

TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL REGULAR MEETING
January 07, 2015
7:00 PM

PRESENT: Council Chairman Gary Levy, Council Vice Chairman Dale Pike, Councilor Dan Wright, Councilor Phil Nazzaro, Councilor Toni Weinstein, Councilor Ed Carmichael

EXCUSED: Councilor John Bentley

ALSO PRESENT: Town Administrator Steve Fournier, Water & Wastewater Director Sean Greig, Public Works Director Rick Malasky, Town Planning/Zoning Administrator Diane Hardy

AGENDA

Chairman Levy welcomed all present and called the meeting to order at 7:02 pm, followed by the Pledge of Allegiance.

PUBLIC FORUM

Chairman Levy opened the Public Forum at 7:02 pm, and asked if anyone present wished to speak.

As no one from the public came forward, Chairman Levy closed Public Forum at 7:03 pm.

PUBLIC HEARING – None

TENTATIVE AGREEMENT WITH THE NEW ENGLAND POLICE BENEVOLENT ASSOCIATION (NEPBA)

Councilor Nazzaro made a motion to approve the tentative bargaining agreement reached between the Town of Newmarket and the New England Police Benevolent Association Local 215, representing Police Employees. The agreement calls for a change to the Police Union Contract dated December 7, 2014. Councilor Carmichael seconded the motion.

Town Administrator Fournier polled the council and the motion passed unanimously, 6-0.

TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES

Acceptance of Minutes of December 17, 2014

Councilor Nazzaro made a motion to accept the minutes of the regular meeting of December 17, 2014, and Councilor Carmichael seconded.

Town Administrator Fournier polled the council and the minutes of December 17, 2014 were approved unanimously, 6-0.

Acceptance of Minutes of December 17, 2014 – Non-Public

Vice Chair Pike made a motion to approve the Non-Public minutes of December 17, 2015, and Councilor Weinstein seconded.

As a number of changes were requested, it was agreed that these would be addressed after the regular meeting, in Non-Public session.

REPORT OF THE TOWN ADMINSTRATOR

Town Administrator Fournier announced that PSNH had come to remove trees that were determined to have a potential impact on electrical service. Working with the Department of Public Works, it was determined that some of the trees along Bay Road should be removed. He added that as Bay Road was a designated “scenic road”, the Town Council would be required to hold a Public Hearing, receive input from the Planning Board, and vote to approve the tree removals. Town Administrator Fournier stated that the first reading of the resolution for the tree removal was part of the evening’s agenda, and that the trees along Bay Road needing to be removed had been flagged by the Director of Public Works. He next addressed the renovations of the Town Hall Auditorium, which included new carpeting and painting, with the Stage area converted into a small conference room. He said that an electrician would be reviewing the wiring and that new tables had been ordered. He also said that Channel 13 was working on updating the speakers and the audio-visual equipment in the Auditorium and the Council Chambers. Chairman Levy asked that the connection be checked as there was only one (1) channel. Town Administrator Fournier further stated that the next steps would involve obtaining prices for renovating the Bathroom on the lower level, as well as the Kitchenette area. Large projects to follow would include upgrading the HVAC system and exploring the possible installation of a generator for the building.

Town Administrator Fournier next addressed the recent mailing from the School regarding Welfare and assistance for the community, which was not included in his written report. He clarified that this mailing was not from the Town, as it was not Town Policy to solicit for Welfare clients.

Discussion: Councilor Nazzaro asked whether there was a CIP plan for Building & Maintenance detailing how the Capital Reserve Funds were being spent. Town Administrator Fournier replied that a lot of smaller items had been included. Councilor Nazzaro added that money was being contributed to the fund, but that no real plan of “how are we using the funds” had been presented. Councilor Weinstein asked whether updating “Equipment” referred to the Auditorium or the small meeting room on the Stage, to which Town Administrator Fournier replied that the Auditorium equipment was being updated, but that any needed updates in the conference room would also be done. Councilor Weinstein then asked if the small conference room would have Channel 13 capabilities. Town Administrator Fournier replied that it would not, but that the Auditorium cameras, sound and lighting would be improved. Councilor Weinstein next addressed the School mailing, clarifying that it had nothing to do with “soliciting for Welfare”, but was merely a list of resources available to the community of which Welfare happened to be one. Councilor Wright asked for the status on the lighting, and Town Administrator Fournier replied that the wrong lights had been ordered which was causing the delay. Chairman Levy

brought up the project of new technology being introduced by PSNH, as unveiled at the Durham Town Council meeting, with Durham to be part of the program. He added that whatever this new technology consisted of, over the next decade the State would be converting the technology system. He stated that he wanted to know more about the program, what its advantages would be, and whether Newmarket could be included in a possible pilot program.

Vice Chair Pike then went back to the issue of the mailing, saying that from what he had understood, more was included than just resources available. Councilor Weinstein explained that she and a friend had bought the paper, done the photocopying, and posted the mailings which were paid for by the School. She added that this was approved by the Superintendent to go out to all families. Chairman Levy said that he had asked the Superintendent who had approved the project and that the Superintendent had told him he would find out as he did not know. Chairman Levy felt that taxpayer funds should not have been used for the \$66.00 postage for the mailing.

OLD BUSINESS

ORDINANCES AND RESOLUTIONS IN THE 2ND READING

Resolution #2014/2015-36 Authorize Town Administrator to Enter into Two (2) Contract Amendments with Hazen & Sawyer, PC for Engineering Services Related to the Development of the MacIntosh Well

Councilor Nazzaro made a motion to accept *Resolution #2014/2015-36 Authorize Town Administrator to Enter into Two (2) Contract Amendments with Hazen & Sawyer, PC for Engineering Services Related to the Development of the MacIntosh Well*, and the motion was seconded by Councilor Weinstein.

Water & Wastewater Director Sean Greig gave an overview of the two (2) developments which had arisen regarding the MacIntosh Well. He stated that the first part included the necessity of an Archaeological Survey being done due to the location of the project, as several of the test holes had produced "materials that could have been used as tools". As a result of these findings, a Stage II Archeological Study had been triggered in the small area with a cost of \$15,000. Water & Wastewater Greig said that to avoid this Stage II study, Hazen & Sawyer had proposed moving the water line location, at a cost not to exceed \$4,800, avoiding the area completely. Chairman Levy asked what would happen if something was also found in the new area proposed, and Water & Wastewater Director Greig replied that the area had already been cleared and the State had approved it. He added that they had also agreed to rope off the area at issue to restrict access, but that the easement and water line needed to be moved. Chairman Levy asked whose property would be impacted as a result of moving the easement, and Water & Wastewater Director Greig replied that Fish & Game had control of the area and were fine with the change. Councilor Nazzaro asked whether anyone had been notified regarding the Archeological findings, and Water & Wastewater Director Greig replied that UNH had been involved. Councilor Wright questioned whether more artifacts might be found when the horizontal drilling was done, and Water & Wastewater Director Greig replied that they did not have to dig in the wetlands themselves. Chairman Levy asked whether the State would force the Stage II study if the Council voted against moving the water line. Water & Wastewater Director Greig said that the State would force the Stage II study, and that this kind of study was part of the contract.

Councilor Carmichael asked for a description of the second part of the resolution. Water & Wastewater Director Greig stated that the second part involved the need to do a horizontal drill underneath the wetlands, and that Hazen & Sawyer had proposed breaking this out of the project and bidding it separately. They had told Water & Wastewater Greig that the cost for the directional drill would be \$171,000, but by breaking it out of the project, a substantial amount of money could be saved. Water & Wastewater Director Greig explained that as part of the contract, the general contractor had to add 20% on top to cover all his costs (overhead). Chairman Levy questioned why this had not be done with the original proposal. Water & Wastewater Director Greig stated that they were not sure at the beginning of the project of the cost of the directional drill. Councilor Nazzaro then asked for further explanation of the second part. Water & Wastewater Director Greig explained that Hazen & Sawyer had proposed increasing the current contract of \$259,100 to \$271,700, to supply plans for bidding, supply contracts, walk-throughs, and do the bidding and bidding recommendations as an addendum to the current contract. He further explained that when bidding a project, a complete set of plans and bid documents was needed, and that this change would involve two (2) separate bids. Councilor Nazzaro asked how money would be saved by bidding the projects separately. Vice Chair Pike offered that if everything was in the "big bucket", the contractor would charge 20% extra overall, but that taking the second part out and bidding it separately, the 20% would not be added. Water & Wastewater Director Greig added that they would then be the general contractor, and that he would be overseeing the project. Vice Chair Pike then pointed out that there was a \$100 error in the math in the resolution and that the new total should be \$271,800. Councilor Nazzaro then amended his motion to \$271,800 and Vice Chair Pike seconded. Chairman Levy again asked why Hazen & Sawyer had not known the scope of the project at the beginning, and Water & Wastewater Director Greig said that the scope originally was to bid as one project. Town Administrator Fournier explained that what the Town would be paying the engineer was going up but what they were doing for construction was going down. He added that the reason this had come before the Council, was that the original contract he had signed was for \$259,100 and the changes needed to be reviewed and approved. Councilor Nazzaro pointed out that it would be nice to see the actual contract with all the financial elements of the project. Town Administrator Fournier asked Water & Wastewater Director Greig to provide a project budget, showing transfers from with each project presented, in the future.

As there was no further discussion, Town Administrator polled the council and the motion to approve *Resolution #2014/2015-36 Authorize Town Administrator to Enter into Two (2) Contract Amendments with Hazen & Sawyer, PC for Engineering Services Related to the Development of the MacIntosh Well, for \$271,800*, was approved unanimously, 6-0.

Resolution #2014/2015-37 Acceptance of Fox Hollow Drive as a Town Road

Vice Chair Pike made a motion to approve *Resolution #2014/2015-37 Acceptance of Fox Hollow Drive as a Town Road*, and Councilor Weinstein seconded.

Town Planning/Zoning Administrator Diane Hardy Diane Hardy provided an overview of the resolution. She stated that Fox Hollow was a 14-lot cluster development approved in 2003 by Biltmore Newmarket, LLC. She said that in 2006 she had done an inspection of the property with Public Works Director Rick Malasky, and a list of items needing to be addressed had been compiled. Within a year of that inspection, engineers reported that all issues had been addressed and they were then ready to

move forward with a proposal to accept the road. Town Planning/Zoning Administrator Hardy then stated that several concerns had been raised by abutters regarding site distance and traffic safety and that an engineer had been hired for an analysis. She added that the Planning Board had also revisited the issue and made recommendations. As a result, clearing and cutting of trees had been done and Public Works Director Malasky and his crew had cut back and reshaped the embankment. She had then received a request from Mr. Steve Wheeler, Chairman of the Homeowners Association, asking that the Town formally accept the road, and she had a deed signed by the developer ready to be recorded. She added that the Town had been maintaining the road since approximately 2011. Chairman Levy asked if all the complaints had been addressed. Public Works Director Malasky said that trees had been cut in the last person's yard to see more clearly down the hill, and that after removing trees and cutting the slope back several feet and reshaping it, the sight line when pulling out had been much improved. Town Planning/Zoning Administrator Hardy said that at one point they had been hoping to call a Performance Bond on the project to provide funds to the Town for the project, but that the bond had expired. Councilor Carmichael asked whether any sidewalks would need to be added and Town Planning/Zoning Administrator Hardy replied that they would not. Town Administrator Fournier also pointed out that since the Town was already maintaining the road, that they owned it by State law. Councilor Nazzaro then asked the condition and length of the road, and Public Works Director Malasky replied that the road was ten (10) years old and in good shape and that the road was about 1,200 feet in length.

As there was no further discussion, Town Administrator Fournier polled the council and the motion to approve *Resolution #2014/2015-37 Acceptance of Fox Hollow Drive as a Town Road* passed unanimously, 6-0.

ORDINANCES AND RESOLUTIONS IN THE 3ND READING - None

ITEMS LAID ON THE TABLE - None

NEW BUSINESS/CORRESPONDENCE

TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS - None

ORDINANCES AND RESOLUTIONS IN THE 1ST READING

Resolution #2014/2015-38 Dedication and Naming of the Large Room Located in the Sunrise Sunset Center for Martha Sandy McNeil

Chairman Levy read the resolution in full.

Resolution #2014/2015-39 Approval of the Fiscal Year 2016 Default Budget

Chairman Levy read the resolution in full. He asked if the amount was a "guesstimate", and Town Administrator Fournier replied that it was actual.

Resolution #2014/2015-40 Approving the Cutting of Trees Along a Scenic Road – Bay Road

Chairman Levy read the resolution, leaving out the list of trees at the end, which was agreeable to the council.

COMMITTEE REPORTS

Chairman Levy said that he had forgotten to open Committee Reports, and asked if anyone had anything to report.

Vice Chair Pike stated that the Budget Committee had their second meeting on the School Budget, with the Public Hearing scheduled for Monday, January 12, 2015. He reported that he would be away on vacation and asked if an alternate councilor should be appointed. Town Administrator Fournier replied that the Town Council itself would need to appoint the alternate. Chairman Levy asked for volunteers adding that warrant articles would be addressed at the meeting. Town Administrator Fournier added that they would also be voting on collective bargaining and that if the Council voted “yes”, the alternate councilor would also have to vote “yes” at the meeting. Councilor Weinstein volunteered to sit in place of Vice Chair Pike. Councilor Carmichael made a motion to formally appoint Councilor Weinstein and Councilor Wright seconded. The motion passed the council unanimously, 6-0.

Chairman Levy gave a brief update on the School Joint Advisory Committee. He said that the recommendation from the Consultant had been to extend the date to complete the work as it was as yet incomplete, and that three (3) viable options had been identified. These options potentially included a new facility, an addition/renovation, and tuitioning. He voiced that he strongly recommended the committee complete their work before going forward with any warrant articles or votes, and that a progress report by Mr. Randy Bell was available for online review.

Correspondence/Closing Comments

Councilor Weinstein brought up the issue of Harvest Way, saying an official response to them from the Town would be helpful. Town Administrator Fournier stated that a separate attorney needed to be found, as the original agreement was signed by Newmarket and Epping and they currently had the same attorney. He added that they needed to define what the words “in perpetuity” meant as signed between the two towns, and that if he had represented Epping in signing the contract, someone else would need to proceed. Councilor Weinstein also requested that some form of child care be provided by the Town at the deliberative session, to help people be able to attend, as the School usually covered their part of the session. Town Administrator Fournier asked if she wanted the Town to just do their part of the session or to cover all of it, and she replied it would be helpful to have something available. Lastly, Councilor Weinstein addressed the mailing stating that it was the same forum she had previously emailed to the council mentioning that it would be distributed. She added that she understood the concerns regarding the \$66.00, but felt that getting the resources out to the public trumped that in her opinion.

ADJOURNMENT

Town Council
January 07, 2015 - Regular Meeting

Councilor Nazzaro made a motion to move into Non-Public and Vice Chair Pike seconded. The motion to move to Non-Public was approved by the Council 6-0.

The regular meeting ended at 8:01 pm, and was later adjourned after the corrections to the minutes of the Non-Public session.

Respectfully submitted,

Patricia Denmark, Recording Secretary.