

TOWN OF LITCHFIELD BOARD OF SELECTMEN

May 11, 2015

Selectmen's Meeting

Members Present: Steven D. Perry, Chairman
John R. Brunelle, Vice Chairman
Frank A. Byron
Kevin C. Bourque

Absent: Brent T. Lemire - Excused

Also Present: Jason Hoch, Town Administrator

5:00 p.m. Paperwork review
6:00 p.m. Call to Order
7:30 p.m. Non-Public Session - RSA 91-A:3,II(a) - Compensation

Pledge of Allegiance

Review of Items for Consent:

1. Minutes of April 27, 2015
2. Approval of Account Payable Manifest (\$13,053.62)
3. Approval of Payroll Manifest (\$41,472.55)
4. Timber Tax Warrant - Map 15, Lot 2
5. Administrative Abatement - Map 2, Lot 54
6. Tax Warrant - \$8,460,421.50 - Due July 1, 2015
7. Administrative Abatement - Tax Collector Timber/Gravel Warrant of April 27, 2015
8. Race for Remission - Road Race - May 23, 2015

Approval of Consent Items

Selectman S. Perry reads aloud the Items for Consent

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the items for consent

Selectman K. Bourque **seconds** the motion. **Vote carries 4-0-0.**

Request for Items - Other Business

Selectman F. Byron would like to discuss and review bills from this week that were past due.

Administrator Report

New Business

Fire Forestry Truck Replacement (Article 8)

Administrator J. Hoch mentions that at Town Meeting Article 8 was approved, which allows the Fire Department to purchase for replacement a new Forestry truck. Jason mentions that Chief

Fraitzl has been checking for possible vehicles since March and has followed three viable leads. He had one additional truck evaluated, the Board may have seen an invoice from Fleet Ready a few weeks ago. J. Hoch has provided the Board with the Chief's recommendation for the purchase of a 2004 Ford F550 crew cab truck from Auto Wholesalers in the amount of \$14,999, plus document and title fees of approximately \$150. He states that Chief Fraitzl and FF.Mechanic Fecteau have inspected the vehicle which will come with a state inspection, 20 day plates and a 30 day/1000 mile warranty. They both are comfortable this vehicle is in good condition and believe it will be a good fit for the intended purpose.

Administrator J. Hoch mentions that the Warrant was for \$20,000 and they will be using the balance for the set-up of the vehicle.

Selectman S. Perry asks how much remaining set-up is needed on the vehicle. Jason states that the body will have to be removed and the Fire Departments equipment mounted on, as well as painting.

Selectman K. Bourque would like to know if any money will be recouped from the possible sale of the box being removed from the back of the truck. Jason states he is not sure yet.

Selectman F. Byron would like to know how the Warrant Article was worded, if it was for the purchase only (set-up not included) of a replacement vehicle for the Fire Department.

Administrator J. Hoch states it reads - to raise and appropriate the sum of \$20,000 for the replacement of the utility vehicle used by the Fire Department.

Selectman F. Byron asks Jason if he is comfortable with this wording, to cover using the balance for the set-up of the vehicle as well.

J. Hoch states that he is very comfortable, this is to replace and set-up a replacement vehicle to be used for the same usage.

Selectman K. Bourque discussed if the skid on the old vehicle will be mounted on the new vehicle, and will the bed from the new vehicle be mounted on the old and will the remaining \$5,000 balance be enough to complete this work.

Jason states that is the plan, however he is not sure if there are any issues in doing this.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the purchase of the 2004 Ford F-550 crew cab truck as recommended by Chief Fraitzl, and not to exceed \$16,000.

Selectman S. Perry **seconds** the motion.

Selectman F. Byron **amended** the motion to recommend that Chief Fraitzl purchase and retro-fit the vehicle stated, including document and title fees, not to exceed the amount of \$20,000.

Selectman J. Brunelle **seconds** the amendment.

Selectman S. Perry asks the Board of Selectmen to vote on the **amendment** to the motion.

Vote carries 3-0-1.

Selectman S. Perry asks the Board of Selectmen to vote on the original amended **motion**.

Vote carries 3-0-1.

Old Business

Pipeline Update - Shared Counsel, Regional Coalition

Administrator J. Hoch mentions that at the last BOS meeting it was discussed if Litchfield should share in legal counsel and services with a Municipal Coalition. He states that the Coalition met with two additional lawyers on May 5, 2015. They are considering what direction to take as a

group, the main issue seems to be the degree of engagement through the various parts of the process which include FERC review, Federal/State review, Site Evaluation Committee and the PUC. Jason mentions that a straw poll of the Committee led to a rough split between the two choices. His sense is either of the two will reasonably represent the interest of the group. They will be meeting again next week, and hopefully choose one direction over another.

Jason tells the Selectmen that the Coalition decided they should go back to their Boards and discuss a potential cost. He mentions that the Board decided at the last meeting on a potential commitment of \$20-\$25K could be used toward this in 2015. Jason states that additional money may need to be budgeted for in 2016, given the likely duration of this process.

Selectman J. Brunelle mentions that he felt the Board understood this was a starting point, and felt the community is behind the Board taking action because they do not want this pipeline in Litchfield.

Jason states that the question will remain around at what point does the project stop making sense, and if the process should continue to go forward longer.

J. Hoch tells the Board that there is an interesting issue of Municipal owned land, in multiple Towns. He states that you cannot sell easements or sell property for certain classes of Town property, you need to hold a Town Meeting. So State/Federal laws conflict around eminent domain for public land.

Jason also mention that there is no additional information regarding FERC scoping hearings yet. He mentions that copies of the Boards letter have been sent to 50 impacted officials.

Selectman S. Perry mentions should a Capital Reserve Fund for attorney's fees be set up by the Board.

Selectman J. Brunelle states that the Contingency Fund, which was for this purpose was removed last year.

Board discusses the options and restrictions of these Funds, and feel it may be something to look into at a future meeting.

Selectman F. Byron states that he feels the system the Town has in place now is sufficient. He mentions that setting up a separate fund for just the occasional legal fee does not make much sense. Legal expenses/penalties can be paid from the Town's General Fund, they do not have to be a budgeted item.

Jason states this can be done, however not easily.

Policy Review

Fraud Policy

Selectman F. Byron states that in this policy it states that a Manager/Supervisor makes sure that an individual is familiar with the policy and requires a form to be signed stating so. He would like to know if this infers that if you signed off on the policy last year as a new employee and the Board changes this policy this year, do new forms need to be signed by employees.

Administrator J. Hoch states that no in the last paragraph the policy states it will be reviewed annually by the Board of Selectmen. All applicable individuals shall read, understand and adhere to this policy and will review and accept this policy upon appointment, revisions to policy by the BOS or at least every three years if not other events cause a policy reissue. He states the Board approved the policy in 2012, and distributed it all employees; it was reviewed in 2013

and 2014 but no changes were made to the policy. So if no changes are made it only needs to be distributed to all employees every three years, or signed by any new hires.

Jason states that this is the third year and it will be reissued to all employees because it is easier to track.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the Town of Litchfields **Fraud Policy** as written and presented by the Town Administrator.

Selectman K. Bourque **seconds** the motion. **Vote carries 4-0-0.**

Fund Balance Policy

Administrator J. Hoch states that he has no recommended changes to this policy.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the Town of Litchfields **Fund Balance Policy** as written and presented by the Town Administrator.

Selectman K. Bourque **seconds** the motion. **Vote carries 4-0-0.**

Investment Policy

Administrator J. Hoch states that he reviewed this policy with the Treasurer, and he has no recommended changes to this policy.

Selectman F. Byron mentions that this does not cover the Trustee of Trust Funds

J. Hoch tells the Board that they make their own policy's.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the Town of Litchfields **Investment Policy** as written and presented by the Town Administrator.

Selectman K. Bourque **seconds** the motion. **Vote carries 4-0-0.**

Jason wanted to mention that at the bottom of page 4, it's noted that it is the policy of the BOS to diversify its investment portfolio. Jason states that the best return the Town currently has is with what the standard bank account is offering. It had been with CD's however, rates changed, this may be viable option again in the future. He mentions that he and the Treasurer meet with the bank each year and review what they have to offer and what the best investment might be, and how to offset any fees.

Purchasing Policy

Administrator J. Hoch tells the Board that this policy is not ready for renewal as of yet. He is trying to work through some recommended changes for exceptions and unusual purchases. Largely around the issues of sole source and areas where sealed bids are not necessarily feasible. He would like the Board's input on this regarding the language within the policy. A vendor list was used in the past and it was discontinued last year, he is wondering if it may need to be brought back on a smaller scale. Board discusses this sole source vending option and decides they will review and come back to this policy at a later meeting.

Records Retention Policy

Administrator J. Hoch mentions there were several minor adjustments to this policy after review by the Records Retentions Committee, which is made up of the Town Administrator, Town Clerk/Tax Collector and the Treasurer. It was decided to drop a few items where the Town's retention time exceeded the State requirement, these were mainly in the area of financial

records. At the time this policy was first approved, the Town was still trying to resolve mysteries from the pre-2010 period. Those issues seem to finally be behind us, there have been two years of audits without any unsolved mysteries. So they feel it is reasonable to following State law with the Town's records. He states that one area where they will be exceeding the law would be with payroll. Payroll (by law only needs to be kept until audited plus one year) we are retaining it for four years, because under the law time cards need to be kept for four years and the Town's records are co-mingled.

Selectman F. Byron **motioned** for the Board of Selectmen to approve the Town of Litchfields **Records Retention Policy** as written and presented by the Town Administrator.

Selectman J. Brunelle **seconds** the motion. **Vote carries 4-0-0.**

Public Input

Tyler Matthews 38 Page Road, tells the Board he came for a specific topic, but after hearing a few discussions this evening he has a few questions. About the pipeline and discussion regarding the legal fees, he is wondering if the attorney's will be proactive or reactive. Meaning will they react to whatever FERC's decision is, because if so what is their track record with winning cases against the Federal Government. He thinks it sounds like the lawyer is looking to just get a two year payday out of ten Communities. If they are going to be proactive then what are they going to do that Litchfield or the other Communities combined can't do. These are questions he would like to hear answers to.

Mr. Matthews mentions that a few Board meetings ago when the public came to share information and get updated on news regarding the pipeline. He could not attend that meeting and tried to watch the recorded meeting, but could not find it. He contacted the Cable Committee Chairman and was told it could be viewed on Peg Central, he also knows that some can be viewed on Youtube. Mr. Matthews states there seems to be a disconnect with information, the Town website has a link to Youtube but not Peg Central and he could not find this particular meeting to watch on either.

Selectman J. Brunelle states that there is a link for Youtube because it seems to be a better experience for most viewers. He mentions that it should be on the site, because it was posted right after the meeting.

Mr. Matthews states that his main reason for attending the meeting this evening is to discuss something that Selectman Perry was involved with seven years ago when he was on the Planning Board, which was a development that was to be built on Page Road. He states that when his home was built he shares a driveway that was someday suppose to be developed and finished into a road called Weather Stone Roadway (Planning Board argues that it is his driveway, he disagrees). He states that Mr. Charbonneau owner of Continental Paving has taken over the land, which was suppose to be single family lots. His question to the Board is what is the status of that project or is there a new project in the works. He is looking to also know if the potential is there for the road to be finished and paved.

Administrator J. Hoch mentions that they had a conversation with Mr. Charbonneau earlier this year regarding the full parcel of land he owns behind Mr. Matthews. He is looking to extract the sand/gravel from the property to recoup some of the money he has invested. Then a redevelopment of that parcel into recreation and various amenities for the Town. Jason states

that at this time the conversations have not been about bringing back that approved housing subdivision, with the road Mr. Matthews mentioned.

Administrator J. Hoch states that the request now is for the Town to gather some key members from the BOS, Conservation, Recreation and public to gather and start looking appropriate uses for this site. Any ideas will still have to go through the proper channels such as Planning and Zoning Boards for approval. He states that Selectman S. Perry and he will have to start convening on getting members in place on this Committee. He tells Mr. Matthews that he is not sure what that may entail, or the status of any roadway leading to his home or access to the property behind his.

Mr. Matthews asks if there is any idea of a time line.

Jason states that he has no idea, it would depend on what is proposed and how it will work through the building and development process. He mentions there will be a part that fits Mr. Charbonneau's needs and some would be transferred over to the Town.

Selectman F. Byron states that in his conversations with Mr. Charbonneau he has submitted informal plans to the Town, regarding his intentions on development.

Jason states that he supplied a design assistance plan which shows the parcel and some footprints of recreational land usage for the Town. This shows the areas that the Town can utilize and start planning with the Committee when it is formed.

Selectman F. Byron states that Mr. Charbonneau is waiting for feedback from the Town. He asks Jason if there are any plans that Mr. Matthews can take a look at.

Administrator J. Hoch tells the Board that at this time no, there are no formal plans presented and a Committee still has to be formed. He would be happy to show the rough plan, but it just shows areas where any type of recreational field could be placed. He does not feel it would answer any of Mr. Matthews concerns or questions.

Mr. Matthews states to make things clear, Mr. Charbonneau is looking for this Committee to give feedback as to what this land could be used for, and does he own all the parcels to that development. Selectman F. Byron states that Mr. Charbonneau owns the complete parcel.

Mr. Matthews mentions that if Mr. Charbonneau is looking for input from the public he would volunteer to be part of the Committee and help in any way.

Selectman S. Perry would like to invite Mr. Matthews to be a part of this Committee, but is wondering if being an abutter is a conflict.

Jason states yes and no, but feels that it would be nice to have input and discussion with someone who is directly involved.

Selectman J. Brunelle states that the development at Sawmill, all the abutter were part of those discussion, and feels it would not be a conflict.

Board discusses holding a meeting next week, and asks Mr. Matthews to leave his contact information with Jason and he will be in contact with him.

Selectman F. Byron asks if there is representation for this Committee.

Jason states yes and he has all that information available.

Selectman S. Perry, asks if there are people from the public, and feels Mr. Charbonneau should be asked to attend and give his knowledge and input. Board discusses meeting dates and times.

It is agreed to hold this meeting on May 20th, Wednesday at 7:00pm. Mr. Matthews agrees and

will be present. Jason will reach out to other members for the Committee and Mr. Charbonneau. Board thanks Mr. Matthews for his time this evening.

Board also discusses changing the date for the next Board of Selectmen's meeting that was to be held on May 25th (Memorial Day weekend). Board agrees to move the next BOS meeting to Monday May 18th at 6:00pm, and cancel the one for May 25, 2015.

IT Services

Administrator J. Hoch mentions that at the last meeting discussions involved formalizing the Board's agreement with Selectman J. Brunelle regarding the IT maintenance services he provides to the Town. He has put together an agreement of services, for the type of work that needs to be maintained. As well as any record checks that need to be completed. Jason states that John and Laura (counsel) have reviewed the contract, and are both comfortable with the contents within the agreement.

Selectman J. Brunelle recuses himself from the discussion and steps down from the table at 7:03pm

Selectman K. Bourque asks if John would be using the same individuals as backups he uses now. Selectman J. Brunelle states yes.

Selectman F. Byron asks John if he is comfortable with the contract, and if he feels there will be any conflicts with his current employer. John states that no he has been doing the IT for the Town since 2007, and his employer has had no issues.

Selectman F. Byron mentions that now this becomes an official contract, with him as a vendor.

Selectman J. Brunelle states that he is still a Town employee.

J. Hoch states that he is classified as a "town official", he is not a third party.

Selectman F. Byron states that in the contract he is listed as a "provider". He asks Jason to explain how a "provider" is different from a "town official".

Jason states that because under the honorarium section it states that the "provider" will be considered a "town official" for the purposes of employment classification. He tells the Board that the position could not be classified as an (on call, regular or part-time employee), they are creating a position, not entirely doing what is considered a third party contract. Classifying John as an official will cover him under the Town's property liability insurance, as opposed to having him stand as a full separate business. Jason states that the Town has never had an arrangement with John as a separate business.

Selectman F. Byron states that you are creating a "town official" without approval of the Legislative Body, which under current NH State RSA laws cannot be done.

J. Hoch tells the Board that the BOS are allowed to create "town officials". He mentions that legal counsel has reviewed this contract and had no issues with the wording. Jason reads from the Personal Policy under the definitions of town officials - "individuals who are elected into office through town elections or appointed as officers of the town by the Board of Selectmen."

Selectman F. Byron states yes, and examples would be the Planning Board, Conservation Committees, Recreation Commissions etc. Because these are allowed to be formed by the Legislative Body.

J. Hoch states this is just an employment classification for an employee. Would Selectman F.

Byron prefer this be called a “temporary employee”.

Selectman F. Byron agrees with calling it a ‘temporary employee’ his issue is with calling John a ‘town official’.

Board continues to discuss the classification and issues that may arise with the wording of this position,. and what is allowed to be created by the Legislative Body. Jason states that if this premise of “town official” is not allowed to be used he has no other choices and this contract will have to be entirely rewritten.

Selectman F. Byron states that throughout discussions he understood that “contracting” was the term being used.

Jason mentions that the Town has never had a third party individual for the type of services that John will be providing.

Selectman F. Byron and Selectman J. Brunelle state that the Town has.

Selectman F. Byron states that the BOS nor Jason have the authority under NH State Law to do this. He has no problem using the words (part-time or contract).

Selectman S. Perry mentions that maybe Counsel did not look at the wording from this point of view, he also mentions that than insurance becomes an issue.

Selectman F. Byron states that maybe he is misusing the word Official which is possible.

Administrator J. Hoch tells the Board that he will get clarification on this matter from Counsel and report back to the Board at next week’s meeting.

Selectman S. Perry reads a portion of the contract under Duration (1.0) that states “this agreement will automatically renew for 3 consecutive one year periods unless either party notifies the other in writing of its intent to terminate this agreement at least thirty days prior to the expiration of the term.” However, under Renewal and Termination (4.2) it states “this agreement may be voluntarily terminated within thirty days of written notice upon mutual agreement of the Town and the Provider.” He tells the Board that he feels it contradicts section 1.

Jason states that it is two different things, section 1 automatically renews the contract each calendar year. Section 4 allows either party to end the contract for any reason, such as moving etc.

Selectman F. Byron mentions that Jason should discuss with Counsel what happens if funding is not granted in future years. Board discusses that funding was put in the budget for this year however, what happens next year if no funding is available and the contract needs to be terminated.

J. Hoch states that he will remove the word “mutually” from the contract in section 4.2 and that should fix any issues. Board agrees, and will review the contact at the next meeting.

Other Items

FEMA

Administrator J. Hoch tells the Board that he met with Representatives from FEMA on May 6, 2015 regarding the January storm. They had the majority of information that was needed, Jason provided a few updated documents and calculated his eligible direct administration costs. He is waiting on a further follow-up electronically. J. Hoch mentions that the application of the State (as well as Massachusetts) to cover and extend a longer period into February (currently only

48hrs) has been initially denied and is being appealed. He states that the School may be eligible for additional reimbursement, however the Town and School need to file separate applications.

DES Initial Meeting on Darrah

J. Hoch tells the Board that at a previous meeting he mentioned that NHDES intends to have Pennichuck, Litchfield and Hudson hold a joint meeting to discuss regional water supply issues. Jason states that he received an email from NHDES last week, they would like to sit down with a couple of people from Litchfield to informally discuss issues and ideas about water issues in the region. They contacted Jason and Selectman F. Byron to see if they would be available sometime in the next few weeks, they could come to Litchfield to meet. Jason would like to know if the Board would like someone else included in this informal meeting.

Selectman F. Byron states that he was involved in meetings in 2003 and feels someone else should pick this up.

Selectman K. Bourque volunteers to attend with Jason

J. Hoch states that he will discuss this with NHDES and set something up within the next few weeks.

Selectman F. Byron asks if Mr. Husband is involved in this meeting

Administrator J. Hoch states he does not believe so, but is the reason for this meeting.

Selectman F. Byron mentions that he believes he is a litigant against the State on this matter.

Jason states that he believes in response to Mr. Husband's letter to the Governor, this is their response to meet and discuss the issue.

Eversource Helicopter Work

Selectman S. Perry and the Board discuss Eversource having helicopters in the area last week. Jason states that there are two issues, the helicopters the past few weeks were the seasonal monitoring Eversource does of their lines. They will also be using a helicopter service to work on the K165 transmission line rebuild project. They use helicopters to bring in materials for the construction. This work is slated for the 15th and 16th of May in both Litchfield and Hudson assuming the weather conditions allow.

Selectman Reports

Selectman J. Brunelle states that he attended the Recreation Committee last meeting which centered around discussion on the parking problems at the fields. They discussed and put up some new signage. They also are working on getting the irrigation system up and running. John states that they also were working on schedules for the fields to accommodate the loss of some fields. There will be meeting tomorrow night May 12th and he hopes to have updates.

Selectman S. Perry states that the Planning Board cancelled their last meeting. He mentions that the next meeting is scheduled for Tuesday May 19th.

Items moved from consent - None

Other Business

Selectman F. Byron states he noticed in the signature folder that 2 bills were past due. One

from Irving Energy Systems which had a late fee, and one from NAPA that did not have a past due fee. He would like to know why?

J. Hoch states that he will have to research and report back to the Board.

Board discusses non-public being only session rather than three. Jason states they are all compensation issues and can be discussed under one session. J. Hoch states for the public that the topics being discussed are: Fire Chiefs contract, initial preparation for Union contract renewals and the Wage Plan as approved at Town Meeting. Board agrees to discuss under one public session.

Selectman S. Perry **motioned** for the Board of Selectmen to adjourn the public portion of the meeting to go into a non-public session per RSA 91-A:3, II(a) Compensation.

Roll Call Vote - Selectman K. Bourque (yes), Selectman F. Byron (yes), Selectman J. Brunelle (yes) and Selectman S. Perry (yes). Board will come out of non-public to adjourn.

The next Board of Selectmen's meeting will be on June 8, 2015 at 6:00pm at Town Hall

Approved May 18, 2015