

BOARD OF SELECTMEN
Minutes of December 28, 2015

MEMBERS PRESENT: Chairman Al Letizio, Jr. called the meeting to order at 4:00 PM. Selectmen Joel Desilets, Ross McLeod and Roger Hohenberger were present, as were Town Administrator David Sullivan and new Finance Director Daniel Popovici-Muller. Selectman Bruce Breton was excused. Mr. Letizio opened with the Pledge of Allegiance.

MINUTES:Mr. Hohenberger moved and Mr. Desilets seconded to approve minutes of 12/07, 12/10, and 12/21 as written. Passed unanimously.

ASSESSING: Contracted Assessor Joe Lessard approached suggesting to the Board an adjustment to the practice of not reflecting any changes in value until permits are pulled. He indicated that, often, developers will wait until after April 1 to pull permits in order that they're not reflected value wise until the following year.

Community Development Director Laura Scott approached and clarified that the Department's practice is to provide information to Assessing for signed/recorded plans. She expressed concerns that, if Assessing were to make value adjustments on conditional approvals and the conditions were never met or expired, how would the value revert back. Discussion ensued regarding the percentage that lapse, which is less than 10%.

After further discussion, it was the consensus of the Board to move forward with the new practice as suggested, with Mr. Desilets indicating he would like to see same spelled out in greater detail at some point.

BUDGET WRAP-UP: Mr. Hohenberger inquired whether Mr. Sullivan could verify with the Town Attorney a method through which to recover extra monies being collected by the Town Clerk in the event the warrant article to make the position salaried failed. Mr. Sullivan advised that the Town can bill same as an administrative expense, or Mrs. Bottai can agree to only retain a portion of same. He indicated that Town Counsel has weighed in, and the Board can structure the recovery either way. Discussion ensued regarding the statutory nature of the fees collected, and Mr. Sullivan noted that in his opinion, the easiest/cleanest solution would be to bill Mrs. Bottai.

Mr. Hohenberger noted that the legislative intent was for the \$1.00 increase to go to the Town, and that he would like to bill the Town Clerk for \$0.50 of the extra \$1.00 effective January 1. Discussion ensued.

Mr. Desilets indicated that he is satisfied with the Town Clerk article as written, and moved to place same on the Warrant. Mr. Hohenberger seconded and the motion passed 4-0.

There being no other monetary changes raised by the Board, Mr. Sullivan advised he will post the budget as drafted for Public Hearing.

Discussion then moved to non-monetary warrant items.

Mr. McLeod offered several grammatical corrections to the Campbell Farm Ordinance before moving same to Public Hearing. Mr. Hohenberger seconded.

Mr. Desilets expressed concerns that the fines were insufficient to deter violations, and suggested they be increased to \$200 across the Board. Discussion ensued in that the fines as written are consistent with all other Conservation regulations, and are not often assessed. Mr. Sullivan also noted that there are statutory penalties, as well, versus those of an administrative nature included in the ordinance.

Motion passed 4-0.

Mr. Sullivan advised a new Conservation Commission article has been requested relative to a requirement to establish a third party easement as a condition to receive grant funds. He noted that this would be identical that done with the Route 28 forest parcels several years ago. It was the consensus of the Board that Mr. Sullivan draft the warrant article accordingly.

Mr. Sullivan then advised that the lease for the former Police Station had been drafted in keeping with the proposal submitted by *Mr. Yennaco*, and that it had been reviewed by all including both counsels.

Mr. McLeod expressed concerns that the amount per month versus annually had been calculated incorrectly. He also questioned why, if this were to be a triple net lease, the tenant would not be responsible for insurance on the building. To the latter, *Mr. Sullivan* advised he would need to check with Town Counsel, who had drafted the lease.

Mr. McLeod went on to express concerns that the Town would be locked in for a period of 25 years, as the lease renews at *Mr. Yennaco's* option; adding that this parcel is a key access and he feels the lease is premature.

Mr. Desilets indicated he did not feel the general form of the lease agreement was in keeping with the RFP, despite alternative proposals being welcomed in the latter, as he did not believe that all had an equal opportunity to compete. He also expressed concerns regarding the length of the lease, the rental amount, and *Mr. Yennaco* having the right of first refusal on the property and the ability to sublease areas. *Mr. Desilets* recommended this be deferred for at least a year, in order that the Planning Board have a chance to review the parcel. Discussion ensued.

Mr. Letizio indicated he had concerns regarding the five, 5-year options, as well, in that the Town has no "out" as it is written. Discussion ensued regarding the structure of a triple net lease, and what *Mr. Yennaco* would pay.

Mr. Yennaco approached to clarify that he would be paying \$2,500 in rent, the annual taxes (currently approximately \$8,000), as well as investing \$10,000 per year in improvements to the property. He also noted that his intent was only for five years renewable; adding that the lease represents accurately the Board's vote on his proposal. *Mr. Sullivan* concurred with the latter.

Mr. Yennaco went on to note that, over five years, he will have invested over \$100,000 and the Town will have the time to figure out what it wants to do with the property. He also disagreed with *Mr. Desilets* about the RFP process, which he felt had been fair. Discussion ensued, and *Mr. Desilets* clarified both his concerns and that he believed *Mr. Yennaco's* proposal had been above board and submitted in good faith.

Mr. McLeod then noted that, as written, the only way for the Town to get out of the lease would be to sue *Mr. Yennaco*. Discussion ensued, and *Mr. Yennaco* noted that he is amenable to considering the Board's concerns, however, he did expend monies to draft a lease that matched the Board's wishes. *Mr. Sullivan* suggested that, as the Board deliberated, they consider clarification of the five year terms.

Mr. Desilets reiterated his concerns in that *Mr. Yennaco* having the right of first refusal could impact future negotiations, that improvements made by *Mr. Yennaco* may have no future value to the Town, and that the ability to sublet up to 50% of the area is concerning. *Mr. Desilets* indicated he did not feel that *Mr. Yennaco* would be amenable to the items he believed needed changing.

He then moved, and *Mr. McLeod* seconded, to table this matter and not include same on the warrant.

Mr. Sullivan pointed out that the Board has a standing proposal to a legitimate, bona fide bid. He indicated that if the Board were going to do this, they may need to procedurally reject the bid unless *Mr. Yennaco* is willing to agree otherwise.

Discussion ensued, and *Mr. Hohenberger* indicated he would like to have the Planning Board weigh in and, if they have no issues, then have the agreement go forward. *Mr. Sullivan* noted that if the Board removes the warrant article tonight, it cannot be put back on the warrant on the 11th.

Motion failed 2-2, with *Mr. Letizio* and *Mr. Hohenberger* opposed.

Further discussion ensued regarding the Board's previous vote on *Mr. Yennaco's* proposal. *Mr. Sullivan* advised he will send same to the Board, and no further action was taken.

Mr. Sullivan then requested that the Board consider expending \$1,500 from this year's budget towards upgrading of the Community Development website; and removal of same from the 2016 budget.

Mr. McLeod moved and Mr. Hohenberger seconded to expend these funds as recommended.

Discussion ensued regarding input from the IT Director regarding the costs/necessity of doing so, and that these funds would be for the Community Development site only.

Motion failed with all opposed.

Mr. Sullivan then requested that the Board accept the following donations:

- \$150 towards the Searles facility from Mr. Hohenberger.
- A monitor for the Administrative Office valued at \$200 from Mr. Popovici-Muller.
- Donations towards the Senior Christmas Party and Annual Tree Lighting, including:
 - Klemms Bakery; \$10 gift certificate
 - Capri Pizza; \$10 gift certificate
 - The Common Man; \$25 gift certificate
 - Pentucket Bank - 300 calendars
 - McDonalds/The Napoli Group- gift certificates (\$50 worth)
 - Cookies – Al Letizio
 - Hot Chocolate – Chunky's Cinema and Pub
 - Coffee – Granite United Church
 - \$25 from the MOM's Club of Windham
 - George Cairns and Son: light tower and signs
 - Audley Construction: light tower and message board

Mr. McLeod moved and Mr. Desilets seconded to accept all with gratitude. Passed 2-0-2, with Mr. Hohenberger and Mr. Letizio abstaining.

NON-PUBLIC: Mr. McLeod moved and Mr. Hohenberger seconded to enter into nonpublic session in accordance with RSA 91-A:3 II b. Passed 4-0. Roll call vote all "yes".

The Board, Mr. Sullivan, Mr. Popovici-Muller, Chief Lewis, and Ms. Devlin were in attendance to discuss the vacant Records Clerk position. Mr. Desilets moved and Mr. Hohenberger seconded to hire the recommended candidate as discussed. Passed 4-0.

Mr. Hohenberger moved and Mr. McLeod seconded to adjourn. Passed 4-0.

Meeting was adjourned at 5:25 PM.

Respectfully submitted,
Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have not been submitted to the Board for approval.