

TOWN OF NEWPORT, NEW HAMPSHIRE
Board of Selectmen
Minutes for Meeting of December 5, 2016
6:30 pm, Municipal Building

SELECTMEN PRESENT: Jeffrey Kessler, Chairman; Todd Fratzel, Vice Chairman; David Hoyt, William Wilmot, John Hooper II

STAFF PRESENT: Hunter Rieseberg, Interim Town Manager; James Burroughs, Police Chief; Larry Wiggins, Director of Public Works; Tammy Flewelling, Sr. Deputy Tax Collector; Amy Spreadbury, Water Department; Kaara Gonyo, Assessing Assistant; Joanne Dufour, Administration Assistant (others?)

COMMUNITY MEMBERS PRESENT: Ed Karr, Reginald Dodge, Jr.; Bert Spaulding, Sr.

CALL TO ORDER: Chairman Kessler called the meeting to order at 6:30 p.m. followed by the Pledge of Allegiance.

NON-PUBLIC SESSION: 91-A:II (b) Hiring Public Employee.

On a motion by Selectman Fratzel, seconded by Selectman Hooper; *the Board voted by roll call to enter into non-public session(NPS) pursuant to 91-A:3 II (b) Hiring a Public Employee at 6:33 pm. The motion passed 5-0-0.*

Chairman Kessler recessed the BOS from the public meeting for the NPS.

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; *the Board voted to exit NPS at 7:05 p.m.*

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; the Board voted to embargo the NPS *pursuant to 91-A:3 II (b) Hiring a Public Employee. The motion passed 5-0-0.*

The public meeting continued at 7:06.

AGENDA REVIEW: accepted as presented.

MINUTES FROM PREVIOUS MEETING(S): September 22, 2016 Non-Public Minutes #1; November 21, 2016, November 28, 2016 Non-Public #1

Minutes from Non-Public Session (NPS) #1 of September 22, 2016:

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; *the Board voted to table the minutes of NPS #1 of September 22, 2016. The motion passed 5-0-0.*

Minutes of November 21, 2016:

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; *the Board voted to approve the minutes of November 21, 2016. The motion passed 5-0-0.*

Minutes from Non-Public Session (NPS) #1 of November 28, 2016:

On a motion by Selectman Wilmot, seconded by Selectman Hoyt; *the Board voted to approve the minutes of NPS #1 of November 28, 2016. The motion passed 5-0-0.*

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; *the Board voted to seal the minutes of NPS #1 of November 28, 2016 until December 31, 2016. The motion passed 5-0-0.*

CONSENT AGENDA: On a motion by Selectman Fratzel, seconded by Selectman Hoyt; *the Board voted to approve the Consent Agenda of December 5, 2016. The motion passed 5-0-0.*

PUBLIC HEARING:

The Town of Newport will hold public hearings on Monday, December 5, 2016, at 6:30 pm in the Board of Selectmen's meeting room, 15 Sunapee Street, Newport, to address the following:

- 1) Adoption of a Water Use Restriction Ordinance
- 2) School Street: One Way Street Ordinance

Adoption of a Water Use Restriction Ordinance

Chairman Kessler read the public hearing notice into the record. Mr. Wiggins was acknowledged. He stated that the ordinance before the BOS was the one proposed at the November 21, 2016 BOS meeting. He stated that if the ordinance was passed, he recommended that they initiate the level four restriction violation fines.

Interim Town Manager Rieseberg addressed Chairman Kessler and stated that he had been made aware that the ordinance draft that the Board members currently had did not reflect the proposed changes in the violation fines. He explained that if the Ordinance was passed at the December 5, 2016 meeting that the Board members could adjust the amounts during the meeting and move the ordinance as amended.

Police Chief Burroughs addressed the Board concerning IX. PENALTIES. He stated that his recommendation would not to have a three step monetary violation; but to rather have a single violation fee. The Board would give a range of the potential fines.

There was a discussion among the Board members and Police Chief Burroughs concerning the enforcement of stratified penalties (fines). The proposed fines were: 1st: up to \$100; 2nd: \$500; 3rd: \$1,000 to \$10,000.

Chairman Kessler stated that a proposed modification to the draft water restriction ordinance IX. PENALTIES was 1st fine: up to \$100; 2nd fine: \$500; 3rd fine: \$ 1,000 to \$10,000 and discontinuance of water services. He asked for a motion on the modification.

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; *the Board voted to adopt the following modification to the Water Restriction Ordinance: IX. PENALTIES 1st fine: up to \$100; 2nd fine: \$500; 3rd fine: \$ 1,000 to \$10,000 and discontinuance of water services.*

Chairman Kessler asked for discussion. Selectman Hooper addressed Police Chief Burroughs and asked if his department would be able to handle the enforcement and processing of fines. Police Chief Burroughs stated yes. He gave further explanation to the BOS and public in attendance.

Chairman Kessler called for a vote to modify the ordinance as moved. *The motion passed 5-0-0.*

Chairman Kessler addressed the public in attendance and stated they were still in a public hearing. Only the proposed fines had been changed. He asked if there was anyone from the public who would like to comment or discuss the proposed ordinance.

Mr. Dodge, Jr. addressed the Board and stated his concerns with the proposed ordinance.

1. Enforcement. Who would be the judge and the jury when deciding the penalties?
2. The necessity of one (an ordinance) until everything has been explored with the water situation.
3. Who would decide what could and could not be done under the ordinance and how would people know. He gave examples.

Chairman Kessler addressed Mr. Wiggins and asked for exceptions to restrictions. Selectman Wilmot addressed the BOS and read aloud VIII. EXCEPTIONS TO RESTRICTIONS A. Hand irrigation of crops used for food by residents at residential property shall not be restricted.

He requested that the word “hand” be stricken from VIII. A. He read aloud the amended wording, “Irrigation of crops used for food by residents at residential property shall not be restricted.”

There was a discussion between Board members and Mr. Dodge concerning the watering of flowers. Selectman Fratzel stated that the compromise of allowing the watering of crops (food source) as opposed to flowers (aesthetics) should be understood. There was a discussion concerning not watering flowers and the consequential absence of bees to pollinate crops.

Mr. Ed Karr addressed the Board and stated that he agreed the Town needed an ordinance. He stated that he (as overseer of the skating rink at the high school) would miss water in the winter. He had an issue with a statement made in the November 21, 2016 which stated that the BOS had to “put some teeth” into the ordinance. He had the following concerns with the proposed ordinance:

1. There were businesses in town that had trucks that paid large registration fees that need to have maintenance cleaning.
2. There were businesses that relied on water, such as concrete companies and laundromats that needed water for their products.
3. Enforcement. What is in place? Who would decide the appropriate fine? He requested that the Town announce this information to the public.
4. The idea that anybody in Town used excessive water.
5. Tripling the fine structure from what was initially proposed (by the DES). He suggested that the Board start with the original fine schedule and reassess it in three months; if necessary, they could then initiate the more stringent fines.

Mr. Karr stated that he was in favor of a water restriction ordinance, but reiterated the concerns that he had for himself and the Town residents using municipal water.

Selectman Hoyt asked Police Chief Burroughs to explain the enforcement process.

Police Chief Burroughs stated that:

1. They currently have a mechanism to write a citation and have checks and balances through the court system.
2. An ordinance violation is a monetary fine only.
3. The intent is to let people know that the water ban is serious and to educate people to prevent them from abusing it.

Selectman Fratzel added that the Town water source was the most critical resource Newport had. The reservoir was so low that he would not be doing his job (as Selectman) if he did not support the water restriction ordinance. The Board was initiating the ordinance to slow the abuse of the water supply.

There was a short discussion on the necessity, enforcement and cooperation in obeying the ordinance between the Selectmen and Mr. Karr.

Mr. Dodge and Selectman Fratzel discussed areas in town that were on private wells but used the municipal sewer. They also discussed the use of water in the Sugar River by Newporters.

Mr. Karr addressed Chairman Kessler and asked if the ordinance would go before the voters or if the Board of Selectmen would vote on it at the December 5, 2016 meeting. He was told it would be voted on by the Selectmen at the December 5, 2016 meeting under emergency conditions regulations (see Administrative Rule Puc 604.07-Shortage of Supply).

There was a short discussion as to why the BOS had waited so long to enforce voluntary and mandatory water restrictions. It was explained that Newport was under voluntary restrictions (October 2016), mandatory water restrictions and now an ordinance to enforce the mandatory water restrictions with fines.

The Selectmen were asked if the ordinance would be lifted when the water level rose in Gilman Pond. Chairman Kessler stated the BOS would follow the recommendation of the Public Works Director for the appropriate time to reduce or remove the water restriction ban.

Jeff Nintzel addressed the BOS as a non-resident of Newport.

1. Fines. He stated he understood the ordinance's first stage of fines (having the discretion of having a warning up to \$100). He stated the second offence was a flat fee of \$500. He was told he was correct. Mr. Nintzel addressed the Chair and stated that the 3rd stage was \$1,000 up to \$10,000 and asked who would determine what action would substantiate between a \$1,000 and a \$10,000 fine. Mr. Nintzel stated it did not seem logical to have a sliding scale for the habitual offender.
2. He asked, for clarification, if the Mandatory Water Restriction Ordinance was only for individuals on the municipal water system. He was told that was correct.

There was a discussion on not having the sliding scale and only a \$10,000 third fine. Mr. Nintzel stated he was concerned with enforcement: who would decide the amount of the fine with such a large scale.

Police Chief Burroughs explained the steps involved before a large monetary fine would be issued. There was discussion on the proposed mandatory water restriction ordinance.

Mr. Karr asked the Chair where the fine money would go: the General Fund, a specific fund or tax relief.

Mr. Bert Spaulding, Sr. addressed the Board and spoke on the importance of water. He then asked if the Town would be sending out the notices of monetary fines to municipal water users so they would know them and whether information on conserving water would be made available.

Chairman Kessler stated there had been notices sent out about the voluntary restrictions and additional ways to conserve water. It could be sent out again.

Mr. Spaulding asked if there was historical information on water. There was a short discussion on the agenda item.

Chairman Kessler acknowledged Selectman Wilmot and asked him to state his proposed change to the draft ordinance. Selectman Wilmot stated to change "hand irrigation" to "watering" from SECTION VIII. EXCEPTIONS TO RESTRICTIONS A. Hand irrigation of crops used for food by residents at residential property shall not be restricted.

On a motion by Selectman Wilmot, seconded by Selectman Fratzel; ***the Board voted to change VIII. EXCEPTIONS TO RESTRICTIONS A. "Hand irrigation of crops used for food by residents at residential property shall not be restricted." to VIII. EXCEPTIONS TO RESTRICTIONS A. "Watering of crops used for food by residents at residential property shall not be restricted." The motion passed 5-0-0.***

Chairman Kessler addressed the Board members and stated there was a proposed ordinance before them with two changes, one to change the violation fees and one to reword Section VIII A. changing “hand irrigation” to “watering”.

He asked for any other public comments on the proposed ordinance. There were none. Chairman Kessler closed the public hearing and asked for a motion on the proposed Water Use Restriction Ordinance.

On a motion by Selectman Wilmot, seconded by Selectman Fratzel; ***the Board voted to immediately enforce (as of December 5, 2016) the Water Restriction Ordinance as amended. The motion passed 5-0-0.***

Mr. Wiggins addressed the BOS and asked if they would set the restriction level (1-4) as noted in the passed Water Use Restriction Ordinance at the December 5, 2016 BOS meeting.

On a motion by Selectman Wilmot, seconded by Selectman Hoyt; ***that the BOS as the Newport Water Commissioners set the level 4 restriction (under Section V. REQUIREMENTS D. Level 4). The motion passed 5-0-0.***

School Street: One Way Street Ordinance

Chairman Kessler opened the School Street: One Way Street Ordinance public hearing. He acknowledged Police Chief Burroughs and asked him to explain the proposed change.

Police Chief Burroughs addressed the BOS and stated he was proposing one change to the signage. Due to the change in the school hours of operation, he is proposing the signage read to reflect the change in time from 3 p.m. to 4 p.m.

Chairman Kessler addressed the public in attendance and asked for input on extending the amount of time for one way traffic from 3 p.m. to 4 p.m.; September through June.

There was no comment from the public. Selectman Wilmot asked where it was indicated from September to June. Chairman Kessler stated it was written on the sign. Selectman Wilmot stated it was on the sign but it was not in the ordinance. Police Chief Burroughs said that the ordinance read, “When school was in session”.

Chairman Kessler closed the public hearing and called for a vote to change the signage and ordinance. ***The Board voted 5-0-0.***

Selectman Wilmot requested a motion.

On a motion by Selectman Wilmot, seconded by Selectman Hooper; ***the Board amended Section 4.4 to read, “between the hours of 7:30 AM to 4:00 PM when school is in session.”***

Chairman Kessler asked if the ordinance will take effect as soon as new signage is put up at the bottom of School Street. Police Chief Burroughs stated yes.

Chairman Kessler called for a vote. ***The motion passed 5-0-0.***

OPEN FORUM: Mr. Dodge addressed the Board and expressed concern about the new poles in Guild. Mr. Karr explained how the process of changing over from old to new poles worked. After a short discussion the Town Manager was asked to look into the progress on the Guild poles.

Mr. Spaulding, Sr. addressed the BOS and using the white board, explained about his property lots and deeds. He stated he was giving the Board notice: Mr. Spaulding, Sr. stated he balked when he was told he had to record a Mylar. Mr. Spaulding, Sr. was asking for his property rights back. He was not going to record a Mylar. He asked that the BOS restore the lots affected and he would decide what he wanted to do in the future.

COMMUNICATIONS:

Selectman Wilnot congratulated the Sugar River Chicks for Brunch with Santa Claus and the annual performance by the Area Choir under the conduction of David Chaves. They were both awesome community events.

Selectman Hooper stated the T'was the Night before Christmas and Chili Walk event will be held this weekend. He had attended a Remembrance Service at the Baptist Church. It was nice to see so many people come together in fellowship.

Selectman Hoyt had nothing to share at this time.

Selectman Fratzel had nothing to share at this time.

Chairman Kessler informed the public that the BAC would be meeting at 6 p.m. on Wednesday December 7, 2016 in the conference room (122) of the SRVTC.

Interim Town Manager Rieseberg stated his communications also came under informational.

INFORMATIONAL:

Flooding the Common-Ice Skating Rink

Interim Town Manager Rieseberg stated the BOS had discussed the use of outdoor watering. The Town would not be able to use municipal water sources to freeze the ice rink. The Town is exploring alternatives but they are problematic. There would not be an ice rink on the common in the winter 2016-17.

Mr. Ed Karr addressed Rieseberg and asked what the alternatives were that he had mentioned. Interim Town Manager Rieseberg stated they were looking at:

1. A smaller rink
2. A liner and board system around a rink to contain and reduce the amount of water necessary
3. Options for drawing water from the Sugar River or other body of water that would not have an adverse impact on the public water system.

He explained some of the problems with each option.

Mr. Karr addressed Interim Town Manager Rieseberg and explained he has done the ice rink behind the high school for years. No one from the Town of Newport had told him he would not be able to do it this year. He stated that the high school rink was for hockey only-hockey was not allowed on the Common with little kids and figure skating.

Continuing, Mr. Karr reiterated that he was disappointed that no one had called him to inform him or ask him for ideas. There needed to be full cooperation between the Town and volunteers. Interim Town Manager Rieseberg thanked Mr. Karr and stated he would be called.

Right-To-Know Recent Developments

Interim Town Manager Rieseberg stated that there were new developments concerning the Right-To-Know law. An annual update had been sent to the BOS members to review.

Personnel Policy Update

Interim Town Manager Rieseberg stated the Personnel Policy had been updated based on the November 21, 2016 meeting's decisions by the BOS and input from the staff. He believed it was ready for the Board's final consideration.

Continuing, Interim Town Manager Rieseberg said that in the future he had suggestions for amendments to the personnel plan. He encouraged the Board to go forward with the policy as it had been amended.

Chairman Kessler addressed Interim Town Manager Rieseberg and asked that he forward a cleaned copy of the Personnel Plan to the Selectmen, Town employees and to make one available to the public. He requested that its adoption be put on the December 19, 2016 BOS agenda. Interim Town Manager Rieseberg stated that within the personnel policy was the longevity revisions.

Kaara Gonyo, Assessing Assistant, Letter regarding 2 Third Street

Interim Town Manager Rieseberg stated the BOS had a letter from Kaara Gonyo. The residents formerly at 2 Third Street were looking for abatement in their taxes. The Chair moved the informational item to the end of the meeting.

Parking Lot

Interim Town Manager Rieseberg explained it was the list of future agenda items listed at the bottom of the evening's agenda. He explained the use of the "Parking Lot".

The work on the county parking lot (corner of Park and Sunapee Streets) is coming along nicely. Construction will be in spring and summer of 2017.

Joint Board Seminar with Legal Counsel-January 16, 2017

Interim Town Manager Rieseberg said was tentatively set for January 16, 2017. There will be no charge to the Town. He said that invitations would go out to other Town Boards. He gave a synopsis of what would be discussed at the meeting. It would be public and televised.

Reappraisal Update

Property revaluation is in progress for Town properties. People are going door-to-door. If people had questions as to the process or strangers in their neighborhood, they should call the Town Managers office at 863-1778.

Firing Range Update

The firing range plan had been submitted to NHDES. The DES made some adjustments to the plan and it was returned to Newport. The recommended changes have been made, and the document has been sent back to NHDES for a final approval. Interim Town Manager Rieseberg stated he had had a conversation with Sturm Ruger Firearms Company to notify them as to where the Town was in the process. Continuing, Rieseberg stated that the permitting aspect of the project was almost complete and they would continue to be in contact with Sturm Ruger as the Town progressed.

Oak Street Bridge Update

Interim Town Manager Rieseberg, Paul Brown, Finance Director; and Larry Wiggins Director of Public works had attended a meeting with NHDOT concerning the Oak Street Bridge. The State is in the process of getting the project funded and implemented for their fiscal year 2017. He stated it would mean fall construction of 2017 or spring construction 2018. The bridge would stay open until the spring of 2018 unless the construction crew was able to work through the winter.

Sidewalk/Street Lighting on Main Street Update

Interim Town Manager Rieseberg stated that all of the necessary Town-owned street lights have been replaced and are functional with the exception of one with wiring issues. There was a short conversation about additional bulbs that are burned out. Police Chief Burroughs had agreed to assist with a Town wide search of neighborhood street lighting that needs to be replaced. Interim Town Manager Rieseberg addressed the public and requested that if they were aware of street lights out in their neighborhood to contact his office.

Selectman Wilmot asked if the Town could investigate changing to LED lighting. Interim Town Manager Rieseberg stated he had had a conversation with Eversource and a Town wide conversion to LED lights was on his list of items to recommend to the BOS. There was a short discussion between the BOS and Rieseberg on the pros and cons found with a LED conversion.

ACTION ITEMS:

EMS Contract-Goshen

A new contract has been sent to the Town of Goshen for EMS services. They have not responded. There was a short discussion on the proposed contract with the Town of Goshen.

Opera House-County Requesting Fee Waiver

The Town has a request from Sullivan County for a rental fee waiver for the use of the Opera House. Selectman Hoyt stated that from past performance the group obeyed all rules and regulations of the Opera House and were very conscious of the time allotted them. He stated that in his opinion there was minimal work for the Town.

On a motion by Selectman Wilmot, seconded by Selectman Fratzel; ***the Board voted to waive the rental fee for the County at the Newport Opera House. The motion passed 5-0-0.***

Continued as ACTION ITEM

Kaara Gonyo, Assessing Assistant, Letter regarding 2 Third Street

There was discussion among the Board members concerning the requested abatement for the 2 Third Street property. Chairman Kessler asked for a motion. There was a discussion on the necessity of acting on the item at the December 5, 2016 meeting. Interim Town Manager Rieseberg stated the Town needed a BOS vote at the meeting.

On a motion by Selectman Hoyt, seconded by Selectman Hooper; ***the Board voted to not give a tax abatement for the property. The motion passed 4-1-0 (Wilmot voted no).***

APPOINTMENTS:

Zoning Board of Adjustment Alternate-Virginia Irwin

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; ***the Board voted to table the appointment of Virginia Irwin to a position of Alternate member to the Zoning Board of Adjustments. The motion passed 5-0-0.***

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; ***the Board voted by roll call to enter into non-public session pursuant to RSA 91-A:3 II (d) Real Estate at 8:45 pm. The motion passed 5-0-0.***

On a motion by Selectman Fratzel, seconded by Selectman Hoyt; ***the Board voted to exit NPS at 9:15 p.m. The motion passed 5-0-0.***

On a motion by Selectman Wilmot, seconded by Selectman Hooper; ***the Board voted unanimously to adjourn at 9:17 p.m.***

No decisions were made.

The next regular meeting of the Board of Selectmen is scheduled for December 19, 2016 at 6:30 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Maura Stetson". The signature is written in black ink and is positioned above the printed name.

Maura Stetson
Scribe

Approved on: December 19, 2016