

**TOWN OF EAST KINGSTON, NH
SELECTMEN'S PUBLIC MEETING MINUTES
MONDAY, APRIL 12, 2010**

**7:00pm – Bob Levine, Margaret Powell, Road Agent Matt Gallant & Conservation Commission
Chairman Dennis Quintal**

7:15PM – Building Inspector Raymond Donald

**7:30PM – Solid Waste & Recycling Committee members Rob Caron, Dan Guilmette, Ron Morales and
Teresa Pendell (Duncan MacLeod – absent).**

**ATTENDING: Selectmen Richard S. Poelaert, Matthew B. Dworman and David R. Pendell, Jr.
Others Attending: Bob Levine, Margaret Powell, Jesse Bibeau, Amanda Gibbons, Matt Gallant,
Dennis Quintal, Ray Donald, Rob Caron, Ron Morales, R. Scott Urwick, & Marilyn Bott.**

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

MINUTES: The Board reviewed the Selectmen's public & non-public meeting minutes dated 3/31/2010. Chairman Poelaert **MOTIONED** to approve and sign the public meeting minutes as presented. Mr. Dworman seconded. Motion carried 3-0.

Mr. Pendell **MOTIONED** to approve and sign the nonpublic meeting minutes as written. Mr. Dworman seconded. Motion carried 3-0.

REGISTER: The Board reviewed the check register. Chairman Poelaert **MOTIONED** to approve and sign the check register dated 3/31/10-04/12/10, in the amount of \$49,763.07. Mr. Dworman seconded. Motion carried 3-0.

MS-5: The Board reviewed the MS-5 as prepared by the auditors for year ending 12/31/2009. Chairman Poelaert **MOTIONED** to approve and sign as presented. Mr. Dworman seconded. Motion carried 3-0.

EXEMPTION: The Board reviewed a Veterans' Exemption application, noting the application has been reviewed and all the necessary criteria has been met. Chairman Poelaert **MOTIONED** to approve and sign the application for the exemption for MBL #8-2-7-49A, 10 Maplevale Road. Mr. Dworman seconded. Motion carried 3-0.

MRI : The Board reviewed a contract with MRI to conduct services for the Town of East Kingston. Mr. Pendell **MOTIONED** to approve the expenditure and sign the contract, along with a cover letter and an adjustment to add two part-time employees. Chairman Poelaert seconded. Motion carried 3-0.

POLICE CRUISER: It was noted the Police Chief has acquired a 2003 Ford Crown Victoria police cruiser. It was also noted the cruiser will be added to the Town's insurance. Chairman Poelaert noted the School did not add the ball field dugouts, which were built in the 94-95 timeframe, to their insurance policy, therefore, they were not covered during the recent wind/rain storm, and the claim was not approved.

BUDGET: The Board received the 1st quarter report of the budget, noting we have received 20% of revenues and have expended 25% of the appropriations as of 3/31/2010.

FIRE DEPT.: It was noted the three recent applicants for the fire department have all received successful background checks.

FEMA: It was noted there are currently seminars being held by FEMA for filing for reimbursement for the declared emergency wind/rain storm in Feb. 2010. The EOC Director, Sarah Gallant attended the seminar in Hampton Falls today.

It was further noted the graded drill will be held during the day on Wed. May 5th.

E-MAIL ADDRESSES: The Town Report delivery included a form asking for participation in forming a Town wide data base of e-mail addresses for the purpose of providing emergency notices to residents and, to date, only 18 have been submitted to the Selectmen's Office. The Board members discussed options and thought they should try to keep collecting data and inquired whether the Town Clerk could ask residents when they register their vehicles if they would be willing to fill out the form, and also thought maybe the Elementary School could provide a form to the parents of the students.

BTLA: It was acknowledged that one property owner has filed with the Board of Tax & Land Appeals against the denial he received on his abatement for 22 Joslin Road.

LIBRARY: Mr. Pendell stated he has spoken with the insurance adjuster regarding the leaks at the library, and they are investigating why it is leaking. The claim has not been denied; it is ongoing.

CONSERVATION EASEMENTS: Mr. Pendell reported that it is acceptable for gardening on conservation easements.

LEVINE/POWELL: At 7:00PM, Mr. Robert Levine and owner of record Margaret Powell of 1 Bioteau Drive, met with the Board to discuss the driveway situation, along with Jesse Bibeau & Amanda Gibbons, owners of record of 2 Bioteau Drive, who share the same driveway, and also with the Road Agent (Matt Gallant) & Conservation Commission Chairman (Dennis Quintal).

Mr. Levine stated that they were concerned after the 2nd event, and then there was a 3rd event. (The area received 3 major rain storms in the February/March 2010 timeframe, and there was flooding of Giles Road and this shared driveway at 1 & 2 Bioteau Drive).

He stated he was able to have Rick Dube of Lewis Builders come out and repair the bridge/driveway as it washed out again.

It was also noted the Board of Selectmen met on Wednesday, 3/31, and on Thursday, 4/1, we experienced the 3rd event.

Mr. Levine stated that Mr. Dube found out from the Road Agent (Matt Gallant) on Wed. night 3/31, that the Board of Selectmen had decided not to do anymore work to fix the driveway or put a culvert back in. He stated on Thu. 4/1, he was again stranded at his house.

Mr. Levine opined that it seems like the Board of Selectmen's attitude has changed. He added that FEMA came out, and he was not notified. He found out that the Town wasn't going to do any more work on the road. He wants to get the situation resolved, and he thinks there has been a change in the position from the Board of Selectmen. Mr. Pendell inquired about what happened between the 1st and 3rd events. Culverts were bought, Lewis Builders had them delivered during the 2nd incident, and the Road Agent put them in.

Mr. Levine wants to know what is the position of the Board of Selectmen to get this mitigated? Mr. Pendell responded the Town cannot spend the Road Agent's budget on private driveways. Mr. Pendell added he admitted that with the pregnant woman at 2 Bioteau Drive, he thought it was an emergency situation, and he

wanted to be sure they could get out. He further stated again that we can't keep spending money on private driveways.

Mr. Levine responded that the road is the cause of the problem, not the driveway.

Everyone acknowledged, years ago, the former Town Road Agent (Rossi), and the former owner of record (Bioteau), split the cost 50/50 with the Town covering labor and Bioteau covering the materials.

Mr. Levine stated, "we need to get it fixed." It washed out a second time, what is the position of the Town?

Road Agent M. Gallant informed everyone that he was only notified one hour prior to FEMA's arrival.

Mr. Dworman stated the Board of Selectmen need to discuss their position and it was the kindness of the Town to do it in the first place; it is not in the normal scope of the Town to perform the repairs.

Mr. Dworman offered that the culvert under Giles Road is sufficient, but maybe the culvert under the driveway is inadequate.

Mr. Levine responded with all do respect, if you don't have a license, you can't say that, and Mr. Quintal raised his hand notifying Mr. Levine that he does have a license.

Mr. Pendell stated the two deeds to the properties (#1 & #2 Bioteau Drive) state that the repairs are covered between the two homeowners of the properties.

Mr. Levine stated it is caused by the water across the road; it is not from the homeowner. He thinks the culvert does not have the capacity it needs to keep the water flowing. When there is a storm surge, the issues start. He inquired about a hazard mitigation plan at the dam.

Mr. Levine stated he has an issue that he wants to know if the Town is willing to work with them. He added Steve Cummings has suggested another culvert. He thinks a 3-foot culvert is not big enough.

Dennis Quintal stated that when he first looked at this, his research revealed that no permit was drawn; there is nothing on file on the property. If there was, the calculation for the culvert would have been stated.

He thinks the driveway was put in illegally, as no permits were issued due to the wetlands impact. He provided the State of NH's rules, and stated that repairs can be done without a permit; it is allowed by the wetlands bureau; but after the emergency, an application must be conducted. When he inspected the sight, he was surprised at the material that has been impacted by the wetlands. He further stated it is the responsibility of the homeowner to get the proper permits.

A storm water analysis would be done, and the watershed goes through the Town regardless of the size of the culvert. He believes the driveway was not put in with proper permits from the State. The time is now to get it done right. It should be properly fixed. Mr. Levine stated the driveway and bridge are okay until there is a storm surge, then the water comes across the road and all the water can't get through the 3-foot culvert fast enough.

Margaret Powell asked if it is their personal responsibility, or is the Town willing to work with the homeowners? She thinks the Town bears some responsibility. It was noted the Town has tried to maintain access for the residents for emergencies.

It was noted it is still the responsibility of the homeowner to maintain the culvert. Mr. Levine stated the situation still needs to be permanated. The impact to the wetlands needs to be permanated properly.

Dennis Quintal suggested that he contact the State to get a directive. Dennis added he represents the Conservation Commission and said it all needs to be permanated. Mr. Levine asked if we are here together to resolve it, so that it won't occur again, or hide behind the rules and regulations with the State?

It was acknowledged that Road Agent Matt Gallant and Selectman Dave Pendell had offered to help him during the storm because of the pregnant lady. They may have come up with a different decision if she wasn't pregnant, and there was no emergency. They had agreed to split the cost and work it out.

Selectman Matt Dworman added when he was asked about the situation and wanted to know if the Town would help fix his driveway, he responded that due to the circumstances, a pregnant lady and it was an emergency situation, he agreed to help out.

Mr. Levine stated common sense says this was not the first time it's happened, and it won't be the last. He wants to put the Board of Selectmen on notice, that it should be mitigated, that it needs a culvert under the road. If the road gets compromised, the Board of Selectmen are on notice. Mr. Levine stated we can talk about whose liability it is, or we can litigate in court. It is a known hazard. He thinks it is the Office of Emergency Management's business and that FEMA does do this. Mr. Levine asked again if we are going to work together on this or not?

Mr. Dworman responded that he thinks the culvert is sufficient. Matt Gallant noted that the first two times he didn't get there until after the water went over the road. The third time, he, along with Derek & Mark Brinkerhoff arrived 10-15 minutes after it went across the road. He said there was a 3-foot difference. It looked to him like the driveway was damming up. He added the driveway can't handle it. There is too much water that flows from Great Brook and York Brook to Giles Road to his driveway.

Mr. Levine suggested diverting the water. The water is too high and comes rushing through coming over the road at the guardrail.

Dennis Quintal stated that a water study should be done. They need an engineering firm to do it. It is private property, and it must be filed by the property owner. Dennis Quintal again stated that in an emergency situation, it can be repaired, but then it needs to be fixed with culverts that are properly sized. He suggested that they deal with the State DES (Dept. of Environmental Services) on this.

Mr. Poelaert stated that if we (the Town) notify the State, the State will take over the process.

The watershed will still produce the water over the driveway. Mr. Pendell recommended that he notify the state and have a water study done. The Town is responsible to fix the road, but not the private driveway.

Mr. Levine stated they have come to meet with the Town because they think the Town should be involved. Mr. Poelaert added once the state is notified, they will notify the Town. The Conservation Commission will also be notified and become involved. The Town will be responsible for the road. He suggested Mr. Levine notify the state and get the permitting process and water study started. We need to do something.

Mr. Poelaert added the State of NH is the point person, and acknowledged that we need to get it resolved.

Ms. Powell inquired whether FEMA will provide funding. Mr. Dworman responded probably not.

Mr. Levine stated that he wants to work together and collaborate through the process to rectify the situation.

Mr. Pendell responded he is okay with that, and we need to fix the problem, if we have a problem. We need to find out what is needed. We can't say that the private driveway is the Town's responsibility.

It was acknowledged that Dennis Quintal has a "stamp," and Mr. Poelaert asked him what the next step is. Mr. Quintal responded it is the landowner's responsibility with regards to the impact to wetlands. It must be initiated by the landowner. The Town can take a look at it, if it is proven by the landowner. They would be better served if the culvert is recommended to be changed or relocated, or increase the size. At that point, he could go to the Town for a recommendation.

Mr. Quintal added they need a written report to the state (noting after the event), and inform DES and file an application with the state. Engineer work needs to be done and provided to the Wetlands Bureau. At that point, the Conservation Commission, Board of Selectmen, Planning Board, and Town Clerk receive copies, and the State reviews, and the Wetlands Board issues a permit.

Mr. Levine stated he wants the Board of Selectmen's cooperation in this matter. He wants assurances that the Board of Selectmen will work with him to resolve the issues. It is dangerous and a hazard.

Mr. Poelaert noted that it will be one of three; the Town will look at it, private property is private, public land is public; they will need to look at the engineering plan. They have responsibility to the residents to stay off private property.

Mr. Levine informed the Board of Selectmen he has paid over \$6,000 for the first two events, they have spent for the third event, but have not yet been billed for it.

Mr. Quintal stated the design will answer the question. It was noted the Town is satisfied for emergency purposes they can get to them from Route 108 (North Road), including a fire truck.

Dennis Quintal, Marilyn Bott, and Scott Urwick left the meeting at 7:40PM.

Mr. Dworman stated that they bought a piece of property with pre-existing conditions. They need to have it engineered properly now. If the report says the Town needs to correct it, they will look at it.

Mr. Poelaert added we will keep an open mind, and open lines of communication.

Matt Gallant added we will review the report, but should wait till we get it before making any decisions.

At 7:45PM, the Board of Selectmen thanked them for coming in and Bob Levine, Margaret Powell, Jesse Bibeau and Amanda Gibbons left the meeting.

DONALD: At 7:45PM, Building Inspector/Code Enforcement Officer Ray Donald met with the Board to discuss a letter received from Ms. Conant. When asked if he wanted to discuss the matter in non-public, Mr. Donald responded, no, in public session.

The Board members were provided copies of the letter dated 2/4/2010, from a resident regarding a complaint about the Building Inspector for discussion purposes.

Mr. Donald said let me start by saying and referring to page 2, that he did not yell at him. He then referred to another paragraph, and stated the installer knew the rules. He added he has had to establish protocol, as he was receiving phone calls between 6:30AM & 9:30PM; therefore, he had business cards printed that say 8AM – 5PM only. He admitted that he was upset, but stated that he did not yell and he did apologize to the lady. He

had never met her before. He was only aggravated with the installer. The ordinance requires the test pits to be witnessed. When he received a call from David Pendell, he told him protocol says Dick is his liaison, not Dave, and Dave said he couldn't call Dick.

Ray added he called the Road Agent and told him it was not the Road Agent's call, but the Building Inspector's call.

Mr. Donald added there is a lot of "he said, she said" stuff in the letter. Mr. Donald referred to the notation of him arriving late to witness the test pit, and he offered that he tells everyone they can dig the hole and he will be there when the analysis is performed. He cannot pin point an exact time when it is done. He added that he thinks Mr. Pendell helped write the letter, and Mr. Pendell responded he is absolutely wrong, he did not. He further stated Mr. Donald is wrong on several points.

Mr. Donald added two people have gotten upset with him. It is the building code requirement, not the Building Inspector.

Mr. Pendell added he has first hand knowledge of him yelling at him. He started to give several examples, and it was noted there is history between Mr. Pendell and Mr. Donald. Mr. Donald added he apologized to the lady.

Mr. Donald noted the letter came 4 months after it happened. Mr. Pendell responded she re-wrote it 3 times, as she was so upset about it. Mr. Pendell added he just doesn't want him to be like this, he asked why he can't just be nicer to people? Mr. Poelaert added he should make the comment to people "how can I help you?" That is what he should be saying.

Mr. Donald responded he follows the rules, and gets along. Mr. Pendell stated that if Ray had been following proper protocol, we wouldn't be here tonight.

Mr. Poelaert added she had a failed septic system, and was trying to sell her home to move. He agreed that Ray needs to look at the test pit, and we need to follow the rules with the Building Inspector present. Ray admitted that he was abrupt, and with Deb's help, will write a letter and apologize to her.

Mr. Poelaert added she is the nicest lady; she is the best nurse the school has ever had. Ray responded he thought she had gotten someone who didn't know the rules. Mr. Pendell added he just wants Ray to be nicer to people.

Mr. Donald stated it was he & Bill DiProfio that had come up with "kinder and gentler," and that he will try to remember his own words. Mr. Donald asked if there was anything else, Mr. Pendell responded, "no Ray," and Ray left at 8:00PM.

SOLID WASTE COMMITTEE: At 8:00PM, Rob Caron & Ron Morales, members of the Solid Waste & Recycling Committee, met with the Board to discuss the implementation of the new single stream recycling program.

Mr. Caron informed the Board that the new gray 64-gallon totes will be delivered to residents the weeks of 4/19 & 4/26 for the beginning date of Monday, May 3rd.

Mr. Caron stated they are reviewing the "newsletter" that will be distributed to residents informing them of the new program, what can be recycled, and the calendar of recycling weeks.

Mr. Dworman opined that people need to think first I can recycle this, and only a small portion now can't be recycled.

It was noted the new gray totes will be 64-gallon for solid waste, and the green 96-gallon tote will be for recyclables. Mr. Caron added he will provide the town offices with labels to be placed on the 96 gallon barrels.

It was noted the first week of the new recycling program pick-up will be Monday, May 10th.

Mr. Poelaert suggested a point person for the delivery of the new carts. It was noted that WM knows the route, and should be able to deliver the new gray totes to residents without problems.

Mr. Caron informed the Board members he has hashed it out with WM for recycling with the over 55 communities. For Maplevale & Cricket Hill, they will be provided with a 30-yard roll-off, Cornerstone (11 units), and Country Hills (Autumn Lane 30 units w/approval for 36 total units) will be provided with individual 96-gallon barrels for recycling, and they will have a dumpster for solid waste.

The Town will get full credit from these developments for recycling, and will be included in the recycling calculation.

Mr. Caron asked if the Board of Selectmen would give the committee the go ahead to pursue this avenue. The Board of Selectmen agreed they should do this.

Mr. Poelaert **MOTIONED** to move forward with WM to make the change to allow a 30-yard dumpster at Maplevale/Cricket Hill for recycling and for solid waste and to have Cornerstone and Country Hills use 96-gallon green recycling totes for recycling, along with a dumpster for solid waste. Mr. Dworman seconded. Motion carried 3-0.

Mr. Caron also asked the Board of Selectmen for approval of the bagster program. He stated it is an initial cost of \$25 for the green 8' x 4' bag that will hold up to 3,300 lbs., then WM would be contacted by the homeowner for pick-up, and the resident would be billed directly by WM for the pick-up service. Mr. Caron stated he is negotiating the final costs with WM. He would like to see the bags available at the Town Offices for residents to purchase at \$25 each.

Mr. Dworman inquired as to why the Town would offer this service, and Mr. Caron responded it is a convenience to the residents. It will only be the cost of the bag, and for the pick-up to the resident. They can throw anything away, and keep it until the bag is full before contacting WM to pick it up.

Mr. Poelaert inquired who might be the bubbly person to address the concerns and issues with the new program with WM? Mr. Morales responded he doesn't think it will be as much of a problem as before. He doesn't see any problems as long as people understand that they have to crush and flatten stuff. People will need to get used to it. Mr. Dworman added he can foresee that recycling will increase, and that we will be picking up recycling on a weekly basis vs. the current every other week. Mr. Morales responded he likes that way of thinking.

Everyone agreed that they need to encourage people to recycle more. Mr. Poelaert offered that in Exeter, at \$2.00 per bag, you don't see too many blue bags. They recycle what they can.

Mr. Morales added that they need to do due diligence and let residents know what is recyclable. People need to think that yes this is recyclable first, and then solid waste after.

It was noted without including the over 55 communities, the Town was previously at 20-21 tons of recycle material, and for Feb. 2010 we were at 28 tons. Mr. Morales noted the over 55 communities are very much in favor of recycling and do a good job.

He added that in next years town report, it should be included the increase in tonnage collected and that the Town saves. Mr. Morales added it is a time line that they can work to lower. Mr. Poelaert noted the committee has done a good job.

Mr. Caron, Mr. Morales, and Mr. Matt Gallant left the meeting at 8:30PM.

STORM DAMAGE: The Board was informed we have received only one estimate, the others did not provide any proposals for repairs to the Town owned buildings that sustained damage from the wind/rain storms of Feb. 2010. The insurance company has also inspected the buildings: Library, Town Offices, Pound School, and Town Hall and we waiting to hear the outcome of the claim. The proposals totaled \$35,262.00.

Mr. Poelaert suggested the contractor meet with them at the next meeting to discuss. Ms. Gallant agreed to schedule the appointment.

GILSTRAP: Ms. Ursula Gilstrap provided recent pictures of her property at 118 South Road, which shows the water issues she has when it rains. She is asking the Board to remedy the problem with installing a new culvert.

CALENDAR: 4/15 Cemeteries & Town Hall re-open, 4/15 Planning Board meeting, 4/26 Selectmen's meeting (will meet with FC to open sealed bids for fire truck), 4/28 LGC Dinner, 4/29 public input on Great Dam in Exeter, 4/30 Dog licenses due, & 05/08 Planning & Zoning Conference.

MONUMENT: Mr. Poelaert stated he talked with Mr. Lewandowski and discussed the fire department's idea on moving the monument currently located in front of the Fire Dept. It has been suggested that it be moved to a more visible location, like the Library at 47 Maplevale Road, and he responded that it was a good idea, but for the wrong reasons. The Fire Dept. is considering placing a Smokey the Bear in its place. It was noted Mr. Lewandowski's father was involved in placing the monument there.

SIGN: It was noted an estimate for an electronic sign came in at \$14,505.00, and the Board members agreed it was too expensive to pursue at this time, and they need to pinch pennies.

Mr. Pendell suggested a warrant article for March 2011 to ask the residents if they want to purchase an electronic sign.

Mr. Dworman **MOTIONED** to adjourn this Selectmen's Public Meeting at 8:55PM. Mr. Poelaert seconded. Motion carried 3-0.

Respectfully submitted,

Deborah G. Gallant
Administrative Assistant

Richard S. Poelaert

Matthew B. Dworman

David R. Pendell, Jr.

