

BOARD OF SELECTMEN REGULAR MEETING
Minutes of 03-21-11
5:30 p.m.

Selectmen:

Colette Worsman, Acting Chairman
Peter F. Brothers
Miller C. Lovett
Nathan J. Torr
Herbert R. Vadney

Town Manager:

Phillip L. Warren

Recording Clerk:

Karin Landry

Call to Order: Acting Chair Colette Worsman called the meeting to order at 5:30 p.m. She introduced the Board, including newly elected Selectman Herbert Vadney, the Town Manager, and the Recording Clerk, and made announcements pertaining to fire exits, listening assisted devices, the use of microphones, and cell phones.

ACCEPTANCE AND/OR CORRECTION OF MINUTES:

11 -08 Minutes of the February 7, 2011 Meeting and the February 14, 2011 Meeting.

Selectman Brothers motioned to accept the minutes of the February 7, 2011 Meeting and the February 14, 2011 Meeting, as presented. Seconded by Selectman Torr. 5-0. All in favor. Motion passed unanimously.

TOWN MANAGER'S REPORT:

- The Town Manager updated the Board on the Winnepesaukee River Basin Project (WRBP). A pre-bid conference for the UV disinfection system will take place tomorrow. The bids will come before the Advisory Board for consideration, and a decision whether or not to proceed will be made at that time.
- Control panels for the SCADA monitoring system for the water department are in the process of being installed. Once completed, there will be real time monitoring and flow pacing of the water and sewer system, particularly the water system.
- Temporary measures have been taken to remedy cracks in the walkway leading to the main entrance of Town Hall, and permanent steps will be taken once temperatures rise. The Town Manager is not confident with patching the area, and must consider replacing the walkway. The walkway is a trip hazard, and is not compliant with access for those with disabilities. The Town Manager will come before the Board with a proposal to correct the situation in the not too distant future.
- A questionnaire was received from the Department of Transportation regarding the status of public railroad crossings in Town. The Town Manager inspected the crossings, and found that a majority of the crossing have already been serviced. He will report the findings to DOT.

- The school roundtable meeting was cancelled due to the schedule of the House and Senate. The Town Manager asked the Board to consider whether they want to reschedule the meeting, because he believes the process might have come to an end. While the Town of Meredith actively participates in the meetings and has concerns, they are not as much of a concern for other members of the School Board, and often times issues end up being discussed that should be discussed at the School District meeting. As an alternative, he suggested the Board discuss and comment on any items brought up at School Board meetings, if and when they occur.

VISITOR'S AND RESIDENT'S COMMENTS:

None

SELECTMEN COMMENTS:

Selectman Brothers updated the Board on the Greater Meredith Program annual meeting, which was held on March 10. In addition to the election of officers, there were presentations on the various programs the GMP was involved in over the past year, including fundraisers, the facade and site improvement grant program, the beautification program, and the career partnership with Interlakes High School and local businesses. Attendance was lower than usual, but could be a result of an issue with mailing invitations.

Selectman Worsman updated the Board in her capacity as a Belknap County Commission delegate. The public hearing for the 1.5 million bond issue for the installation of a zip line at Gunstock Mountain Resort is tonight, and the final hearing is scheduled for next Monday at 6 p.m., at the Belknap County Complex. In addition, in her capacity as a member of the New Hampshire House, she reported on the work of the Finance Committee. A line by line review of the budget was made by the three divisions of the Committee, and a briefing of summaries of the divisions was made today. The intention of the Committee is that there will be no push backs in the budget to cities and towns. As the budget leaves the House, all push backs that can be identified in the governor's budget have been reversed. The final vote on the House side of the budget is scheduled for next Thursday. She will keep the Board updated on the matter as the process proceeds.

Selectman Lovett reported that the Water Committee will come before the Board with its eighth report in about a month. The Committee is in the beginning stages of determining whether the system should be maintained in the area it now exists, expanded a limited amount, or expanded considerably. An important part of the investigation is exploring the possibility of another water supply in the event there is a contamination of Lake Waukewan or a breakdown in a major element of the system. A dozen areas have been identified as potential groundwater supplies. It is hoped that there will be a lot of public interest in the report.

NEW BUSINESS:

11-09 Reorganization.

The Town Manager acted as moderator for the reorganization of the Board. He solicited nominations for Chairman.

Selectman Lovett moved that the Board nominate Colette Worsman as Chairman for the coming year. Seconded by Selectman Brothers.

Selectman Torr moved that the Board nominate Peter Brothers as Vice Chairman for the coming year. Seconded by Selectman Vadney.

Selectman Lovett spoke in favor of the nomination of Colette Worsman as Chair. She served as Vice-Chair over the past year, and presided over approximately half the meetings because of health problems faced by the Chair. She has done an excellent job doing so, and the fact that she was nominated as Vice Chair is an indication that she is qualified to serve as Chair if the circumstances require it.

Both nominees accepted the nomination.

Vote to elect Colette Worsman as Chair: 4-1. Motion passed. (Selectman Torr opposed.)

Chair Worsman nominated Peter Brothers as Vice Chair for the coming year. Seconded by Selectman Vadney.

Selectman Torr nominated Selectman Lovett to serve as Vice Chair for the coming year.

Motion fails for lack of Second.

Vote to elect Peter Brothers as Vice Chair: 5-0. All in favor. Motion passes unanimously.

The following appointments were made for SelectBoard representatives to various committees:

Planning Board: Peter Brothers, Ex Officio; Nate Torr, Alternate

CIP Advisory Committee: Miller Lovett, Primary; Peter Brothers, Alternate

Water System Advisory Committee: Herbert Vadney, Primary; Miller Lovett, Alternate

Waukegan Watershed Advisory Committee: Nate Torr, Primary

Belknap County Economic Dev. Corp.: Herbert Vadney, Primary; Miller Lovett, Alternate

3/25 Project Advisory Committee: Herbert Vadney, Primary; Colette Worsman, Alternate

Trustee of the Trust Funds: Miller Lovett, Primary

Meredith Energy Committee: Nate Torr, Primary; Peter Brothers, Alternate

The Town Manager will notify the respective Boards of the appointments. In an effort not to overwhelm the Board, the Town Manager will make a recommendation at the next meeting for the appointment of a staff member to serve on the Lakes Region Public Access Board.

11-10 Appointment to the Village Pathways Committee

Village Pathways Committee Chair Liz Lapham recommends the appointment of Sandra Sabutis to the Committee. A volunteer application was completed by Ms. Sabutis, and provided for the Board's review.

Selectman Brothers motioned that the Board approve Sandra L. Sabutis as a representative of the Meredith Village Pathways Committee. Seconded by Selectman Lovett. 5-0. All in favor. Motion passed unanimously.

Recognition of Service:

Dick Davis of the Public Works Department is retiring after 20 years of service to the Town of Meredith. Those that worked with Mr. Davis will miss his wit and institutional knowledge. The

Board expressed their gratitude and best wishes for Mr. Davis upon his retirement, and presented him with a certificate acknowledging his service to the Town.

11-11 Consider Request for ZBA Re-Hearing

Residents Duncan McNeish and Charles Braxton have made a request that the SelectBoard appeal the variance granted by the Zoning Board of Adjustment in Application/Petition No. 2943 to Foundry Avenue Realty Trust on March 10, 2011 for the property at Tax Map 23, Lot 46. The request is in accordance with RSA Chapter 677.

Resident Charles Braxton presented the Board with a letter he composed, and read it for the record:

In accordance with the NH RSA under Planning and Zoning, Chapter 677 and others, we request that the SelectBoard move to repeal, rehear, and seek to set aside the variance granted in the application of Petition 2943 by Foundry Ave. Realty Trust on March 10, 2011 for the property at Tax Map 23, Lot 46. Duncan McNeish, who is a resident and owner of waterfront property on Lake Waukewan and myself, with beach deeded lake access to Lake Waukewan, are joined by certain other property owners on Lake Waukewan in this request. The members of the Board of Adjustment who heard this application are Messrs. Goodheart, Pelczar, Flanders, Thorpe and Clark.

Statement of Position:

We believe the variance must be set aside and rescinded because the Board of Adjustment did six things:

- Failed to safeguard Lake Waukewan;
- Failed to present zoning district creep for the 2009 amendment to the ordinance;
- The Board overstepped its authority by redefining the boundaries of a zoning district where no uncertainty existed;
- Failed in finding that applicant met all the criteria for granting a variance;
- Disregarded letters submitted by two of your department heads that provided an adequate basis for not granting the variance under the statutory criteria; and
- Did not contain a complete and accurate finding of facts regarding the property and the application.

We also request that given the greater purpose of this request for appeal that the SelectBoard move to waive any and all town fees for the filers, should we decide to submit this appeal directly to the Board of Adjustment. If this variance is not vacated on rehearing, the filers are prepared to elevate this matter to the courts.

Resident and member of the Waukewan Watershed Advisory Committee Bruce Bond supports appealing the decision to the ZBA for further review. The Town of Meredith and the Waukewan Watershed Advisory Committee have been working cooperatively to protect water quality within the watershed for the last seven years, and saying that he is surprised that the ZBA approved the application is a serious understatement. If the Town knew what it knows now 75 years ago, there would most likely be no commercial development permitted within the watershed.

Resident and member of the Watershed Advisory Committee Randy Eifert supports Mr. Bond's statements. Granting the variance is a big step backwards. He is against zone creep, not big

business. The site is approximately 600' uphill from Monkey Pond, which is an important part of the reservoir. He does not support taxing the area further, and believes that even the best efforts for preventing erosion and natural disasters aren't always effective.

The Town Manager explained the process for appeal. Under RSA Chapter 677, the Board has the ability to apply for a rehearing of the matter. In order to do so, the Board needs to ask the Zoning Board to rehear the matter, stating the specific reasons for the request. The Town's counsel would prepare a rehearing brief, and counsel would be secured for the ZBA, at the cost of the Town, to assist them in the process. Although the SelectBoard does not have authority to appeal the case directly to the Superior Court, abutters and directly aggrieved parties do.

Selectman Brothers acknowledged that citizens have the right to apply to the Board to request a rehearing under the statutes, but the information is extensive and it is a difficult position for the Board to be in. He had an opportunity to do a site inspection, and it is apparent that there are water issues that deserve consideration. The 30-day limit to appeal does not allow the Board to make the decision in an intelligent manner. Part of the Master Plan is to find areas where commercial activity can be segregated. He feels awkward being put in a position of making a decision that can impact people significantly without understanding all the issues and conditions that are at the Board's disposal.

Chair Worsman shares Selectman Brother's unease in making a decision tonight. Under Selectman Lovett's direction, the Board developed a philosophy of introducing issues in the workshop format so a matter can be more fully understood prior to coming before the Board for vote. Although it was decided at Town Meeting that the Board does not have a vote, her concern is that the water supply is downstream from what is now zoned residential.

Selectman Vadney shares the same concerns. Because of the 30-day statute, the Board has to make a decision tonight, or the decision will be made for it by law. The nearness to the Lake must be considered.

Selectman Lovett concurs that the Board does not know enough about the matter, but believes that enough questions have been raised that he does not have a problem voting to refer the matter for rehearing.

Selectman Torr agrees with Selectman Lovett. He understands the hardships on both sides, but his number one concern is water.

The Board must apply for rehearing by April 10. That date cannot be extended by mutual agreement.

Dialogue ensued regarding the language of the motion. The Town Manager explained that the Board would grant the request of the applicants for a rehearing based on the statement of position as set forth by the applicants, and counsel would meet with the requestors to define the language that needs to be included in the hearing notice.

Resident Sandy Mucci attended the ZBA meeting and is impressed with the energy and effort that both they and the SelectBoard put into these matters. The person making the appeal did a very fine job. She is concerned with expanding commercial zones "inch by inch" and believes that a decision must be made to stop doing so at some point. It is hard to spend money on legal fees, but harder to spend money on a new water supply.

Resident Ray Moritz understands the Board's point about not knowing enough to make an immediate decision, but if one is not made today, it will be too late. The Board has the option to withdraw the appeal at a later date, but does not have the option to make an appeal at a later date. He does not believe that preventing uncontrolled residential development in favor of controlled industrial development would protect the environment, or that residential development in an industrial neighborhood is dangerous, and urged the Board to support the appeal.

Resident Duncan McNeish, one of the filers of the appeal, explained that he and Mr. Braxton did the best they could to present the request for appeal as quickly as possible.

There was a general agreement among the Board that asking the ZBA to rehear the matter would be an opportunity for both sides to become better acquainted with the issues.

Selectman Lovett motioned to accept the request as submitted, and to ask for a motion of rehearing based on the statement of position as presented. Seconded by Selectman Brothers.

The Town Manager has the ability to waive the filing fee in matters involving Town activity. The brief submitted to the ZBA by counsel will include the specific items to be reconsidered.

5-0. All in favor. Motion passed unanimously.

OLD BUSINESS:

None

ADJOURNMENT:

Selectman Torr motioned to adjourn the Meeting at 6:55 p.m. Seconded by Selectman Lovett. 5-0. All in favor. Motion passed unanimously.

Respectfully submitted,

Phillip L. Warren, Town Manager

Colette Worsman, Chairman

Peter F. Brothers, Vice Chairman

Miller C. Lovett

Nathan J. Torr

Herbert R. Vadney