the State of NH, Dept. of Transportation (DOT) on 4/3/2009 requesting their support in procuring traffic lights or a blinking light at the intersection of 107A and 108. Mr. William Lambert, DOT Traffic Engineer responded with a phone call to the Selectmen's Office on 4/9/09, agreeing to set up a meeting of officials from the State and Town. The Police Chief has been asked to meet with them on behalf of the Town, and he has agreed to do so to discuss options to ensure safety at the intersection on 4/22/09.

The Board acknowledged receipt of a letter dated 4/8/09 from the DOT regarding notification of the paving of Route 108 from Route 107 to the Newton line. We will be notified two weeks in advance of the work to be performed during this upcoming season of paving.

CONSERVATION: It was noted Mr. Poelaert, as the Board's representative, attended the closing of a conservation easement with Mr. & Mrs. Clinton Furnald for 23.5 acres on Wed. 4/8/09.

In response to an inquiry at the closing, it was acknowledged the last perambulation was conducted in 2005, and the next one will be required by state statute in 2012.

DRA: It was noted the Department of Revenue Administration Assessment Bureau Representative L. McEachern met with the Adm. Asst. and Brian Hathorn of Avitar on Mon. 4/6/09 to conduct the pre-assessment review for 2009. He explained the Department of Revenue Administration's role during the revaluation process that will be conducted by Avitar Assessing of New England.

The Adm. Asst. informed the Board of several options to move forward with the revaluation as required by state statute with the Warrant Article failing to use funds already in a capital reserve fund for that purpose.

Option 1: A letter from DRA stating the constitutional requirement of a revaluation to be conducted every five years in accordance with RSA 75:8A and 21: J, as we are obligated to do so. The expenditure falls under the assessing budgeted line item, where the expenditure would be placed. The commissioner of DRA and the monitor for East Kingston would accept that mode for the appropriation.

If, by fall, the Town sees that they will not be able to stay within the bottom line of the approved budget, the Town can ask DRA for the authority to overspend, and get the authority to pay the contract.

The order from DRA will reflect to the townspeople that we were committed to the contract, and required by law to conduct the revaluation.

There would be no additional cost to this option.

Option 2: The Board of Selectmen could call a Special Town Meeting and ask the voters to appoint the Board of Selectmen agents to the Revaluation Capital Reserve Fund and if the vote passed, they could use the funds from the Capital Reserve Fund to pay the contract. There would be no legal court fees with this option, as it is not appropriating money, but there would be costs involved of legal costs, advertising, ballots, paying election workers and the cost of meals provided to the election workers, moderator, and supervisors of the checklist, about 10 people, and any other misc. costs incurred.

This option, does not guarantee a positive vote.

Option 3: The Board of Selectmen could go to the Court and ask for a Special Town Meeting to re-vote the warrant article asking to raise and appropriate the funds from the capital reserve fund of \$43,500.

This option would incur more legal fees as you have to prepare the request to the court and may or may not be granted the Special Town Meeting, and again, may not get the positive vote needed to proceed and would cost \$5,000+ more than option 2.

Option 4: The assessing company would be willing to take final payment in 2010 when the funds can be placed in the budget as a contract. This option is not advised by town counsel, as it commits the Town to long term debt which is not approved, therefore, you would be in violation of laws and advised not to use this option. The assessing company has stated that we are a very good town to work with, and they will still do the revaluation as contracted.

It has also been recommended to place a warrant article next year to name the Board of Selectmen agents for the Capital Reserve Funds, so they can expend the funds when necessary.

Currently, the funds of approximately \$50,000 will remain in the Revaluation Capital Reserve Fund for the next five years, and will be expended for the next revaluation conducted in 5 years.

Discussion ensued. Chairman Dworman asked for the audiences' input.

Mr. Ed Warren inquired if the Board of Selectmen could be named agents, could you use the Capital Reserve Funds this year? Yes, Chair Dworman responded, there is currently some money in the assessing budget, and if they fall short by fall, they could go to DRA and ask for permission to overspend the budget by that amount.

Mr. Poelaert added with Option 2, if they conducted a special town meeting, they would still have to hold a deliberative session and then the vote. He estimated they would probably not get a large turn out for it.

Both Mr. Poelaert and Chair Dworman stated with Option 1, DRA would write a letter and state legally what we have to do. We are obligated to conduct the revaluation.

Mr. Poelaert suggested with Option 2, with naming the Board of Selectmen as agents (of the revaluation capital reserve fund), the information about what they have to do would be given out at the deliberative session.

Mr. Warren stated he is okay with Option 2.

Chair Dworman stated with Option 1, there would be no additional costs involved, and going with Option 2, it could cost \$2,000-\$3,000. Mr. Rob Caron added Option 3 could cost \$5,000-\$6,000 and Option 1, no cost.

Chair Dworman stated that if they could explain it properly to the Town and don't have to have a special town meeting, he would like to try to find it in the budget, and if they can't, ask DRA to authorize overspending the budget.

Mr. Warren added, as a taxpayer, if you get a letter from DRA stating that you are mandated by law to conduct the revaluation, and then you have to overspend the budget, it does not look good. He would rather see honesty, and be up front with the taxpayers.

Mr. MacLeod questioned the writing of the warrant article, stating residents only read, "To raise and appropriate," and voted NO. He acknowledged that they did not read the 2nd line, which stated the funds were in the revaluation capital reserve fund and the article authorized the transfer of the money to pay for the revaluation. He suggested the warrant article be written differently, and Mr. Poelaert responded all warrant articles are written and approved by DRA for the state.

Mr. MacLeod stated you will have more discourse as you are forced to operate on a default budget. Chair Dworman responded, at this time, we don't know how much snowfall we will get and if there would be any money in the road agent budget leftover, and other items, they may be able to cover some of the costs from the default budget, and with a letter from DRA stating we are required to do it and would give us permission to overspend at the end of the year. He further noted the unreserved fund balance is used to help offset the tax rate to some extent, if possible. He added we won't need to increase the tax rate if we can use some of the unreserved fund balance.

Chair Dworman asked which way should we go, have a special town meeting and spend money, or go with DRA and get a letter and authorization to overspend?

Mr. MacLeod suggested they explain it to the townspeople, so it doesn't happen again in 5 years.

Mr. Poelaert stated with Option 2, they can explain it, and if it fails, they can fall back on Option 1.

After discussion, Mr. Poelaert **MOTIONED** to go with Option 2. Chair Dworman seconded. Motion carried 2-0.

WHITMORE: At 7:15PM, Diana Whitmore met with the Board to discuss her application for a home occupation permit. It was acknowledged that her Attorney, John Ratigan, will not be attending this meeting. Chair Dworman apologized for delaying her 7:00PM appointment.

It was acknowledged an informational packet had been provided to the Board members for their review at the previous meeting. Ms. Whitmore went to the Planning Board originally for 10 dogs, was denied, and advised to go to the ZBA and at that meeting changed her scope of a home occupation from 10 dogs to 3 dogs, so they sent her to the BOS for an approval of a permitted use.

Chair Dworman stated he understood the scope of her initial plan of 10 dogs has been reduced to 3 dogs, and the dilemma is that dogs are not listed specifically as a permitted use under the Home Occupation Ordinance. He added that they go on a case by case basis & acknowledged that he would characterize it as an agricultural use, as the Town is zoned agricultural/residential, he sees no problem with her having 3 dogs. He sees that it would have no impact, nor sees any problem with it as a home occupation.

Ms. Whitmore inquired about the "invisible" home occupation permit. Chairman Dworman advised her to discuss that with the Planning Board. Mr. Ed Warren, Planning Board Vice Chairman, was acknowledged in the audience, and asked for his input by Chair Dworman.

Mr. Warren suggested that she re-apply to the Planning Board for a home occupation permit, presenting her “down sized” plan.

Chair Dworman stated he personally has no issue with her new plan. Mr. Poelaert stated he had to reclus himself, as he is an abutter. He cannot vote. With Mr. Pendell absent, and Mr. Poelaert an abutter who can't vote, there can be no motion to approve her plan as a permitted use.

Mr. Poelaert informed Ms. Whitmore that at the last meeting, Selectman David Pendell stated that her attorney had contacted him directly after her meeting with the ZBA, and that was not the correct process. He checked with 2 other attorneys who both confirmed that was not the right thing to do. He should not have called any one Selectman. He had wanted to tell him in person tonight, that he should not have called a Selectman. Ms. Whitmore stated she was not aware that Attorney Ratigan had contacted him (Mr. Pendell).

Ms. Whitmore was presented with an application for a home occupation permit and she added that she plans to be in Florida for the Planning Board's May meeting, and asked if she could send someone else. She was informed she could send an agent on her behalf.

Chair Dworman added that when she goes to the Planning Board, she should ask for the maximum scope of her project, to avoid having to go back to the Planning for any increase to the permit.

At 7:30PM, Diana Whitmore thanked the Board and left the meeting.

FIRE DEPT.: The Board acknowledged receipt of a letter dated 3/27/09 from the Acting Fire Chief David McElroy of South Hampton, commending Fire Chief Sam Richard and the members of the EK Fire Department for their recent response to a serious traffic accident, whereby, they acted with skill and professionalism. It was noted the Fire Department has been provided with a copy of the letter.

The Adm. Asst. informed the Board members the Fire Chief had been able to contact Mr. Griggs and they have agreed to have the dilapidated barn at 120 Depot Road removed within two weeks. The Building Inspector has issued a demolition permit. Chair Dworman and Mr. Poelaert added they acknowledged they started demolishing it today.

FIRE CHIEF: Fire Chief Sam Richard met with the Board to request the appointment of additional Deputy Forest Fire Wardens. He has completed the paperwork to submit to the State. Fire Chief Richard stated Adam Mazur is the Town's Forest Fire Warden and he respects him for his years of service, but noted he is not being cooperative, and has refused to sign the forms.

The State District Forest Ranger John Dodge has requested a meeting with Mr. Mazur & himself, but, to date, has been unable to get Mr. Mazur to agree to meet.

It was noted the paperwork is signed by the Board of Selectmen and should be signed by the Forest Warden before sending it to the State for final approval.

Fire Chief Sam Richard informed the Board Mr. Estabrook is back from Florida and has agreed to continue to issue burn permits, as he is also a Dep. Fire Warden. He added that is all Mr. Estabrook will do at this point. He will not attend training or go to any fire calls. He is retired.

Fire Chief Richard stated he has spent months trying to get this done. He started last fall, and knowing it takes the State 3-4 months to process, he wanted to be ready for the spring (2009) to issue burn permits. He said between the 3 people who can issue, they have issued at least 4 dozen permits.

Fire Chief Richard stated residents want to burn more than once this spring due to the ice storm and all the damage from the bad winter we had. Currently, Fire Chief Richard, Matt Gallant, Roland Estabrook and Adam Mazur have the authority to issue burn permits.

Chairman Dworman stated that he definitely agrees that the Town needs additional permits written. He acknowledged that once the paperwork is sent to the State, they will have to wait to get them approved by the State.

Fire Chief Sam Richard stated he had invited Mr. Adam Mazur to attend this meeting with him this evening, but Adam did not give him an answer.

He added he doesn't show up to any calls or give any guidance (as Forest Warden), and he just will not respond.

Mr. Poelaert inquired about the applicants. Fire Chief Richard responded he agreed with appointing Lt. "Rick" (John) Daniels, but would not say why he disagreed, nor did he give any explanation for not approving the others (Lt. Sarah Gallant, Capt. Ed Warren, & Lt. Ed Decatur III).

Fire Chief Sam Richard informed the Board members he has been trying to remedy the situation since last year. We need to move forward, and the sooner the better to get more personnel authorized to issue burn permits.

Joey Freeman asked why do we need more than the four (Sam, Matt, Roland and Adam)? Fire Chief Sam Richard responded that they are not always available. He has a Fire Officer on duty on weekends and that Officer should be authorized to issue permits, so with any calls that come in over the weekend, a permit can be issued. If the Officer is not authorized, they can't issue a permit. He stated Mr. Adam Mazur is not always available, as he goes away on weekends.

Mr. Freeman responded residents should read the town report.

Mr. Poelaert added they need to move forward. Mrs. Dworman asked if it would be prudent to invite him (Adam Mazur) to a Selectmen's Meeting.

Chairman Dworman stated the matter has been brought to the Board of Selectmen's attention, they need to move forward, agreed it is important, and that he will be invited to the next meeting.

Fire Chief Richard stated all of his officers are skilled and have leadership qualities and he would not have nominated them as officers to be appointed by the Board of Selectmen. He would not be recommending them as Dep. Forest Fire Wardens if he was not comfortable with their abilities. He does hope that Adam will come to the Board of Selectmen's meeting, and explain why he recommends or does not recommend the applicants.

Vehicles: Fire Chief Sam Richard informed the Board inspections were due in March, and six of the seven vehicles have passed inspection.

The vehicle that did not pass inspection is the 1999 vehicle. He submitted an estimate to the Board of Selectmen to fix several items at a cost of approx. \$1,700 - \$2,000. He added it has a lot of mileage, approx. 178,000 miles. Fire Chief Richard discussed the matter with his Captains and they have all agreed that they don't want to spend the money to fix it at this point.

He is asking what the Board of Selectmen would like to do and to find an alternative. In response to the question of why is it important to have a fire department vehicle, Fire Chief Richard responded it is used for conducting inspections, to take to training classes by members of the fire department, and to go to the hospital to pick up medical supplies. He added the vehicle does have merit, to arrive in a marked vehicle; it gives the Town and the department credibility.

The Chief stated that he not only uses the 99 vehicle, but also the ambulance or an engine when responding to a call. If a call comes in from home, he uses his own personal vehicle (POV). Chair Dworman inquired about the primary use of the 99 vehicle, and Chief Richard responded for inspections in Town. He added due to the other vehicles being diesel, it is also a good idea to run the forestry vehicle, ambulance, and other vehicles to keep them running well.

Chair Dworman acknowledged the Police Department gave the 99 vehicle to the Fire Dept. as a hand me down, and the plan was they were hoping with the passage of a warrant article this year the police dept. would have gotten a new cruiser and they would have handed down the oldest vehicle to the fire dept. (The warrant article failed, so the Police Dept. will not be getting any additional vehicles at this time).

Fire Chief Richard stated there is a good need for a vehicle, but does not see putting any money into the 99 at this point.

Chair Dworman suggested the department make due with the vehicles that they currently have, and hopefully next year, the police department will get a new vehicle, and they can give the fire dept. another hand me down.

The Fire Chief was approved to be reimbursed for mileage should he use his own personal vehicle and anyone else who takes their own vehicle for training classes, they can also submit mileage for reimbursement at the current rate.

The Fire Chief was also granted permission to take the mobile radio from the 99 and put it in his own personal vehicle.

The Board acknowledged the vehicle has become more of a liability than an asset.

Mr. Poelaert **MOTIONED** to take the 99 vehicle out of service. Chairman Dworman seconded. Motion carried 2-0.

NONPUBLIC SESSION: Chairman Dworman **MOTIONED** to go into a nonpublic session at 7:50PM under RSA 91-A-3, II: para. (b) The hiring of any person as a public employee. The Board was polled and the results of the poll were: Matthew B. Dworman – Yes, & Richard S. Poelaert – Yes.

Mr. Poelaert **MOTIONED** to adjourn this Selectmen's Nonpublic meeting at 7:52PM. Chairman Dworman seconded. Motion carried 2-0.

Joanne Dworman, Ed Warren, Carol Freeman, Joey Freeman, Duncan MacLeod, Sam Richard, and Rob Caron returned to the meeting.

RUBBISH CONTRACT: It was noted a request for “Letters of Interest” to be on a committee to review Trash/Recycle proposals has been posted on the website, at the Town Offices, and the Post Office with a deadline date of 4/24/09. It was noted Mr. Rob Caron has offered to Chair the Committee.

Chairman Dworman stated he would not do anything about appointing a Chair until all the letters of interest have been received. It will be addressed at the next meeting. Mr. Rob Caron stated he will ask those who he knows are interested to submit letters of interest to the Selectmen’s Office.

CALENDAR: The following dates were noted: 4/15 Cemeteries re-open, Town Hall re-open, 4/16 Planning Board meeting, 4/23 ZBA meeting, 4/27 Selectmen’s Meeting, 4/30 accounts payable and payroll processing & dog licensing deadline.

Mr. Poelaert **MOTIONED** to adjourn this Selectmen’s Public Meeting at 7:56PM. Chair Dworman seconded. Motion carried 2-0.

Respectfully submitted,

Deborah G. Gallant
Administrative Assistant

Matthew B. Dworman

Richard S. Poelaert

David R. Pendell, Jr.