

**TOWN OF NEWPORT, NEW HAMPSHIRE**  
**Board of Selectmen**  
**Minutes for Meeting of November 5, 2018 7:00 pm**  
**Regular Business Meeting and Public Hearing**  
**Municipal Building, 15 Sunapee Street, Newport, NH 03773**

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**SELECTMEN PRESENT:** Jeffrey Kessler, Chairman; Todd Fratzel, Vice Chairman; Barry Connell, John Hooper, II; William Wilmot, Jr.

**STAFF PRESENT:** Hunter Rieseberg, Town Manager

**COMMUNITY MEMBERS PRESENT:** Ed Karr and Bert Spaulding, Sr.

**NCTV:** Louis Cassorla

**CALL TO ORDER:** Chairman Kessler called the regular meeting of the BOS to order at 7:45 p.m. followed by the Pledge of Allegiance.

**AGENDA REVIEW:** Accepted as presented.

**MINUTES FROM PREVIOUS MEETING(S):** Minutes of October 15, 2018: On a motion by Selectman Hooper, seconded by Selectman Wilmot; *the Board voted to approve the minutes of the October 15, 2018 Board of Selectmen meeting as presented. The motion passed 4-0-1 (Fratzel abstained).*

Non-Public Session Minutes of October 15, 2018: On a motion by Selectman Connell, seconded by Selectman Hooper; *the Board voted to approve the Board of Selectmen NPS minutes of October 15, 2018 as presented. The motion passed 4-0-1 (Fratzel abstained).*

Minutes of October 22, 2018: On a motion by Selectman Hooper, seconded by Selectman Wilmot; *the Board voted to approve the minutes of the October 22, 2018 Board of Selectmen meeting as presented. The motion passed 4-0-1 (Fratzel abstained).*

**CONSENT AGENDA:** On a motion by Selectman Fratzel, seconded by Selectman Hooper; *the Board voted to approve the Consent Agenda of November 5, 2018 as presented. The motion passed 5-0-0.*

**OPEN FORUM:** Mr. Ed Karr addressed the BOS and spoke on two topics. The first was about the continued absence of American flags on the poles of Main Street in Newport. He understood there had been correspondence with Mr. Gallagher about the promised flags; Mr. Karr had also spoken to the Board and Town Manager about them. Mr. Karr stated it had been seven weeks since he had initially spoke to the Board and Town Manager Rieseberg. There has been no progress. He wanted to know where the Town stood with acquiring American flags and when they would be put up.

The second was concerning the construction on First, Second, Third, Fourth and Knoll Streets. He asked if anyone had been keeping the Board and Town Manager Rieseberg appraised about the construction. He asked how the Town was handling it; there was no oversight from a Town employee.

Town Manager Rieseberg stated that the Town had put up test flags. The BOS had been asked what size flags they preferred at the October 22, 2018 BOS meeting. The flags have been ordered and the Town is waiting for them to arrive.

Town Manager Rieseberg stated the construction on First, Second, Third, Fourth and Knoll Streets was being overseen by an engineer that represented the Town. The weather has been a major factor in the (lack of) progress of the project. Town Manager Rieseberg and Mr. Karr had a general discussion on the project and the amount of construction time left in 2018. Mr. Karr asked that the BOS be the resident's advocates.

Mr. Bert Spaulding, Sr. spoke to the BOS about the 1<sup>st</sup> Amendment and his constitutional right of free speech and regulation of his speech in public meetings. There was a short discussion on times this happened. Chairman Kessler apologized to Mr. Spaulding, Sr. for his perceived regulation of Mr. Spaulding, Sr.'s 1<sup>st</sup> Amendment rights. Selectman Connell also apologized to Mr. Spaulding, Sr. for interrupting him during a Planning Board meeting. Mr. Spaulding, Sr. accepted both apologies.

**COMMUNICATIONS:** Selectman Wilmot had nothing to share at this time.

Selectman Hooper had nothing to share at this time.

Selectman Fratzel had nothing to share at this time.

Selectman Connell had nothing to share at this time.

Chairman Kessler reminded everyone that voting will be November 6, 2018 at the Opera House from 8 a.m. to 7 p.m. Anyone in line at 7 p.m. will have the opportunity to vote. He also stated the Senior Center had their Open House on Friday, October 19, 2018 showing the completed expansion of the lower level. It is quite impressive.

Town Manager Rieseberg had nothing to share at this time.

**INFORMATIONAL:** Election Day Coverage November 6, 2018: There was a short discussion among Board members on the scheduling of Selectmen and Selectmen Pro Temp for the November 6, 2018 polls. The following schedule was provided:

**7am-9am:** Barry, Bert, Larry  
**9am-11am:** Barry, Bert, Larry  
**11am-1pm:** Todd, Barry, Larry  
**1pm-3pm:** Jeff, Barry, Larry  
**3pm-5pm:** Jeff, Bill, Barry  
**5pm-End:** Jeff, John, Bill, Barry

Consideration of a Warrant Article for the Adoption of RSA 72:81: Chairman Kessler addressed the Board and asked for a consideration of a Warrant Article of RSA 72:81 to: *"...adopt a new construction property tax exemption for commercial or industrial uses, or both. The intent of the exemption is to provide incentives to businesses to build, rebuild, modernize or enlarge within the municipality"*.

Chairman Kessler stated he learned about the RSA last spring (2018), but it was too late to put on the Town ballot as a Warrant Article. He explained the RSA to the BOS and the reasons it would be a good addition to the Town's incentive toolbox. He suggested that the BOS propose a Warrant Article of RSA 72:81 for the May 2019 Town Meeting vote.

Selectman Fratzel stated it sounded like the proposed RSA overlapped the RSA 79-E that the Town voted on in May 2018. Selectman Connell concurred with Selectman Fratzel. There was a short discussion among the Selectmen on the two RSAs.

**ACTION ITEMS:** Motion to Authorize Taking of Property Located on Meadow Road, Map 114 Lot 159, By Eminent Domain: Town Manager Rieseberg stated that the property was formerly owned by the Newport Baseball Association. The association has become defunct and the property abandoned and not paid taxes for years. The most expedient way to acquire the land is through eminent domain (taking it for back taxes would require a three year process). The Town will petition the court to acquire the property. Town Manager Rieseberg stated the following:

- ❖ The Town needed to show need (Town needs to show public interest)
- ❖ The Town needed to determine compensation (have property appraised and go through court system)

Town Manager Rieseberg gave a synopsis of the procedure.

Selectman Fratzel explained the history of ownership of the property in question (Newport Youth Activities), where it was and why the Town would want to acquire it.

Mr. Karr asked, for clarification, if it was delinquent in taxes why it had not been on the list with other tax deeded properties that had been sold in Newport. Town Manager Rieseberg stated it was not delinquent in taxes and stated that an agency had been requesting, filing paperwork and receiving a tax exemption for the property on behalf of the Newport Baseball Association. Therefore the property could not be taken through the tax deeded process.

Mr. Karr, Town Manager Rieseberg and the BOS held a general discussion about the property, field and the future of the Little League Baseball Field.

Mr. Bert Spaulding, Sr. addressed the BOS and discussed the process of acquiring the land.

- 1) He asked, for clarification, if the Town first filed with the Sullivan County (District Court). Town Manager Rieseberg stated he believed so.
- 2) Mr. Spaulding, Sr. asked if the townspeople at Town Meeting would decide the need of acquiring the land. Town Manager Rieseberg stated the five member BOS would satisfy the needed representation.
- 3) Mr. Spaulding, Sr. asked if the action at the November 5, 2018 BOS meeting would start the process to the Sullivan County Superior Court. He was told yes.
- 4) Mr. Spaulding, Sr. asked how many years were anticipated to get an answer from the court. Town Manager Rieseberg stated that he had been told it could be resolved by Spring 2019.

Mr. Spaulding, Sr. addressed the Town Manager Rieseberg and stated that he did not know how the Town could circumvent the eminent domain process. Consulting a book of RSAs and specifically that of eminent domain, he questioned the legal process and necessary timeframe versus the timeframe the Town is predicting.

He questioned the Town's reasoning for taking the property through eminent domain. There was a general discussion on the use of eminent domain in this instance by the Town Manager and Mr. Spaulding, Sr. Taking the land of an unknown owner took two-three years. Town Manager Rieseberg agreed with the timeframe.

Mr. Spaulding, Sr. stated he hoped the Town attorney had cited case law affirming that the Town could take the land for this purpose. He listed reasons for cities and towns to legally take land through eminent domain (example: construction of infrastructure). Mr. Spaulding, Sr. cited case law of an instance when land was taken through an abuse of eminent domain.

Mr. Karr asked, for clarification, if the Town had to attempt to find an owner. Town Manager Rieseberg stated the two pieces of information needed: Determination of need and Determination of Compensation. He explained Determination of Compensation.

Louis Cassorla addressed the Board and stated that he had not heard anyone articulate what the public necessity is that was demonstrated. He also had not heard anyone articulate what the public purpose is. He asked that those two answers be stated for the record (NCTV and the BOS minutes) before a vote on the blanket statement saying it has been demonstrated.

Town Manager Rieseberg said that the public necessity is to facilitate the ongoing use of the property for public recreational purposes. If the Town vote is positive for a Community Center in the spring it would be for an ongoing recreational use. He also said that the absence of the use of the property for recreational uses would negate the use of the other (abutting) property for recreational uses and the public good.

After further discussion with Mr. Cassorla and Mr. Spaulding, Sr. Town Manager Rieseberg stated that the next step would be to "quiet the title" (of the property). He explained the steps for that.

Mr. Karr addressed Town Manager Rieseberg and stated that taking the property by eminent domain (the Little League Baseball field) would not have come up now if it had not been for the proposed Community Center. Town Manager Rieseberg agreed.

Chairman Kessler called for a motion.

Selectman Fratzel moved *to authorize taking of property located on Meadow Road, Map 114, Lot 159, by Eminent Domain. The Town of Newport Board of Selectmen hereby finds that:*

- 1. Public necessity and occasion have been demonstrated for the taking of property located on Meadow Road, Map 114, Lot 159, by eminent domain;*
- 2. There is a public purpose of the taking, which will result in a public benefit; and*
- 3. The overall public benefits of the taking outweigh all potential burdens and social costs of every affected property owner.*

*The public benefit and necessity having been duly shown, the Board of Selectmen hereby authorizes the acquisition of said property by eminent domain in accordance with the procedures of RSA 498-A, at a sum to be determined in accordance with RSA 498-A.* It was seconded by Selectman Wilmot. Chairman Kessler called for a vote. *The motion passed 5-0-0.*

Waive Opera House Rental Fee-Newport Chevrolet Event: Chairman Kessler explained the request of a waiver for the rental fee for use of the Newport Opera House by Newport Chevrolet. He stated that a letter requesting the waiver had been submitted with the applicant's rental contract. There was a lengthy discussion by Board members on the dollar amount being asked to waive and granting the waiver.

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; *the Board voted to waive the rental fee but not the custodial fee for Newport Chevrolet Buick GMC. The motion passed 4-1-0 (Hooper opposed).*

Accept \$9,411 Moose Plate Conservation Grant: Chairman Kessler stated the Board was being asked to accept \$9,411 Moose License Plate Conservation Grant and to authorize Town Manager Rieseberg to sign all related documents.

Chairman Kessler stated that the Town Clerk's Office had been awarded another Moose Plate Grant. The money was slated for preservation of some historical town records dated in the 1700s to early 1800s. It was the fourth year in a row that their grant application had been approved. Mrs. Adelaide Kozlik had written all four grant application requests.

On a motion by Selectman Wilmot, seconded by Selectman Fratzel; *the Board voted to accept the \$9,411 Moose License Plate Conservation Grant for preserving historical documents and to appoint Town Manager Hunter Rieseberg as the authorized signatory of all related documents. The motion passed 5-0-0.*

The Board congratulated Mrs. Kozlik and the Town Clerk's Office on their hard work in acquiring the grant.

Mr. Spaulding, Sr. addressed the Chair and stated the Planning Board was ready to hold Public Hearings on the subject of (the keeping of) Hens. He asked for input as to when to hold the Public Hearings. Chairman Kessler stated they should be held now; review of the topic would be brought up in Spring 2019 with the other Warrant Articles. Other Board members concurred with his suggestion. Mr. Spaulding, Sr. thanked the Board for their input.

**APPOINTMENTS:** none

**NON-PUBLIC SESSION (NPS):** On a motion by Selectman Fratzel, seconded by Selectman Connell; *the Board voted by roll call vote to enter into NPS pursuant to RSA 91-A:3 II (a) Personnel at 8:43 p.m. The motion passed 5-0-0.*

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; *the Board voted to exit the non-public session at 9:03 p.m. The motion passed 5-0-0.*

No action was taken.

On a motion by Selectman Fratzel, seconded by Selectman Wilmot; *the Board voted unanimously to adjourn at 9:04 p.m.*

Respectfully submitted,



Maura Stetson  
Scribe

**The next regular meeting of the Board of Selectmen is scheduled for Monday, November 19, 2018 at 6:30 p.m.**

Approved on: November 19, 2018