

**Board of Selectmen
October 11, 2017**

Present: Richard C. Edwards, Chairperson; Lino Avellani; Kelley A. Collins, Town Administrator; and Toni Bodah, Secretary.

Mr. Edwards called the posted meeting to order at 6 p.m. **Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:05 p.m. During the preceding Non Public Session the Board accepted a performance evaluation for Seth Garland.

Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.

The Board returned to public session at 6:20 p.m. During the preceding Non Public Session the Board accepted a performance evaluation for Nathan Fogg.

Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (b). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.

The Board returned to public session at 6:28 p.m. During the preceding Non Public Session the Board voted to hire Ronald Gould as a Transfer Station Attendant.

Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.

The Board returned to public session at 6:32 p.m. During the preceding Non Public Session the Board voted to accept, with regret and thanks, the resignation of Officer Sean Welch.

Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.

The Board returned to public session at 6:36 p.m. During the preceding Non Public Session, the Board tabled review of the performance evaluation for Kelley Collins until a full Board is present.

Mr. Avellani moved to enter Non Public Session under RSA 91-A:3, II (b). Mr. Edwards seconded the motion. Roll call vote: Mr. Avellani – ‘aye’; Mr. Edwards – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.

The Board returned to public session at 6:45 p.m. During the preceding Non Public Session, the Board voted to hire Stephen McMullen as a FF/EMT. The session recessed until 7 p.m.

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Mr. Edwards led those present in the Pledge of Allegiance. Those present now included: Donna Martin (videographer); Ed Comeau (videographer); Relf Fogg; Nathan Fogg; Ed Noble; Andrea Costello; and Sgt. Chris Waldron. Steve Brown and Evan McDougal joined the session in progress.

1. Public Hearing re: Naming of Doe Lane – Mr. Edwards opened the public hearing at 7 p.m. and asked whether anyone is present because of this public hearing. Andrea Costello stated she is from Woodside Lane and added that she is in favor of the name change to Doe Lane for the referenced portion of that road. Mr. Nathan Fogg explained that a building permit was issued in the area under discussion. The Town's mapping company, CAI, was unable to issue an E-911 number for the new structure given the "loop" layout of the existing road. Mr. Fogg reached out to the 4 property owners in this area who would ultimately be affected by the change in road name for comments and suggestions. He heard from 2 (Ms. Costello being one of them). Ultimately, Doe Lane was established as the name for this section of Woodside Lane. The 2 property owners who communicated with Mr. Fogg expressed agreement with this change. NH RSA's require a public hearing be held in order for the public to speak to the changes.

Ms. Costello asked whether a sign would be provided for this "new" road. Ms. Collins noted that since this is a private road, the Town will not supply a sign. There being no further comments, Mr. Edwards closed the public hearing at 7:04 p.m. **Mr. Avellani moved to accept the proposed name change to Doe Lane, as presented. Mr. Edwards seconded the motion, which passed 2-0.**

2. Appointments

a) Relf Fogg re: Elected Official Oath of Office/Taxation – Mr. Fogg stated his purpose this evening is to clear up confusion regarding elected officials vs. public employees. He stated that the Town Administrator is doing what she believes is in the best interest of the Town. However, he disagrees with the common belief that elected officials are public employees. This issue has risen since he requested to receive his \$600 stipend as a member of the Board of Assessors. Mr. Fogg read from various US Codes and RSA's and referred to the State of NH Constitution. He stated that in the past, he has received his full stipend, both from the Town and the School, and there has been no adverse effect from that action. Mr. Fogg suggested that this has become an issue this year due to change in Administration. Mr. Fogg is asking that the Board of Selectmen recognize that elected officials are not public employees. All elected officials swear an oath to uphold the Constitution. He further stated that elected officials cannot be considered as public employees as they could then vote for something that would put money in their pockets.

Mr. Edwards advised that Ms. Collins communicated with the Town's auditors (specifically, their tax manager), who states that in the opinion of the IRS, all elected officials are employees. They are not independent contractors for which a 1099 would be appropriate. However, if an individual has been deemed exempt by the IRS, then payroll taxes should not be applied. He asked if Mr. Fogg has been so deemed. Mr. Fogg replied he has had no contact with the IRS for a number of years. In certain circumstances, he has provided his social security number under duress. Mr. Edwards stressed that Mr. Fogg must provide documentation of his having been deemed exempt by the IRS. Mr. Fogg again referred to his provision of information under duress, which he believes is coercion. Mr. Fogg states he

gets his stipend directly from the public, as the taxpayers are the public. However, he stated that the issue is not the money. Mr. Fogg requested that Mr. Edwards read aloud from a publication provided by Mr. Fogg, which, in part, referred to fee-based officials that receive remuneration directly from the public, which individuals are not employees with respect to this role. Mr. Fogg stressed that the IRS exempts officials paid on a fee basis or stipend from being required to pay FIT or FICA taxes. He added that neither the Town nor the School has had any trouble in the past by paying the full amount of the stipend.

Mr. Edwards stated that the Board would take Mr. Fogg's information under advisement. Mr. Fogg noted that little by little all in our country are losing all kinds of things. The more we take away from the Constitution, the less standing our children and grandchildren will have. All elected officials have sworn to uphold the Constitution—public employees have not done so. **Mr. Avellani moved to take this request under advisement. Mr. Edwards seconded the motion, which passed 2-0.**

3. Unscheduled Matters/Public Comment #1

--Mr. Comeau noted the issue raised by Mr. Fogg is nation-wide. In 2015, a State Representative introduced legislation to address this issue, which eventually was labeled ITL. It is anticipated that similar legislation will be introduced next year. Mr. Comeau stated he requested his entire stipend (as State Representative), but was told he would have to go to Court to accomplish this. Mr. Comeau referred to the millions of dollars leaving our state. At his request, Ms. Collins provided him with information she received from the Town's auditors and the NHMA Legal Inquiries Department.

4. Unfinished Business

a) PSB2 Bids – 2 bids were received for the project including doors, windows and kitchenette as follows: Jerome Libby - \$17,000; and EF Dolaher – \$16,800. Mr. Edwards stated that both contractors had participated in the walk through. Ms. Collins noted that both bids were received late; however, this is the second time we have put this work out to bid. **Mr. Avellani moved to accept the bid of EF Dolaher in the amount of \$16,800. Mr. Edwards seconded the motion, which passed 2-0.**

5. New Business - None scheduled.

6. Proposed Capital Reserve Fund Expenditures

a) Town Hall Improvements \$990 – This represents the cost to install 4 new wrap style lights in the conference room. **Mr. Avellani moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 2-0.**

b) Town Hall Improvements \$1531.60 – This represents the final bill for draperies in the conference room. **Mr. Avellani moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 2-0.**

c) Town Hall Improvements \$2183 – This represents a down payment for painting of the connector. **Mr. Avellani moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 2-0.**

d) PSB 2 \$22 – This is the cost of the ad for the doors/windows project. **Mr. Avellani moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 2-0.**

e) PSB 2 \$170.66 – This is the cost to dispose of debris from various projects directly at Waste Management. Disposal at the local Transfer Station would have filled the Town's container entirely. **Mr. Avellani moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 2-0.**

7. Correspondence

a) BTLA Hearing Notice – The Town is hereby notified of BTLA hearings scheduled for January 9, 2018, relating to Sanbornville Methodist Church and Union Congregational Church and their failure to file timely for tax-exempt status from property taxes. Rod Wood, Cindy Bickford and Ms. Collins will likely represent Wakefield at these hearings.

8. Unscheduled Matters/Public Comment #2

--Mr. Comeau received clarification that information was provided to the Town from NHMA's Legal Inquiries Department, rather than from Town Counsel, and from the Town's auditors with respect to Mr. Fogg's tax issue. Ms. Collins added that Town Counsel suggested contacting those organizations first, rather than paying his hourly rate.

9. Administrative Matters

a) Town Administrator's Update

--The Board has previously discussed the vehicle used mostly by BI/CEO, 2006 Ford Expedition. This vehicle was due for inspection in September; however, it requires \$2049 of work in order to pass. She believes the Town spent \$1000 last year for the same purpose. There has been some discussion whether this vehicle should somehow be replaced next year. Mr. Edwards reviewed the work estimate and noted that it is not unusual maintenance items. There is nothing in the 2017 budget to purchase a vehicle. We can look at this for 2018; however, in the meantime we cannot have Town employees using an uninspected vehicle. Mr. Avellani stated we could fix the existing vehicle this year as long as we look to replace it next year. **Mr. Edwards moved to accept the estimate of Crowell's Towing in the amount of \$2049 to repair the 2006 Ford Expedition, with the understanding we will look at replacement as soon as possible. Mr. Avellani seconded the motion, which passed 2-0.**

--On October 27, Ms. Collins is hosting a meeting/luncheon for the Lakes Region Municipal Managers Association here in the conference room.

--The Director of Public Works has been approached about selling stock-piled compost to residents at \$15 per ton. The pile is quite large and the space is needed. This is an opportunity to make the Transfer Station more self-supporting. The Town will not deliver this material, and residents must load their own vehicles. The Director is willing to draft a policy for the Board's review. **Mr. Avellani moved to accept the recommendation of the Director of Public Works to sell compost at \$15 per ton, pending review of the draft policy. Mr. Edwards seconded the motion, which passed 2-0.**

--Ms. Collins has communicated with DRA, who has begun setting tax rates. All Town and Sanbornville Water information has been submitted. She was advised, however, they are still waiting for MS forms from the School—the MS 24 was not filed, and the MS 25 has been returned due to use of an

inappropriate form. She will contact the SAU Superintendent and the Business Administrator. Once all material is submitted, we will get in queue for a tax rate.

--Draperies will be installed in the conference room on Friday!

--Mr. Avellani announced that the Commissioner of the DRA will be retiring in early November.

--We have had several budget work sessions and have taken several sections under advisement.

Therefore, we need to set another date. The Board will meet in non-public session on October 18 at 2 p.m. It was agreed to meet in a budget work session following that non-public session.

b) Petition and Pole License – Mr. Avellani moved to approve the Petition and Pole License on Au Bord Du Lac Road as presented. Mr. Edwards seconded the motion, which passed 2-0.

c) Building Permit Releases – None forthcoming.

d) Payment Manifests – Mr. Avellani moved to approve PR #24 in the amount of \$71,275.43, as presented. Mr. Edwards seconded the motion, which passed 2-0.

Mr. Avellani moved to approve AP #33 in the amount of \$11,875, as presented. Mr. Edwards seconded the motion, which passed 2-0.

Mr. Avellani moved to approve AP # 32, a void in the amount of \$465.59, as presented. Mr. Edwards seconded the motion, which passed 2-0.

Mr. Avellani moved to withhold \$415.60 from AP #31. Mr. Edwards seconded the motion, which passed 2-0.

Mr. Avellani moved to approve AP #31 in the amended amount of \$753,061.21. Mr. Edwards seconded the motion, which passed 2-0. Mr. Avellani is seeking a breakdown of expenditures listed on the warrant for each fund. Ms. Collins will have an AP warrant prepared for each individual fund in the future.

e) Minutes – Mr. Avellani moved to approve minutes of the September 27 regular meeting and Non Public minutes #1, #2, #3 and #4, of the same date, as presented. Mr. Edwards seconded the motion, which passed 2-0.

f) Selectmen's Work Session

Mr. Avellani noted that the budget process is moving forward.

Mr. Edwards noted that the PSB second floor project is coming to a close. He also announced there will be a Fall Festival in East Wakefield on Saturday, October 14, from 1-5p.m. Everything is free! Donations have come from local businesses to show their customer appreciation. The banners recently installed look good. Ms. Collins stressed that our free permit allows the banners to be up for 6 months only. They will be taken down and put back up again in May. A permanent permit is available, but it comes with a fee.

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Mr. Avellani moved to adjourn at 8:06 p.m. Mr. Edwards seconded the motion, which passed 2-0.

Respectfully submitted,
Toni Bodah, Secretary

Approval of Minutes:

Richard C. Edwards, Chairperson

Connie Twombly

Lino Avellani