

Town of Swanzey, New Hampshire  
**Board of Selectmen**  
Meeting – June 23, 2015  
Swanzey Town Hall, 620 Old Homestead Highway, Swanzey, NH

**CALL TO ORDER**

Present were Selectmen Deborah J. Davis, W. William Hutwelker III and Kenneth P. Colby, Jr. The meeting was called to order by Chair Davis at 6:06 p.m. at the Swanzey Town Hall. Present was Town Administrator Shane O’Keefe and Recording Secretary Beverly Bernard. W. William Hutwelker III joined the meeting at 6:10 p.m.

**OTHERS PRESENT**

Bookkeeper Theresa Lounder, Finance Assistant Jason Taylor, and Human Services and Resources Coordinator Edna Coates, Assessing Coordinator Coleen Birmingham, Pine Grove Mobile Home Park Representatives Claudette Helie and President James Tempesta as well as Mary Lucas, and Bonnie and Don LaValley, Fire Chief Norm Skantze, Director of Planning & Community Development Sara Carbonneau, Residents Kenneth & Jan Sevene, Wally Smith, and Michael Goldschmidt.

**MINUTES**

- The regular meeting Minutes of June 15, 2015 were considered. There was a **motion** by Colby to accept the regular meeting Minutes of June 15, 2015. The motion was seconded by Davis with no further discussion. All were in favor. ***Motion passed.***
- The regular meeting Minutes of June 16, 2015 were considered. There was a **motion** by Colby to accept the regular meeting Minutes of June 16, 2015. The motion was seconded by Davis with no further discussion. All were in favor. ***Motion passed.***
- The Non-Public meeting Minutes of June 15, 2015 were considered. There was a **motion** by Colby to accept the Non-Public meeting Minutes of June 15, 2015. The motion was seconded by Davis with no further discussion. All were in favor. ***Motion passed.***
- The Non-Public meeting Minutes #1 and #2 of June 16, 2015 were considered. There was a **motion** by Colby to accept the Non-Public meeting Minutes #1 and #2 of June 16, 2015. The motion was seconded by Davis with no further discussion. All were in favor. ***Motion passed.***

**FINANCIAL MATTERS**

The Board of Selectmen reviewed and approved accounts payable and payroll manifests.

**OLD BUSINESS**

**Compliance with Affordable Care Act**

Bookkeeper Theresa Lounder, Finance Assistant Jason Taylor, and Human Services and Resources Coordinator Edna Coates met with the Board to consider compliance with the Affordable Care Act, noting that there is a likelihood of penalties being imposed on the Town if actions are not taken to either adjust hours for some part-time employees or expand the category of to whom health benefits are offered.

The Board thanked Taylor for the work he did on the data he produced. Taylor said anyone with over 130 hours in a month or 30 hours per week is considered a full-time employee under federal guidelines. The Town is considered a large employer based on the number of calculated employees being in the 50-99 range. He explained that using a “lookback period” averages out the outliers for any given month. He recommended considering a 12-month Lookback. Only two part-time employees qualified as federal full-time employees using the 12-month Lookback. Davis asked how overtime works into the requirements. The discussion continued about a number of Carpenter Home staff working over 30 hours per week. Penalties were discussed. Taylor said that

penalty for the Town could apply for the two employees. Lounder said the insurance coverage must be offered to the employee and their children, but not the spouse. Taylor said that a report has to be submitted each year. O'Keefe said that BMSI, the Town's financial software provider, will be providing some sort of module to be available by the end of July for the Town to use for reporting. Lounder said the reporting will be due at the same time as end-of-year W-2 information is provided to employees. Lounder provided handouts to the Board to consider. O'Keefe noted that budgeting needs to be assessed based on avoiding a penalty. An alternative would be to either cut hours, or elevate the employee to full-time employment. Davis suggested there would be less of a turnover with more full-time employees at the Carpenter Home. Lounder recommended the 12-back Lookback period be instituted.

Davis asked Lounder, Taylor, and Coates to keep the Board informed. Lounder suggested the Board make some decisions later in the year. Lounder said her major concern is not being able to keep up with the workload. The Board will need to consider what to do with part-time employees, either cut hours or hire as full-time, or budget a penalty, or choose some other course of action.

Taylor, Lounder, and Coates left the meeting at 6:35 p.m.

### **2014 property Tax Abatements**

Assessing Coordinator Coleen Birmingham met with the Board to follow up on abatement applications. She reviewed with the Board the application forms and backup materials for consideration of abatements of assessed values. Based on the recommended "Deny" by Vision Government Solutions (Vision) appraisal for three properties, and "correct sketch and recalculate value" by Vision for one property, the Board decided to deny Gocht, Bedaw, and Fish their abatement requests, and agreed to reduce McKinney property value to \$169,800. The Board agreed to grant the \$615,000 valuation recommendation for TRK Realty. Vision also recommended a value of \$7500 for the Feibelman Rev Trust property, as right now there is no road to access the land off Pasture Road. And Carbonneau said they cannot get a building permit without a Variance. The Board agreed to rebate and reissue the first issue bill. The Board agreed to the classification change for the Minnich property. Regarding the Bixby property and a request to lower valuation because of condition of garage & barn based on age, Vision recommended lowering the valuation to \$246,500. The Board agreed.

The next property discussed was the Tolman property. The Board agreed that Tolman needs to provide documentation that the property is not buildable in order to have a lowered valuation. If he does not produce that documentation, the value will stand at \$16,100. Regarding the Betco Block & Production property – the Board agreed to deny the request to lower to \$449,231 from \$1,192,100. Regarding the Pasquarelli property, Hutwelker said the lot is a good building lot. The Board agreed on Vision recommended value of \$136,500 for both parcels. Values will be revisited on April 1, 2016.

Next discussed were the Scott Lambert properties on 48 Fox Run Road and 329 Monadnock Highway (condemned as a multi-family, now is a single family home). A memo from Code Enforcement Officer Mike Jasmin regarding 48 Fox Run Road was read by Birmingham – unapproved use as an apartment was prior status, but now being used for storage of personal property. Colby asked why Vision is not making value recommendations for these properties. The value for the Monadnock property is \$236,700 and it was noted that the property also contains storage units. Current value of the Fox Run property is \$161,200. Davis decided to table the discussion until Vision responds to a request for values for these properties.

Birmingham left the meeting at 6:56 p.m.

### **Pine Grove Mobile Home Park**

Pine Grove Mobile Home Park Representatives Claudette Helie and President James Tempesta as well as Mary Lucas, and Bonnie and Don LaValley met with the Board to discuss properties acquired or soon to be acquired by Tax Collector's deed within the Park. Some of the properties under discussion included: 68 Diana Drive (Map 87, Lot 2-5068), Town-owned property as of June 19, 2015, formerly owned by Walter & Tammi Cushing, 8 Eastview Drive (Map 87, Lot 2-5008), owned by Keith Lazzaro, and 64 Diana Drive (Map 87, Lot 2-5064), owned by Thomas Amarosa, which has a payment agreement. The Hodge property at 42 Anthony Circle (Map 87, Lot 2-5042) was also discussed. Discussion continued regarding the 68 Diana Drive property, recently acquired. Tempesta said renting of the property is not allowed as it must be owner-occupied. Davis asked about whether the Town would need to pay Park rent on the property. Tempesta said the home is not in good shape. He also said that he thinks someone is still living there. The monthly bill for space and services in the park is \$330. Tempesta said the Park has been expending funds to upgrade the septic system. Tempesta said that the house should be taken out of the Park but it is a costly procedure. Haul away cost is about \$8,000 – \$9,000. To be crushed on site is cheaper according to Tempesta. He asked what would be the next step. Hutwelker said normally the Town would want to sell the property and get the tax money owed plus legal fees. Eviction proceedings would have to be done. It was noted that the Town has a fiduciary obligation to collect taxes. It doesn't want to own property and will sell property taken by tax deed to the highest bidder. According to O'Keefe, the Town can dispose of property as "justice may require" pursuant to RSA 80:42 and the 1993 Town Meeting vote on Article 5.

Tempesta said the Town has to take the first step of visiting the property to evaluate the condition of the property. The Town would move ahead with eviction procedures. He said the home could possibly be saved, which has happened in the past, if sold to someone else. O'Keefe suggested that the Code Enforcement Officer take a look at the property. There are 112 lots in the Park. Tempesta said that the Park management has been working to improve the Park over the years. Tempesta said that if the present owner learns she has 90 days to respond to losing her property by tax deed, then she might cease paying the Park rental and the Park might have to file for an eviction if the owner was not making the Park payments. Hutwelker noted that the Town has to initiate the tax deed to get things moving. O'Keefe said that this item for this and other tax deeded properties will be on the agenda for next week.

The representatives from the Pine Grave Mobile Home Park left the meeting at 7:17 p.m.

### **California Brook Dam / NH Route 10**

Fire Chief Norm Skantze met with the Board to discuss efforts to restore this fire pond. O'Keefe reminded the Board that they signed a one-year Temporary Operating Agreement the NH Department of Transportation on August 22, 2014, to set interim operations and maintenance standards and responsibilities.

Skantze said that Dave Bergeron from Brickstone Lane Use Consultants, LLC did some leg work and suggested the Town request a New Hampshire Department of Environmental Services (DES) permit by notification or a minimum impact permit. He said the project could cost from \$5,000 to \$10,000. Colby asked for an implementation timeframe. Skantze said the permit process is ongoing. Colby said that the costs are included in the Fire Department budget. Colby mentioned the dates of August 22, 2014 and September 5, 2014 as deadlines. Skantze said he wants the Board to authorize spending the money. Colby said that the boards at the pond should be removed soon. Next week Skantze will come back with an estimate of the total cost. The Board can then authorize expenditure from the appropriate trust fund.

Skantze left the meeting at 7:25 p.m.

### **Authorize Expenditures – Whitcomb Hall**

The Board met with Director of Planning and Community Development Sara Carbonneau to discuss her request for a waiver from the purchasing policy for renovations to Whitcomb Hall. O’Keefe noted that this construction project is expected to exceed \$35,000, and therefore Section 6 of the Purchasing Policy is applicable. The Board was asked to waive the pre-qualification provisions in Sections 6A and 6B, as the majority of expense related to this effort is in the heating plant and fixtures. The RFP will have specific completion dates as a condition. Colby said he would like to further explore the Purchasing Policy at a future date, but he was okay with the current request.

Colby **moved** to waive the pre-qualification requirements specified in Sections 6A and 6B of the Purchasing Policy for the next phase of improvements to Whitcomb Hall. There was a second to the motion by Hutwelker and no further discussion. All were in favor. **Motion passed.**

### **OTHER BUSINESS**

#### **General discussion of Planning & Community Development matters**

Carbonneau updated the Board on Planning & Community Development matters. Carbonneau said the work schedule at Whitcomb Hall is tight, but should be done by Columbus Day. She noted that August 29, 2015 is the planned date for the Whitcomb Hall barbecue. There will also be a Complete Streets demonstration around the same time. She also said she is working with Bruce Bohannon for an event on August 1, 2015 to celebrate the opening of another improved section of the Rail Trail.

Carbonneau left the meeting at 7:29 p.m.

#### **2015 Deliberative Session, Article 7**

Mr. Kenneth Sevene read a letter to the Board about the First Amendment of the Constitution on the right to free speech. He read that at the Deliberative Session in February of 2015, while he was explaining his reasons for Warrant Article 7 on a computer vote count, an attempt was made to stop him from speaking by the Moderator. He said that someone in the audience protested and he was allowed to speak a few more minutes before again being told to shut down his commentary. He said his free speech right was suppressed; the Moderator violated Sevene’s First Amendment rights. He said he felt there was not enough information provided in Article 7 for voters and they needed to be made aware of the reasons for the Article. He also said the wording used by the Moderator to stop him from speaking was not recorded properly. He said that it is the Board’s job to listen and protect rights according to the law. Transparency is necessary. He said no member of the Board stood up for him on February 3, 2015. He said elected officials should be depended upon to protect the rights of the people. Sevene said that it is his opinion that whatever good has been done by the Board for the Town is overshadowed by the behavior of the Board on February 3, 2015.

### **NEW BUSINESS**

#### **Payment arrangement – Paula Hodge, 42 Anthony Circle (Map 87, Lot(s) 2-5042)**

The Board was asked to consider a payment plan of \$300 per month for this property owner for delinquent taxes, interest and/or sewer fees (tax deed amount is approximately \$1,990). The Board was also asked to authorize the Town Administrator to execute the payment agreement on behalf of the Town.

**Hutwelker moved** to authorize the Town Administrator to enter into a payment arrangement with the property owner of 42 Anthony Circle requiring no less than \$ 300.00 per month be paid to the Town beginning July 10, 2015, and continuing until such time as all taxes due are paid in full. There was a second to the motion by Colby and no further discussion. All were in favor. **Motion passed.**

### **Acceptance of gift(s) of personal property per RSA 31:95-e**

The Board was asked to consider accepting gifts of personal property as follows:

- Bike racks (11) provided by the Monadnock Region Transportation Management Association, valued at \$1,000.
- Love seat, chair and assorted VHS tapes for use by the Carpenter Home, donated by Kenneth P. Colby, Jr., valued at \$300.

Hutwelker **moved** to accept the gift of 11 bike racks from the Monadnock Region Transportation Management Association, and a love seat, chair and VHS tapes from Kenneth P. Colby, Jr., and to authorize the Town Administrator to execute any documentation necessary to accept these gifts. There was a second to the motion by Davis and no further discussion. All were in favor except Colby who abstained. **Motion passed.**

### **Accept unanticipated funds per RSA 31:95-b**

The Board was asked to accept funds as follows:

- \$745.12 from the Swanzey Senior Center to the Whitcomb Hall Restoration Non-Restricted Trust Account.
- \$1,960.00 from numerous individuals and businesses in memory of Gerald Bell to the Fire Tools & Equipment Non-Restricted Trust Account.
- \$230.00 from several individuals in memory of Ernest Batchelder to the Fire Tools & Equipment Non-Restricted Trust Account.

Colby **moved** to accept the funds as listed and to remit them to the custody of the Trustees of Trust Funds to be held in the specified accounts trust accounts. There was a second to the motion by Davis and no further discussion. All were in favor. **Motion passed.**

### **CITIZEN CONCERNS**

Goldschmidt said he concurred with Sevene that the words shutting Sevene down were not recorded properly.

Mrs. Sevene said the wording that the Moderator used was not recorded. Mr. Sevene said he didn't understand why the words were not recorded. Davis said the Board would be taking his concerns under advisement. Hutwelker thanked Mr. Sevene for his contribution tonight. Mr. Sevene recalled Town Meetings from the past when there was a good turnout. Colby also mentioned that the press didn't pick up on Mr. Sevene's comments. Davis thanked the folks for being present.

Mr. and Mrs. Sevene, Goldschmidt, and Smith left the meeting at 7:46 p.m.

### **Non-public session(s) per RSA 91-A:3II(a), Personnel Matter(s)**

**Motion** by Colby to enter Non-public session pursuant to RSA 91-A:3II(a) Personnel Matter(s). The motion was seconded by Hutwelker. The Selectmen voted unanimously by roll call to go into non-public session at 7:47 p.m. **Motion passed.** Present were the Board members Kenneth P. Colby, Jr., Deborah J. Davis, W. William Hutwelker, III, Town Administrator Shane O'Keefe and Recording Secretary Beverly Bernard.

**Motion** was made by Colby to leave non-public session and return to public session. The motion was seconded by Hutwelker, with all in favor. **Motion passed.** Non-public session ended at 7:50 p.m.

**Motion** was made by Colby to seal the minutes of the non-public session. The motion was seconded by Hutwelker. The Selectmen voted unanimously by roll call to seal the minutes. **Motion passed.**

### **Exceptions to the Purchasing Policy**

Colby said that the Board needs to gather the Department Heads to discuss frequent requests for exemptions to the policy. He asked what purpose does having a policy serve if staff continues to ask for exemptions to the policy. Davis said she is in agreement with Colby.

### **Cutting of Trees on Ash Hill Road**

Colby said tree-cutting may start as soon as Monday, June 29, 2015. Ash Hill Road will be shut down during working hours. Colby also noted that Police Chief DeAngelis and Fire Chief Skantze should be informed. Davis said there should be signage about the closure at Town Hall and on the Town website. The cost will be within budget.

### **West Swanzey Park**

Colby provided an update to the Board. He spoke about a jut in the paved area to allow for movement of fire trucks that takes out 1/3 of the grassy area. Colby said first and foremost is the needs of the park. The Board agreed. He discussed places to put in benches. He mentioned that there are granite steps for access to the river. Colby said he is working with Charlie Sheaff on installation of a 20' X 40' pavilion. He suggested a "pavilion-raising" by donation and volunteers. Colby also spoke about shrubbery growth along the river bank that prohibits a view of the river from the park. He said some discussion needs to be had with DES to remove shrubs and replace them with other plants to allow for viewing the river. He also mentioned that Public Works Director Lee Dunham has found a way to provide electrical power to the park. The Board agreed that Colby will keep on urging moving ahead as quickly as possible in making improvements to the park. Colby also mentioned that it might be worthwhile for the Town to contact a neighboring property owner about land adjacent to the park to see if he would be willing to part with 30 or 40 feet of land to enhance the park.

### **Freedom From Religion Foundation Letter**

Discussion was held regarding a letter from a Wisconsin organization about the Town using a church as a voting venue. Davis asked if the Board should contact Reverend Berman of the Christian Life Fellowship Church about continuing to use the church for voting. In terms of responding to the letter, Colby said that the Board can either do nothing or have Town Counsel write a response citing appropriate New Hampshire laws. He noted that voters can use an absentee ballot if he or she is offended by having to vote in a church. It was noted that the writer of the letter is not a resident of the State of New Hampshire.

### **CONSENT AGENDA**

**Motion** was made by Colby approve the Consent Agenda except for the Personnel Action Reports. There was a second by Davis and no further discussion. All were in favor. ***Motion passed.***

- Pole License Petition #279475– Northern New England Telephone Operations d/b/a Fairpoint Communications NNE and Eversource Energy, Safford Drive.
- Event Permit #2015-22. Cheshire Fair Association – Lipizzaner Horse Show on July 17, 2015 – July 19, 2015 at the Cheshire Fairgrounds Arena on NH Route 12. Note: No Permit Requirements.
- Veterans Tax Credit, Brian Stone (Map 30, Lot 5-4)
- Veterans Tax Credit, William Daniels (Map 12, Lot 21)
- Veterans Tax Credit, Andrew Sellers (Map 16, Lot 16)
- Veterans Tax Credit, Francis Faulkner, II (Map 35, Lot 65)
- Veterans Tax Credit, Robert Richard (Map 32, Lot 17)
- Veterans Tax Credit, Mathew Rodeck (Map 79, Lot 6-372)
- Veterans Tax Credit, Norman Descoteaux (Map 57, Lot 118)
- Veterans Tax Credit, Charles Glimenakis (Map 41, Lot 64)

- Notice of Intent to Cut Wood or Timber. Lakeville Shores, Inc., Hale Hill Road, Various lots.
- Certification of Yield Taxes Assessed and Yield Tax Levy. Edward Grant, Map 21, Lot(s) 7. \$1,444.50
- Certification of Yield Taxes Assessed and Yield Tax Levy. Michael Johnson, Map 12, Lot(s) 5. \$840.14
- Gravel Tax Levy. Michael Johnson, Map 12, Lot(s) 5. \$116.38

Colby made a **motion** to approve all the Personnel Action Reports, and there was a second by Hutwelker, with no further discussion. All were in favor. **Motion passed.**

- Personnel Action Report(s)

In addition to items discussed as part of the agenda, the Board received the following documents:

- Police Department Quarterly Report
- Letter of resignation from Open Space Committee from Mary Farnsworth, dated June 22, 2015
- May 2015 Expenditure Report
- Letter from Freedom From Religion Foundation, dated June 16, 2015

#### **ADJOURNMENT**

**Motion** to adjourn was made by Hutwelker, second by Colby. No further discussion. All were in favor. **Motion passed.** Adjournment occurred at 8:21 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary

Approved on June 30, 2015