

BOARD OF SELECTMEN
Town Budget/Warrant Public Hearing
January 12, 2017 - Continued from January 9, 2017

CALL TO ORDER: Chairman Desilets called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Jennifer Simmons and Roger Hohenberger were present, as was Town Administrator David Sullivan. Selectman Ross McLeod was excused. Mr. Desilets opened with the Pledge of Allegiance.

ANNOUNCEMENTS: Margaret Case, Windham Cable Advisory Board Chair, announced that livestreaming is now officially available; adding it will begin just with the Board of Selectmen meetings. Mr. Desilets extended thanks to Mrs. Case, her husband Tom, and Cable Coordinator Kelly Yucupicio for their work toward implementing this service. Discussion ensued, and Mrs. Case advised that the service is available at WCTV21.com under the “Video on Demand” area. Mr. Desilets asked that staff post an announcement to that effect.

Mr. Desilets then noted the Board’s last meeting had run pretty late and had involved discussion as to what to do with the website. He indicated that, ultimately, there were differing votes but he wanted to reiterate that he respects and appreciates working with all the members; adding he does support the budget 100% and, as such, whenever the Board returns to it he will support it regardless.

He then moved to the first agenda item, that being discussion of **ARTICLE 28** as proposed by the Conservation Commission and Campbell Farm Sub-committee (CFSC) to see if the Town will authorize the Conservation Commission to enter into a long term conservatorship lease for the Campbell Farm house and a small portion of the adjoining land.

Mrs. Betty Dunn, CFSC, approached to explain that the intent is to give the Conservation Commission the authority to enter into a long-term lease for the Campbell farm house and curtilage; adding that the lease would be under such terms as negotiated and specified by the Commission. She indicated this would be a curatorship arrangement, which meant the person living in the house would have an obligation under the lease terms to make certain repairs and restorations, and for upkeep of the building and curtilage according to a schedule/specifications set the Commission. Mrs. Dunn noted that a lease of this nature is usually complex to develop but the NH Preservation Alliance (NHPA), who has done several in other towns such as Strawberry Banke, is assisting with developing an RFP. She further explained that NHPA has advised that there may be a problem in finding someone without anyone having the authority to enter into the agreement without returning to Town Meeting as required by State statute for the sale or lease of land for more than one year.

Mrs. Dunn then noted that, since the Board’s discussion of this on the 9th, much conversation had taken place between herself, Mr. Sullivan, and Town Counsel regarding the article language; adding that the latter, that afternoon, had approved the language that was before the Board. Discussion ensued.

Mrs. Dunn then advised that the CFSC had also discussed adding language to the article regarding the potential for an option to purchase; adding something along the lines of “including the potential for option to purchase after 20 years”. Mr. Sullivan suggested, if the Board were so inclined, it be added to the “such terms as...” paragraph. Discussion ensued, and Mr. Desilets suggested the Board may also want to add something relative to the Town having the first right of refusal should the lease purchaser decide to sell the property in the future. Mr. Sullivan noted that could be structured within the lease itself.

Mr. Breton then expressed concerns regarding the curtilage as it relates to property taxes. Mr. Sullivan clarified that the current tenant already pays the property taxes in full and, if sold, the house/curtilage would be subdivided off.

Mr. Desilets then indicated that he would ideally envision a lease where the intent to rent to own is a known factor and built into the lease. Discussion ensued regarding same, and Mrs. Dunn noted that any sale would also require the preservation of an historic easement.

Mr. Desilets then suggested that “greater than 5 years” be changed to read something like “5 years or greater”. Discussion ensued, and Mrs. Dunn and the remaining Board members concurred.

Mr. Hohenberger then questioned the need for the word curatorship; noting it is not a legal definition and suggesting it be removed. He also took issue with “curtilage”, which he felt would be confusing to the voters and, by definition, is limiting. Mrs. Dunn noted the intent was to be clear that only a small amount of land surrounding the home was involved and the fields were not included. Discussion ensued regarding potential issues with sale of the property, voter confusion, and the need to define “curtilage”.

Mr. Ralph Valentine approached noting that “curtilage” is well defined within the Current Use statutes as what is needed to maintain, at a minimum, around the house for it to exist (eg with the septic, well, etc.). He noted that area is usually about an acre or so. Mr. Desilets suggested that, after the word curtilage, a definition be added in parenthesis. Mrs. Dunn noted that curtilage means differing things in different circumstances; suggesting that the language read “curtilage no greater than 3 acres”. Further discussion ensued, with input from Conservation Commission member Jim Finn, regarding the size of the parcel being sixty-three acres and the previously subdivided five acre lot.

Mr. Sullivan suggested that “generally meaning the land surrounding the home” could be added in parenthesis. Mr. Finn felt that was reasonable, noting the Commission is not interested in losing the integrity of the area (e.g. taking off five acres) and citing historic stone walls and barns on the parcel. Discussion ensued.

Mrs. Simmons questioned who would oversee the curator to make sure that what is supposed to be done is getting done. Mr. Finn noted that, until the curatorship is complete, it would be the Conservation Commission, after which the NHPA would do annual monitoring. Mrs. Dunn added that the NHPA could also have a professional establish a continuing schedule of work to be done. Discussion ensued.

Mrs. Dunn reiterated that she felt the term “curatorship” needed to be in the article and that she would also like to add in “restore/repair” prior to “maintain”. Discussion ensued regarding the various terms, and it was suggested that “historic” be added before “single family home”, as well.

Mrs. Dunn then noted, to Mr. Breton’s concerns, Town Counsel has indicated that if a town property is being utilized by someone for anything other than a municipal use, then that person has to pay taxes. She noted the potential problem in this case, however, if the person in question were putting in sweat equity and capital both, and also being asked to pay the taxes; wondering how the lease could be structured so that the property taxes go back toward the investment into the property. Discussion ensued, and Mr. Breton noted there is no way around the Statute. Further discussion ensued regarding the amount of taxes due annually and potentially leasing the property for \$1 with a requirement to pay the taxes. Mrs. Dunn reiterated that the intent is also to ask them to put capital into the improvements; questioning whether it would then make economic sense. Mr. Sullivan noted that the current renters pay \$500/month in rent and it all goes towards the taxes; concurring with Mr. Breton that the law is clear and there is no way around it. He added, however, that Town Counsel is exploring whether a value can be placed on the improvements made. Further discussion ensued.

Mr. Finn noted that what needs to be done to the property also needs to be considered; adding that the Commission has done several large projects and would likely need to do more prior to leasing the property. Discussion ensued regarding the recent, comprehensive audit the School District completed on the old Police Station that resulted in a list of items needing to be fixed. Mrs. Dunn noted that the CFSC has such a report, as the Town did an inspection on the property prior to purchasing it and has since developed a list of things to be done. She indicated that the estimated costs to complete that list would be \$250-300,000 easily. Discussion ensued as to whether the Commission could make those repairs after the lease and that there will be much negotiation and flexibility needed in the document.

Mr. Hohenberger sought clarification that, based upon what he was hearing, the NHPA has decided it is in the best interest of Conservation Commission to lease the property as opposed to selling it outright. Mr. Finn noted that the latter was discussed prior to purchase of the property, however, the subcommittee chose this path.

Mr. Hohenberger then questioned what the Town gained by having a curator at the property; adding it is not a museum or open to the public. Discussion ensued, and Mrs. Dunn noted there was significant public input in favor of preserving the property. She noted that the lease could include a provision that the property be periodically open to the public; adding that the Town Museum contains a significant amount of Campbell family history.

Mr. Valentine approached and reiterated that this will be an extremely complicated transaction and offering to assist in the process of negotiating the lease; strongly suggesting that it be neither free or low rent and that the curator be required to turn in slips related to work completed. He suggested that market rent be paid, and the curator reimbursed based upon invoices and/or in-kind services which would thus document and define the work. Mr. Valentine noted that then, if the work does not get completed, the Town would have a means to resolve matters. Discussion ensued.

Mr. Breton noted the similar restoration of the Austin house, and what it had entailed, as it related to the Commission's intent to return the Campbell House to pristine condition. Discussion ensued regarding the assistance of the NHPA with restorations, and the Conservation Commission's goals overall; with Mr. Valentine expressing concerns regarding NHPA involvement as the lease would be between the Town and the selected party.

Further discussion ensued, and Mr. Peter Griffin of the CFSC noted that there is a record of success with curatorships and there will be recourses available.

Mr. Sullivan then read the amended article into the record as follows: *"To see if the Town will authorize the Conservation Commission in accordance with its management authority contained in RSA 36-A:4, to negotiate and enter into a long term "curatorship lease agreement" of at least five (5) years, but not exceeding twenty (20) years, of the historic single family home known as the Campbell Farm House (1-C-100) and the curtilage land adjoining same (generally meaning the land surrounding the home), upon such terms and conditions as may be acceptable to the Conservation Commission, including the ability to offer a "lease to own" option; said lease to be for the purpose of monitoring, maintaining, repairing, and restoring the House through the provision of in-kind renovations and investments in the property as a portion of the annual lease payments. Said lease to include an obligation to pay property taxes as required under RSA 72:23 (I) (b)."*

Mr. Desilets thought the consensus had been to leave in the word "improving". Discussion ensued with input from Mr. Valentine who noted that there is a difference between "restoring" and "improving". He suggested that either both words be used or just "improving" which would encompass restoration.

Mr. Finn clarified that this is an old farmhouse, which was never glamorous, and the Commission is not looking for chandeliers or perfect wood floors. Rather, they are looking for it to be as it was and to represent what an 1868 farmhouse was at that time.

Mr. Hohenberger then moved to add in the word "improving" and move Article 28 to the warrant as amended with the recommendation of the Board of Selectmen. Mr. Breton seconded, and the motion passed 4-0.

Mr. Desilets extended thanks to all for the work put into this thus far; noting there is much work to come. He then called for a five minute recess.

ARTICLE 29: By petition of Timothy Pitcher and others to: *"Authorize the Board of Selectmen to enter certain agreements as are necessary and appropriate to service Town owned lots (Tax Map Lot 16-L-100, TAX MAP 11-A Lot 590), and to serve parcels of land currently situated within the Village Center District as set forth in the Windham Zoning Ordinance. Said agreements could include, but would not be limited to (i) well agreements to permit the utilization/installation of water wells, (ii) water supply agreements governing the sale of groundwater on Town-owned land, and (iii) easements to allow the placement of pumps, pipes, tanks and other ancillary structures needed to support a distribution system."*

Mr. Desilets advised that this petition relates to the Village Center District and several properties located there, development of which has been being worked on for several years. He then noted that the petitioner, Mr. Pitcher, was not able to attend.

Mr. Valentine approached on behalf of Mr. Pitcher, noting that the latter is one of the four owners in the area between Hardwood Road east to behind the Town Hall. He noted that three of the four owners are developers which support the petition, and that the fourth owner, Mr. Travis, does as well. Mr. Valentine indicated that, as the Board is aware, development is taking shape in the District, with three buildings approved with letters of intent to lease in place. Mr. Valentine noted, however, that fire flow capability is an issue due to lack of water, which limits the types of businesses; adding that economically, sprinklers from a well can add a 1/4 or a 1/3 increase in base rent. He noted that surveys have shown that residents would like more restaurants in Town.

Mr. Valentine went on to note that this petition would empower the Board to use some existing wells that were drilled on the south side of Route 111 next to the Police Station, for which a previous warrant article was approved. He also noted that, according to Pennichuck, there is an aquifer line in the area and these wells will thus not compete with wells on Hardwood, Eastwood, etc. Mr. Valentine explained that the plan is to draw the water from across 111 and pump it up to the Hardwood Heights complex where Pennichuck has just invested in improving their treatment system. Mr. Breton questioned why the water would need to be treated if it were just to be used for fire flow, and Mr. Valentine clarified it would be for both domestic and fire flow uses. Mr. Valentine continued, explaining that after treatment the water would then be directed down to serve not just the VCD developers but the Town center, and the Fellows Road complex.

Fire Chief Tom McPherson expressed concurrence with Mr. Valentine's explanation; adding that there are currently three wells there. He indicated that, when they were drilled, there was discussion of putting a hydrant on the corner of Route 111/Fellows Road. Chief McPherson went on to note that currently there are two buildings planned for the VCD and he has worked with those property owners to include a pond engineered for fire protection for those structures; adding that any additional buildings will require a fire suppression system. Discussion ensued regarding the hydrant and the previous developer's intentions in 2006.

Mr. Valentine noted that he would expect there will be stand pipes and hydrants within the District, and further discussion ensued. Mr. Valentine noted that Mr. Pitcher is very open to working with the Town; reiterating that the Article affords the Board authorization to negotiate. He noted that he believes there will be some type of cistern downhill from the treatment site, and that there are also two, strong wells on the properties where the new buildings are to be constructed that will be added to the water system. Mr. Valentine noted that however the distribution system is done, if water ever comes down Route 111 it will then be easy to hook into.

Mrs. Simmons sought clarification as to the aquifer line Mr. Valentine referenced; questioning whether the wells on Fellows Road are currently serving any other properties. Discussion ensued, and it was noted that the aquifer likely served Collins Brook Road, as well. Mrs. Simmons then questioned whether there were enough water to service all, and Mr. Valentine noted that a couple of the older wells there, dug in the 1960's, yielded 100 gpm. Discussion ensued as to the number of wells and amount of water in the area.

Mr. Hohenberger expressed support, but cautioned the Board that during the negotiation phase they needed to be sure this does not become the start of a Town of Windham Water Department; adding that someone needs to control and maintain the system and that there is a way to structure it so the Town does not become liable for it. Mr. Valentine noted that the intent would be that someone like Pennichuck would maintain and operate the system. Discussion ensued regarding same, as well as the wording of the article. Mr. Sullivan clarified that, this evening, the Board cannot wordsmith the article as it is a Citizen Petition, rather they can only recommend or not recommend it.

Mr. Hohenberger then moved Article 29 to the warrant as written with the recommendation of the Board of Selectmen. Mr. Breton seconded.

Mrs. Dunn approached inquiring what the capacity of the wells were when they were dug. Mr. Sullivan noted that two of the three had good yields and were producing approximately 98,000 gallons per day; adding that in 2006, the developer had planned on using approximately 48,000 gallons of that. Discussion ensued as to why that proposal had not gone forward, and Mr. Sullivan clarified it was because Mrs. Mesiti had withdrawn the proposal because the Selectmen had wanted to send it back to Town Meeting.

Mrs. Dunn then noted there was also the question in 2006 of who would have the rights to use the water. Mr. Sullivan noted that the Town would become a customer of Pennichuck. Discussion ensued, and Mrs. Dunn noted that, as there is more capacity than the developers need, others may have the opportunity to use the water. Mr. Valentine noted that the Town does not want to be too limited, as the Center School may need the water, as well as the Elderly Housing project or the Presbyterian Church. Discussion then ensued regarding the lots referenced in the petition, the areas they encompass, and whether they inadvertently exclude any Town parcels. Mr. Valentine noted that where the water will go can be outlined in the agreement. Chief McPherson noted the Board also would need to consider that, the further out they go from the source, additional pumps, etc. will be needed.

After further, brief discussion, the motion passed 4-0.

Mr. Hohenberger then moved and Mrs. Simmons seconded to adjourn. Passed 4-0.

The meeting was adjourned at 8:20 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have yet to be submitted to the Board for approval.