

TOWN OF NEWPORT, NEW HAMPSHIRE
Board of Selectmen Minutes of May 2, 2022 - REVISED
Regular Meeting 6:30 pm
Municipal Building, 15 Sunapee Street, Newport, NH 03773
Remote Access: Zoom.com - Meeting ID: 822 0401 3975 Passcode: 836117
+1 (253) 215-8782 US (audio only, long-distance fees may apply)

SELECTMEN PRESENT: *BOS Room:* Jeffrey Kessler, Chairman; John Hooper II, Vice Chairman; Keith Sayer, Herbert Tellor, Jr.; Barry Connell

SELECTMEN ABSENT: none

STAFF PRESENT: *BOS Room:* Hunter Rieseberg, Town Manager; Paul J. Brown, Finance Director

COMMUNITY MEMBERS PRESENT: Bert Spaulding, Sr., Andrew Davis, The Davis Agency, LLC; Josh Stevens, K.A. Stevens & Son, Inc.; Alyssa Stevens, K.A. Stevens & Son, Inc.

NCTV: John Lunn, Executive Director NCTV

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

AGENDA REVIEW: ADD: Dedication of Town Report to after Agenda Review (Kessler)

DEDICATION OF THE TOWN REPORT: Chairman Kessler stated that the Newport 2021 Town Report is dedicated to past Executive Director of the Chamber of Commerce, Mrs. Ella Casey ‘for all her years of hard work and dedication to the Town of Newport’. He thanked Mrs. Casey for her dedication to Newport over all these years. Also in the report were two write ups, in Memoriam, of Daniel Budd and Arnold “Spunky” Dodge.

PUBLIC HEARING: NOTICE OF INTENT TO FILE APPLICATION – The Town of Newport intends to file an application for federal financial assistance with the U.S. Department of Agriculture, Rural Development, Rural Utilities Service. The project includes engineering and construction of WWTP upgrades to meet permit requirements. Written comments regarding this application should be submitted to Town Manager, Town of Newport, 15 Sunapee Street, Newport, NH 03773 or manager@newportnh.gov. Chairman Kessler read aloud the Public Notice for the intent to file an application for federal financial assistance for engineering and construction of the Waste Water Treatment Plant (WWTP) upgrades. After a brief explanation of the application by Town Manager Rieseberg, the hearing was opened to the public. There were no comments or questions from the public or Board members. Chairman Kessler closed the Public Hearing at 6:34 p.m.

MINUTES FROM PREVIOUS MEETING(S): April 18, 2022 - Selectman Connell made a motion *to approve the minutes of the April 18, 2022 BOS meeting as presented*. It was seconded by Selectman Tellor. *The motion passed 4-0-1 (Hooper abstained)*.

CONSENT AGENDA: On a motion by Selectman Hooper, seconded by Selectman Tellor; *the Board voted to approve the Consent Agenda of the May 2, 2022 BOS meeting as presented. The motion passed 5-0-0.*

OPEN FORUM: Mr. Josh Stevens, K.A. Stevens & Son Company, addressed the Board. He was speaking at the BOS meeting because he believed his company’s reputation and integrity have been affected by a project they did for the Town; the Main Street Sidewalk Project.

The Stevens family has invested in the community and they care about the reputation of their company and family. He told the Board members about his family and Company.

1. The Stevens family is part of the three founding families of Newport.
2. K.A. Stevens has been in business for over 30 years.
3. They have worked in the community and completed multiple phases of sidewalk construction spanning more than 25 years.
4. They have completed Newport sidewalk and bridge projects on time and on budget.
5. They plan to continue working in the community.
6. The company has used the Town on many occasions for references by a past Public Works Director; they always had a great working rapport with him and the Town.

In 2019 K.A. Stevens was awarded a contract for the Main Street sidewalk construction using stamped concrete. He gave a detailed account of the 2019 Main Street sidewalk project they had done and its concrete problems. Although nothing was found to be the fault of K.A. Stevens work, the company assumed the financial responsibility of correcting the faults (\$60,000+). Mr. Josh Stevens explained they had invested in the community instead of litigating with the Town of Newport. Mr. Andrew Davis informed both Mr. Stevens and the Selectboard that there were people trying to get into the BOS meeting via zoom and were being blocked (6:40 p.m.). His lawyer, Cary Drew, was one of the individuals. Town Manager Rieseberg stated he had invited him into the zoom meeting. Mr. Davis negated this, Mr. Drew had been blocked. K.A. Stevens bid on the Town's Sand Hill Road Bridge Project. Although they were the lowest (qualified NHDOT) bidder by \$112,056 they were not awarded the project (March 8, 2022). April 19, 2022 they received a letter stating the second lowest bidder (Daniels Construction, Ascutney, VT) had received the job "on recommendation of the NHDOT". When the NHDOT engineer was questioned; K.A. Stevens was told there is nothing negative (or positive) in K.A. Steven's file at NHDOT. The award was the sole decision of the Newport administration (at a cost increase to the taxpayers of \$112,000). In conclusion, Mr. Stevens asked the Board what K.A. Stevens has done to the community to pose such negativity that his company was not awarded the work. Chairman Kessler stated the Board could not comment on Mr. Stevens statements because they had received a letter from Mr. Stevens' attorney; the case was potentially going into litigation. Mr. Andrew J. Davis, The Davis Agency, LLC; addressed the Board. His company specializes in heavy construction. He stated that he has done business with K.A. Stevens (Josh) since 2006. His company has provided surety, insurance and their bonds for bids. K.A. Stevens has gone through NHDOT preprogram, prequalified protocol and the appropriate bond requirements. He explained that in order to bid on the (municipal) jobs, a company has to be prequalified with NHDOT. K.A. Stevens was prequalified and the Davis Agency backed them 100%. Chairman Kessler again stated the BOS could not comment. Mr. Stevens stated that the reason they were at the BOS meeting was because they live in, believe in the community. The (Town) determination stated that this (sidewalk) project was the reason for the denial for the Sand Hill Road Bridge project. Mr. Stevens addressed the Chair with a question: K.A. Stevens was the apparent low bidder in two other projects in Town:

- 1) The sidewalk construction on Laurel Street
- 2) The parking lot construction behind the Town offices.

They had received an email stating the Town had rejected any and all bids due to funding. Mr. Stevens asked what the engineer's estimate (of the project) was. Town Manager Rieseberg did not readily know. Mr. Stevens asked to see the engineer's report and estimate on Laurel Street (K.A. Stevens had done Phase One of Laurel Street); his request was denied by Town Manager Rieseberg.

Mr. Stevens said they wanted the Board to know K.A. Stevens position and have a better understanding of it. Mr. Spaulding, Sr. addressed Chairman Kessler and asked how the Steven's grievances even got to the Board meeting. He was familiar with requirements by DOT on individual contractors who bid for municipal contracts. He repeated highlights stated by Mr. Stevens at the BOS meeting:

- 1) K.A. Stevens had followed all NHDOT protocols.
- 2) They were experienced working with the Town of Newport (on municipal projects).
- 3) The quality of their work had never been in question.
- 4) They were the lowest qualified bidder for the (bridge) project by \$112,000.

Mr. Spaulding, Sr. said he has never heard of a bid contract being overturned when all the criteria was met in the contract and process. His opinion was that based on what was said at the meeting, the Town did not have a case; the facts favored K.A. Stevens. He asked Chairman Kessler how the BOS will explain this rejection of the lowest bid to the people of the Town at a cost increase (to the taxpayers) of \$112,000. Mr. Spaulding, Sr. spoke in support of the Stevens, their company, work and integrity. He asked for the date of the letter (April 20) in question. He made a Right to Know request for the letter. He said he would make additional Right to Know requests for documents directly to Town Manager Rieseberg in the coming days. Lecturing the BOS, he stated that among other things, a town could not award jobs to the highest bidder; it would be political if they did.

Mr. Spaulding, Sr. then spoke positively on the upcoming vote for the new Community Center. He encouraged people to vote for it on Tuesday, May 10th.

The Community Center Update agenda item was moved to after Open Forum.

INFORMATIONAL: Community Center Update - There was a discussion on the Community Center among the Board members and Mr. Spaulding, Sr. They repeated points brought up at previous meetings. Selectman Hooper gave a testimonial in favor of the new Community Center using his own life and business as examples. The public was asked to vote in favor of Article 6. Chairman Kessler told the public that information on the proposed Community Center was on the Town website: www.newportnh.gov.

COMMUNICATIONS: Selectman Tellor had nothing to share at this time. Selectman Hooper said the Green Up, Clean Up (sponsored by the Conservation Commission and the Rec Center) on May 1st was successful. Over 50 individuals volunteered to clean up trash along the roads in Newport. He also thanked the Board for his six years on the Selectboard. Selectman Connell had nothing to share at this time. Selectman Sayer had nothing to share at this time. Chairman Kessler thanked Selectman Hooper for his six years on the Selectboard. His expertise and insight will be missed. Chairman Kessler then stated he wanted to talk about the school. Newport is sending four juniors from the Newport High School to the St. Paul's School Advanced Studies Program (ASP) in Concord, NH. Each student will study a major course (Ex. Forbidden Fictions, Comparative Religions) and a writing course. Explaining further, Chairman Kessler stated that the program is open to every junior in a NH public school. Students have to apply for, qualify for and be accepted into the program to attend. Newport has always sent students to the summer ASP. He wanted the public to know of good things happening with Newport students, they need to be recognized. Chairman Kessler and Selectman Connell also spoke about the foreign exchange students that Newport used to host annually as well as students who took classes at Dartmouth College (while still attending Newport high school). Town Manager Rieseberg said that Governor Sununu has adopted May 1st -7th as Town Clerks Week. He also thanked Selectman Hooper for his service to the community.

INFORMATIONAL: Review of Warrant Articles - Chairman Kessler reminded the public that voting on Town Warrant Articles will be on Tuesday, May 10, 2022 from 8 a.m. to 7 p.m. at the high school gymnasium. Chairman Kessler then gave a synopsis of the Warrant Articles for consideration by Newport voters.

ACTION ITEMS: Waiver of Fees for Use of Opera House-Richards Free Library Hale Award Ceremony - After a discussion and poll of the Selectboard, Chairman Kessler called for a motion and vote. Selectman Hooper made a motion *to waive all Opera House fees for the Richards Free Library for the 2022 Hale Award Ceremony*. It was seconded by Selectman Connell. *The motion passed 4-1-0 (Tellor voted no).*

LCHIP: 10-Year Stewardship Agreement - After Town Manager Rieseberg gave a brief explanation of the stewardship agreement, Selectman Connell made a motion *to accept the LCHIP 10-Year Stewardship Agreement as presented and to authorize Town Manager Hunter Rieseberg to sign all documents pertaining to it on behalf of the Selectboard*. It was seconded by Selectman Hooper. In discussion, the LCHIP Stewardship Agreement was explained to Selectman Sayer. Chairman Kessler then called for a vote. *The motion passed 5-0-0.*

Appointment of Selectmen Pro Tem and Selectmen Coverage for May 10, 2022 Voting - Chairman Kessler stated that Mr. Lawrence Cote and Mr. Bert Spaulding, Sr. had volunteered their services (all day) as Selectmen Pro

Tem for the May 10, 2022 Town Voting. A brief conversation was held among the Board members stating their availability (Tellor most of the day, Connell 3 pm to close).

Selectman Connell made a motion *to appoint Mr. Lawrence Cote and Mr. Bert Spaulding, Sr. as Selectmen Pro Tem at the May 10, 2022 Town Voting.* It was seconded by Selectman Tellor. *The motion passed 5-0-0.* Chairman Kessler explained the role of Selectmen and Selectman Pro Tem to Selectman Sayer.

On a motion by Selectman Tellor, seconded by Selectman Hooper; *the Board of Selectmen voted by roll call to enter into non-public session (NPS) pursuant to RSA 91-A:3, II(a) Dismissal, Promotion, or Compensation of Public Employee at 7:59 p.m.. The motion passed 5-0-0.*

When asked for clarification, Chairman Kessler stated that the Board would meet briefly and then meet with Town Manager Rieseberg. Upon exiting non-public session, a vote would be taken.

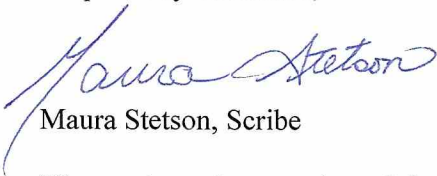
Jeffrey Kessler, Herbert Tellor, John Hooper, Keith Sayer and Barry Connell were in attendance at the nonpublic session. Also in attendance was Town Manager Hunter Rieseberg.

The Selectboard exited nonpublic session at 9:00 pm.

There was no action taken.

On a motion by Selectman Tellor, *the Board voted unanimously to adjourn at 9:00 p.m. The motion passed 5-0-0.*

Respectfully submitted,



Maura Stetson, Scribe

The next regular meeting of the Board of Selectmen is scheduled for May 16, 2022 at 6:30 p.m.

Approved on: May 16, 2022