

**Board of Selectmen
May 24, 2017**

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

Mr. Edwards called the posted meeting to order at 6:25 p.m. **Mr. Edwards moved to enter Non Public Session under RSA 91-A:3, II (a). Ms. Twombley seconded the motion. Roll call vote: Ms. Twombley - 'aye'; Mr. Avellani - 'aye'; Mr. Edwards - 'aye'. The motion passed 3-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:30 p.m. During the preceding non-public session, the Board reviewed a 6-month evaluation for Leigh Nichols and voted to remove his probationary status.

Ms. Twombley moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Avellani seconded the motion. Roll call vote: Ms. Twombley - 'aye'; Mr. Avellani - 'aye'; Mr. Edwards - 'aye'. The motion passed 3-0, 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 authorize an increase to \$10.50/hour for John Ward, effective as of May 22, 2017.

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

The Board returned to public session at 6:33 p.m. During the preceding non-public session, the Board voted to authorize an increase to \$9/hour for John Scala, effective as of May 22, 2017.

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

The Board returned to public session at 6:33 p.m. During the preceding non-public session, the Board voted to authorize an increase to \$9.50/hour for Holly Zabkar, effective as of May 22, 2017.

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

The Board returned to public session at 6:34 p.m. During the preceding non-public session, the Board voted to hire Penny Grover as a summer camp counselor at the hourly rate of \$9.75.

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

The Board returned to public session at 6:35 p.m. During the preceding non-public session, the Board voted to hire Jaden McKellar as a summer camp counselor at the hourly rate of \$8.50.

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Mr. Edwards called for a recess at 6:35 p.m.

Mr. Edwards reconvened public session at 7 p.m. and led those present in the Pledge of Allegiance. Those present at this time included: Donna Martin (videographer); Ed Comeau (videographer); Leigh Nichols; Seth Garland; Victor Vinagro; John Couch; Don Pierce; Linda Schier; Carroll Shea; Dave Towle; Annette Perry; Dave Mankus; Dick House; and a number of representatives of Belleau, Balch and Province Lakes. Tom Dube, Rueben Knisley and Sgt. Mike Fenton joined the session in progress.

Public Hearing - Proposed Expenditures from Invasive Species Control Fund - Mr. Edwards opened the public hearing at 7:04 p.m. Victor Vinagro, Milfoil Director for Belleau Lake Property Owners' Association, thanked the Town for previous funding to assist them in their efforts to control milfoil. BLPOA is requesting level funding, \$7500, for 2017. In response to Mr. Edwards, Mr. Vinagro advised that Belleau Lake has no public access. However, he stressed the importance of keeping our lakes healthy. Mr. Couch noted that the State of NH does not recognize Belleau Lake, which is a man-made lake, and, therefore, the lake does not qualify for State funding. Mr. Couch will supply Mr. Avellani with information in order for Mr. Avellani to do some research at the State level.

Don Pierce, President of Balch Lake Improvement Association, advised they are also seeking level funding at \$7500. Mr. Pierce referred to their dash boat program, already activated. In 2016, over 8000 pounds of plants were pulled and over 20 acres were treated. Another treatment is planned for June 14. The plants pulled in 2016 were much smaller than in past years. BLIMP also receives financial support from the Towns of Acton and Newfield, as well as having received 2 grants from the State of Maine and 1 grant from the State of NH. Mr. Pierce also spoke to their grass-roots funding raising efforts.

Dave Mankus, President of the Great East Lake Association, advised they do have public access. He spoke to the high number of boat inspections done at the location each day. Great East Lake has experienced no infestation at this point.

Linda Schier stressed the importance of lake host programs, through which boats are inspected arriving at and leaving the lakes. Four area lakes are requesting funding for the lake host programs, based upon anticipated matching grants: Great East Lake - \$4375; Lovell Lake \$3875; Pine River Pond - \$3000; and Province Lake - \$3375.

The Board members were in agreement that each organization does a fabulous job to protect each lake. There being no further public comment, Mr. Edwards closed the public hearing at 7:17 p.m.

Ms. Twombly moved to approve the requested expenditures from the Invasive Species Control Fund, totaling \$29,625. Mr. Avellani seconded the motion, which passed 3-0.

Mr. Edwards noted that the second public hearing cannot begin prior to 7:30 p.m., as posted. Therefore, he will proceed with other agenda items.

2. Appointments

a) Leigh Nichols and Seth Garland re: Proposed Truck Purchase – Mr. Garland was able to obtain competitive bids for the FL M2 106, as directed by the Board of Selectmen. This is a 4 wheel drive 6-wheeler, planned to replace the existing 5500. The Freightliner will be capable of more of a work load. The price quoted includes all equipment needed, but is not loaded. If approved and ordered, the vehicle would likely be delivered in early fall. Mr. Avellani asked whether the vehicle would need to be sealed. Mr. Garland stated it comes factory sealed, then would be resealed by the Town each year. Mr. Edwards suggested that eventually the Town should consider construction of a cleaning bay. With this purchase all Highway vehicles (other than the pick-up truck) would be Freightliner models. **Mr. Avellani moved to accept the bid of Freightliner of Londonderry for the FL M2 106 in the amount of \$159,688, to be paid from the Highway Truck Capital Reserve Fund, which has an anticipated balance of \$186,774, thereby leaving a small amount in the CRF for next year. Ms. Twombly seconded the motion, which passed 3-0.**

Public Hearing to Ratify Town Vote of March 16, 2017 – Mr. Edwards opened the public hearing at 7:30 p.m. No public comment was forthcoming, and Mr. Edwards closed the public hearing at 7:30 p.m. Mr. Edwards read aloud the following statement from the Resolution: “After a properly noticed public hearing on this date in accordance with the provisions of HB 329 which was passed into law on April 21, 2017, we do hereby ratify the 2017 Town Meeting and all actions taken by the legislative body by vote of the people on March 16, 2017.” **Mr. Avellani moved to ratify the 2017 Town Meeting and all actions taken by the legislative body by vote of the people on March 16, 2017, as read by Mr. Edwards. Ms. Twombly seconded the motion, which passed 3-0.**

1. Unfinished Business

a) Article #20 – Drew Mill Dam – Mr. Edwards advised those present that legal counsel has advised that the Town cannot legally fund this article. Mr. House questioned the rationale behind such advisement when both the Fire Chief and the Police Chief spoke in favor of this article at Deliberative Session as supporting the “public good.” Mr. Edwards stressed that the Board members are not necessarily against the project; however, legal counsel has advised it is not legal for the Town to spend these funds. Mr. House referred to the significant number of non-profit organizations that are given funds as part of the Town budget. In addition, the Fire Chief spoke to an article for funds to side the East Wakefield Fire Station (which is a Town building), which was apparently left out of the Town’s budget. Mr. House does not see a difference between these cases and Article #20.

Mr. Mankus stated that members of the legislative body were aware of the controversy involved and had opportunity to educate themselves about the issue. The article was not killed at Deliberative Session and the voters supported it. Mr. Mankus suggested that Town Counsel should be on the side of the voters. According to Mr. Mankus the Conservation Commission has contributed \$9000 towards a watershed study as part of this project. He added that all discussions [between the Board of Selectmen and Town Counsel] took place in non-public session and the voters should be allowed to know what those discussions were.

Mr. Avellani stated that Town Counsel works on behalf of the taxpayers. In this case the voters are asking to spend taxpayers' money. Town Counsel works on behalf of the taxpayers and the Town to ensure proper use of taxpayers' funds. Mr. House referred to former Town Administrator Teresa Williams having stated at Deliberative Session that the NHMA legal staff advised that Article #20 was ok but must serve the public good. Mr. Mankus received similar information from the Department of Revenue Administration. He indicated that Town Counsel may not be applying all available information objectively.

Mr. Edwards stressed that Mr. Mankus does not have a great relationship with Town Counsel. Town Counsel's opinion may differ from that of Mr. Mankus; however, Town Counsel is working on behalf of the Town and its taxpayers. At this point the Board of Selectmen is under advisement not to expend funds for Article #20. Mr. Mankus stated that the Town previously spent money because Town Counsel said something was not legal. After 12 years, it turns out that Town Counsel was wrong. He added that this poor non-profit will have to suffer under this Board's Wizard of Oz approach. He suggested calling DRA for a second opinion. Mr. Avellani stated that DRA would likely say the Article was legal; however, that does not mean the expenditure therein is legal. Ms. Collins added that any petition signed by 25 registered voters is legal to appear on the Town warrant. That does not mean, however, that the expenditure referenced in that article is legal.

Mr. Edwards added that it is natural for the Board to contact Town Counsel for legal advice. The Board was clear at the beginning that the legality of this expenditure was in question. Ms. Collins will request a brief synopsis from Town Counsel to be shared with the public. Mr. Knisley questioned why Town Counsel was not present. Mr. Edwards advised it does not make sense to pay for Town Counsel to attend a meeting to do the job of the Board of Selectmen.

Ms. Perry asked whether there is a vehicle to establish a specific fund for the Union Dam, similar to that established for invasive species control. Ms. Collins will attempt to determine that.

Mr. Avellani moved to take Article #20 off the table. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Dube spoke to the volunteer effort for this project, adding that the Village of Union will not give up. Mr. Mankus spoke to the role of each lawyer on opposite sides of an issue. He questioned where the opposing voice comes from when the Town holds private meetings. Mr. Mankus added that the Board should hear both sides of an argument from fully qualified people. Ms. Collins noted that Town Counsel was at Deliberative Session and must have heard both sides. She also advised that no closed session was held to discuss Article #20. Ms. Collins will be asking Town Counsel to either release his Opinion (currently noted as Attorney/Client privilege) or to provide a synopsis for public view.

Ms. Perry asked whether it is also illegal for the Town to expend funds on other dams. Mr. Edwards advised that the Town has not spent funds on other dams. Ms. Perry then referred to funds given to area lakes. Ms. Collins stressed that the lakes received funds in accordance with an expendable trust fund established via NH RSA.

Ms. Collins questioned whether the Board would like her to obtain an opinion from another municipal attorney. The Board felt that is not necessary at this time. **Mr. Avellani moved not to fund Article #20 of the 2017 Town warrant. Ms. Twombly seconded the motion.** Mr. Edwards is concerned that such a vote at this time would close all avenues for this group. Ms. Collins stated that the Board could reconsider this action at a later date if new information comes forth. If the funds are not expended by year-end and we receive notification that UVCA plans to bring suit, the auditors would identify the referenced appropriation as “assigned funds.” Meanwhile, she will attempt to determine whether there is an avenue to establish a specific fund for this project. **Mr. Avellani withdrew his motion. Ms. Twombly withdrew her second.**

Mr. Avellani moved to keep Article 20 of the 2017 Town warrant on the table. Ms. Twombly seconded the motion, which passed 3-0.

3. Unscheduled Matters/Public Comment #1 – None forthcoming.

4. New Business

a) Septage Solids Spreading at WWTF – Ms. Collins advised that the solids have not been spread since 2010, and DES is asking why it has not been spread as permitted. Apparently, the previous Town Administrator had anticipated that the Department of Public Works could address this. However, the current Director of Public Works has done some research and has determined that the Town does not have the proper equipment to accomplish this within DES parameters. Therefore, Leigh Nichols and Ms. Collins will develop an RFP for this project. It is hoped to have the RFP available for review at the next Board meeting. In 2010, the project cost the Town \$10,000.

b) MS 535 – Ms. Collins stated this is a report of the audit and will be used to set the tax rate. Basically, it is the Town’s balance sheet. **Mr. Avellani moved to approve the MS 535 as prepared. Ms. Twombly seconded the motion, which passed 3-0.**

c) PSB II – Sheetrock and Plumbing Bids – Mr. Edwards advised that 2 bids were received for the sheetrock project—one in the amount of \$22,800, the other in the amount of \$20,813 from Integrated Drywall. The subcommittee recommends the bid from Integrated Drywall. **Mr. Avellani moved to accept the bid from Integrated Drywall in the amount of \$20,813, as recommended by the subcommittee. Ms. Twombly seconded the motion, which passed 3-0.**

As only 1 bid was received for the sprinkler project, it will be re-advertised. A brief discussion followed regarding the steps of this project.

5. Proposed Capital Reserve Fund Expenditures – None forthcoming.

6. Correspondence – None forthcoming.

7. Unscheduled Matters/Public Comment #2

--Mr. Comeau noted that at the last meeting, AWWA spoke of the Bonnyman Road project, stating that the grant pays for supplies, while the labor is provided by the Town.

He asked whether there is an accounting of time supplied by the Town's Highway Department. Ms. Collins provided same, including equipment costs, noting she had pulled that information together at the request of Mr. Avellani in order for him to have sufficient background on the project. Tracking the Town's time is necessary as part of the grant project. Ms. Collins advised that the grant covers only the materials used; the Town supplies labor and equipment. The grant total to date is \$6802; however, more work is anticipated to occur later this year. We have until the end of December 2017 to complete the project. Mr. Comeau noted the importance of protecting our watershed.

8. Administrative Matters

a) Town Administrator's Update

--Ms. Collins will be out much of the day on Friday.

--Ms. Collins will be reminding department heads (via memo) of necessary steps of the hiring process. A brief discussion of that process ensued, including paperwork necessary prior to a new hire beginning work. Ms. Twombly asked whether an individual can start work prior to the Town receiving results of a criminal background check. Ms. Collins noted that depends upon the position for which one is hired, although new employees are generally hired "pending successful completion of the hiring process." Mr. Avellani was advised that the process is the same for all departments, although some departments likely have their own process as well.

b) Building Permit Releases – Mr. Avellani moved to approve a building permit release for Taylor on South Dorr Way, as presented. Ms. Twombly seconded the motion, which passed 3-0.

c) Committee Membership Appointments – The ZBA has recommended the reappointment of Donna Martin as an alternate for 3 years. Ms. Twombly moved to reappoint Donna Martin as an alternate to the Zoning Board of Adjustment for a term through March 2020, as recommended. Mr. Edwards seconded the motion, which passed 3-0.

d) Payment Manifests – Mr. Avellani moved to approve PR #13 in the amount of \$68,237.38. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Avellani moved to approve AP #16 in the amount of \$43,353.69. Ms. Twombly seconded the motion, which passed 3-0.

e) Petition and Pole License – Ms. Collins noted that there is no signature block for the Board; however, there is space for the Town Clerk to sign. She suggests we work with Town Clerk to tighten up this process and reduce the likelihood of abatement applications from utilities. Mr. Avellani moved to authorize Valerie Ward to execute the current pole license agreement request and to have the Chair of the Board of Selectmen execute the document as well. Ms. Twombly seconded the motion, which passed 3-0.

f) Minutes – Ms. Twombly moved to approve the minutes of May 10, 2017, as presented. Mr. Avellani seconded the motion, which passed 3-0.

Mr. Edwards moved to approve all Non Public minutes of May 10, 2017, as presented. Mr. Avellani seconded the motion, which passed 3-0.

g) Selectmen's Work Session

--Mr. Avellani noted that the State allows the Town to locate a sign identifying a business district on Route 16 at the corner of Route 109. Several businesses in the downtown area do not qualify for individual signs, and this would be a way to promote those businesses. He believes there is an application form. Ms. Collins will investigate, including any costs involved.

--The new Town sign erected at the corner of Routes 16 and 109 lists the phone number of Town Hall (522-6205) but refers to the Chamber of Commerce. Hmmm.

Mr. Avellani moved to adjourn at 8:51 p.m. Ms. Twombly seconded the motion, to which all agreed.

Respectfully submitted,
Toni Bodah, Secretary

Approval of Minutes:

Richard C. Edwards, Chairperson

Connie Twombly

Lino Avellani