

TOWN OF LITCHFIELD BOARD OF SELECTMEN

May 18, 2016

Selectmen's Meeting

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

Also Present: Troy Brown, Town Administrator

6:00 p.m. Call to Order

Pledge of Allegiance

Selectman F, Byron states this is a meeting with the Board of Selectmen, Town Administrator Troy Brown, Police Chief O'Brion, Police Captain Donnelly, Fire Chief Fraitzl, Road Agent Jack Pinciario, Louis Caron an Engineer who has worked on behalf of Litchfield and the Planning Board, he has expertise in Litchfields zoning ordinances and the town's design and layout as it exists today.

The Board was contacted by Pennichuck Water Works who has been contracted by Saint Gobain to do a cost estimate for the design and installation of water mains for the Town of Litchfield in order to correct the PFOA contamination issues within the Town.

Due to numerous questions and issues this will deal with for Litchfield he has asked for a Selectmen's meeting (which was posted with sufficient notice). He has also included the necessary Department Heads and will hear from the Organizations who will be providing information to Pennichuck.

Selectman F. Byron states Pennichuck has supplied the Town/Board with a list of questions that they will try and answer during this working and informational meeting. Then they will break and the Board of Selectmen will continue a meeting to discuss PretiFlaherty Environment Practice Group and a possible contract with the Town of Litchfield.

Business

Pennichuck Corporation - Litchfield Water Main Extension Design Plans

Selectman F. Byron states that Pennichuck is requesting permission/authorization from the Town to place a water main and appurtenances within pavement limits. They have a series of questions that need answers so Selectman F. Byron will read them.

1. Will the Town allow Pennichuck Water Works to place water mains and appurtenances within pavement limits, underneath the surfaces of the streets in various sections of Town.

Selectman F. Byron shares two maps with the group, he states the areas in yellow are where Pennichuck is looking to place new water mains and connect them with their existing pipes already in the ground in Litchfield. F. Byron states there are two choices, 1. Is to allow them to place the water mains in the streets (which will cause disruption). 2. Place the water mains along the right-of-way along the side of the road/streets. If this option is chosen Pennichuck is concerned that they will need to get 300-400 individual permissions from landowners (which may hold this project up from getting completed). So their preferred way would be to place the pipe in the streets. Selectman F. Bryon states that he is looking for input from the group, but would like the Road Agents recommendations.

Jack Pinciaro states he has no issues with Pennichuck placing the water main under the street. He mentions the way it was explained to him by Pennichuck was they were going to trench the pipe, but down a base and compact as necessary (which is what Louis Caron would expect them to do) then the following year it would be finished with finish coat of asphalt. He is in agreement and feels Litchfield has a lot of roads in bad shape and this is a way at no expense to the Town to have them paved.

Troy explains what Pennichuck told them at a previous meeting which is they would trench, backfill and compact as needed then put down a base layer of pavement (let settle over the Winter), correct any settlement issues necessary in the Spring then do a final one inch thick finish coat of asphalt (both travel lanes wide) of all the roads indicated on the maps.

Selectman F. Byron asks if the one inch thick finish coat sufficient.

Louis Caron states absolutely, and that if not for this project the Town would not be doing anything for some of these roads for many years. He mentions Pennichuck will be placing 3 inches of pavement in the trenches (2 inches of a base course then 1 inch of the finish coat) which is quite sufficient and would be his recommendation.

Troy mentions that Pennichuck states whatever the thickness of the existing pavement is, that is what they will be replacing for a thickness.

Louis states the Town's roads are built to standards (the 2 and 1) which is what they will find.

Group discusses Pennichuck will be working with the State on the repavement of Charles Bancroft Highway.

Troy mentions he had a conversation and update today from one of the project Engineers from Pennichuck and they are in discussions with NHDOT. It is their understanding that NHDOT has a policy and will not allow them to trench in the roadway, they will have to dig alongside the road in the right-of-way.

Louis states his experience on projects has shown it will depend on the conditions out along the road, it can not always be fit along the side of a roadway (especially drainage).

Selectman B. Lemire mentions that the new natural gas line from Hidden Creek was placed along the side of the road in the right-of-way, so they may have to go in the road.

Group discusses possibilities of settlement during the Winter months and then the finish coat placed on top. Louis states compaction is always an issue, he explains how the pipe will be in a trench box but the numerous layers and compaction done can vary. He recommends a close look be taken at the specifications they will be doing.

Group also discusses the pipe that will be used, there has been discussion of iron as well as some sort of a plastic pipe due to the sandy soil and the acid produced it corrodes the iron

pipng. Group discussion leans towards the iron piping. But no decision has been determined as of yet. There are no members of the group who are against not allowing Pennichuck to place the water main and appurtenances within the pavement limits of the roads.

Group continues with the questions asked by Pennichuck:

2. If the answer to question 1 is "yes" the water main can be located with the pavement surface limits the Pennichuck suggests the following conditions:
 - a) Water main be placed approximately three (3) feet inside the outside edge of the pavement limit.
 - b) For streets that trend in a north-south direction, water main shall be installed on the easterly side of the street
 - c) For streets that tend in an east-west direction, water main shall be installed on the southerly side of the street
 - d) For streets circular in nature (Winter Circle for example), water main shall be Installed on the outermost side of the street

Jack Pinciario states that he and Troy had a conference call with Pennichuck today and there are mains installed already that are on easterly sides and southerly sides depending on the direction of the street. But he and Troy suggested they Pennichuck make a recommendation, because in cases where you will have to turn onto a roadway they do not want to have them cutting into a road preventing that road from having vehicle's being able to turn down the street. Louis states that when you look at all the roads and homes involved and the fact they will be going across both lanes of traffic, it will affect traffic regardless if its easterly or southerly. Luke reminds the group that Charles Bancroft Highway is not a decision for the Town that will be up to the State.

Troy states the reason Pennichuck is asking is because some Towns have set standards due to sewer, gas and water pipelines within a Town, to ensure proper separation. Where Litchfield does not have those utility concerns, they asked Pennichuck to come up with the best and most efficient recommendations for the Town (keeping in mind Litchfield is growing and will need room for other utilities). Pennichuck was in agreement and is looking for standards for themselves also, so their people working out in the field would know what side of the roadway their piping is on. Group discussed other options such as open trenching and boring. Louis Caron states if they propose open trenching for the service lines as an option he would recommend they reclaim the entire roadway and repave with 3 inches of hot top (otherwise it would look like a zipper). They discuss the Town's jurisdiction being the main water line to the shut off valve in the right-of-way, then it is the homeowner's responsibility to negotiate with Pennichuck what they want done on their property.

Selectman F. Byron would like to discuss with the group the installation of fire hydrants.

Troy mentions a proposal was just dropped off today, (which the Fire Chief has not reviewed) showing the potential points where approximately 25 hydrants would be installed at a distance of no more than 800 feet apart.

Selectman S. Perry asks why 800 ft. when the Town has an ordinance requiring hydrants to be 500 ft. apart. Selectman F. Byron and the Fire Chief state they thought it was 800.

Selectman F. Byron states he believes that Saint Gobain will say they will pay for the 25, any additional will have to be paid for by the Town.

Selectman J. Brunelle mentions it is a Town ordinance (500 ft), and Saint Gobain needs to comply. He states the Town did not contaminate the water supply they did, also the Town will be paying for the maintenance fees associated with all the hydrants once installed.

Selectman F. Byron mentions under State law a Utility can not invest in the expansion of services, and this would be considered an investment in the expansion of services by Pennichuck Water Works. Group discusses going to the PUC and asking for an exception, or not putting the hydrants on but doing all the necessary work and capping them off for now.

Selectman F. Byron mentions where the Town can not afford to put all of the necessary hydrants in immediately, he feels they should require a shut off valve and fixture be installed where a hydrant should be until the Town can install a fire hydrant.

Louis mentions a t-valve can be installed and a stub with a cap with a gate valve, and later the Town can install a hydrant. Fire Chief Fratzi states the Town would have to dig 5-6 ft down in order to connect a hydrant to that stub at a future date. Louis mentions that a hydrant comes pre-assembled down to a bottom elbow where it attaches to the main water line. Group discusses the pros and cons of this. But agree their first response it to submit a request for Pennichuck to install all the necessary number of hydrants at Saint Gobains expense. If they do not agree, Selectmen F. Byron states this is where legal counsel will be necessary in order to protect the Town's interests. He feels there will be numerous negotiations and conversations before this is over, and that is why legal counsel will be needed.

Group discusses curbing, and would like it to be noted it is to be replaced if disturbed along any roadway.

Troy mentions to Louis Caron, that as the Town moves forward with communications with Pennichuck (because they are putting together the cost estimates) the Town is going to want Inspection Services. He states that Pennichuck will have their own people, and won't Litchfield want their own inspection team to protect our interests. Selectman F. Byron will refer back to this topic he has covered it in his meeting notes.

Selectman F. Byron states that Pennichuck will be having a public meeting on Tuesday May 24, 2016 at 7:00 pm it will be held at the Campbell High School Auditorium. Pennichuck will be discussing the need to meet with individual property owners to complete a home and property inspection for Pennichuck to assess/design the customer service line installation into their home or building. Selectman F. Byron and Chief O'Brion state the police department will be notified when Pennichuck is in the area doing home inspections, they will have all the necessary information/credentials on the individuals who will be going into homes. This is in case homeowners call in with questions or want confirmation an individual is who they state they are. Chief O'Brion mentions they will issue Code Red alerts and post information on Social Media to inform area homes where/when Pennichuck will be working in certain areas of Town.

Selectman F. Byron would also like to know if the Police Department would like to have background checks done on these individuals from Pennichuck Water Works who will be going door to door.

Chief O'Brion states Pennichuck should be doing this in their regular course of business, these are employees not subcontractors and they will be supplying all employee information and working closely with the police department, so he is comfortable with Pennichuck and how they will be handling safety policy and procedures.

Selectman F. Byron continues with the next question from Pennichuck

c) Town streets will require pavement restoration following the water main and water service installations. Pennichuck has reviewed Town standards for road construction Located in Appendix A of the Subdivision Regulations

Selectman F. Byron reads the next section aloud to the group

1. As it was indicated that the Town may require their own inspectors to evaluate this part of the project (if/when we get to a construction phase), we will need the Town to provide an estimate of the cost of its' inspection of street restoration for this project, or provide specifications regarding the type of testing the Town wants completed for this project (i.e compaction, soils gradation, etc.).

Selectman F. Byron asks if this is a service that Louis Caron can provide to the Town, based upon his knowledge and experience with Litchfield.

Louis states that it would depend if the Town is looking for someone full time or part time. He tells the group each individual has a specific job (i.e lay pipe, dig a trench etc.) they are looking to do their job as quickly as possible and not always efficiently. He recommends Litchfield has their own person/people to inspect this work that will be done, and it should be a full-time situation.

Selectman F. Byron agrees he is not worried about the water main installation as much as the restoration of all the roadways that will be affected. Louis states he would recommend hiring someone to help him, so someone is here and available throughout the project.

Louis mentions his concern is open trench boxes, he states when 3-3:30 comes those crews need to fill and follow procedures to not have open holes.

Group also discusses the Town wanting this project Bonded, in case there are any issues later on down the line. This involves an Engineer such as Louis Caron constructing a bond estimate, and the Town request that the bond amount be held on behalf of the Town of Litchfield.

Selectman F. Byron asks Louis to work with Troy and come up with an estimate of costs for him and another individual for Engineering Support services in order to have an inspector here on site monitoring the work being done. As well as the costs associated with any testing that may need to be done. Group discusses the testing that may be needed and material that will be used, Louis feels they should rely on the Subdivision Regulations for the Town. He will work with Troy and construct the necessary estimates.

Troy tells the group that Pennichuck has discussed hiring 4 crews to work on this project. One would dedicated to service lines and the other 3 will be working on the main water line installation.

Louis states they do not move that fast, typically lay 20 feet at a time, should not be an issue for he and another individual to maintain inspection coverage of the work being done.

Group discusses how they should reclaim the roadways.

Selectman F. Byron reads the next question to the group

2. e) Work hours for geotechnical drilling and ledge probes will be from 7am to 5pm typical. Work is expected to begin after 5/23/2016.

Selectman F. Byron states that New England Boring Contractors will be doing the geotechnical boring and Maine Drilling and Blasting will be doing the ledge probing. F. Byron mentions they have been told the ledge probing and boring will be every 50 feet.

Selectman F. Byron mentions the Police Department and their Special Detail staff will have to be prepared for this work to be on 5/23/2016. Chief O’Brion states the Captain has surveyed the area and there are 7 streets affected they are Charles Bancroft Highway, Corning, Albuquerque, Robyn, Roberts, Colby and Lance Avenue. There will be an officer and cruiser needed for the detail work at a rate of \$64.00/hr for the officer and \$15.00/hr for the cruiser. Chief O’Brion states he made Pennichuck aware that after 8:00pm it will be time and a half at the detail rate of \$64.

Selectman F. Byron mentions this does not include weekends, the rates and times would not be the same and there has been no discussions regarding the crews working weekends.

Group is in agreement with the ledge probing/boring hours and detail rates being billed.

Next question is

2. f) Pennichuck will arrange to review existing “as-built” information on file with the Town for areas where water main construction is planned.

Selectman F. Byron states that Kevin Lynch will work with Pennichuck regarding this matter.

Selectman F. Byron reads next question

2. g) The Town will make property owner contact information available to Pennichuck in order to facilitate outreach and to confirm the proper owner for the properties requiring water service are contacted. This will be needed by next week.

Troy mentions this will be in the Assessing Data Base, and is a public record and available online. Group is in agreement with this information.

Next question

2. h) Area maps will be provided by Pennichuck to the Town Administrator for internal distribution to include the Highway Department and the Fire Department. The Fire Department will be asked to provide hydrant locations for hydrants, to possibly be included in the proposed project. These are being supplied to the Town today.

Selectman F. Byron states the hydrants were spaced out in 800 ft intervals, and may now need to be changed with the Town requiring 500 ft. Group discusses this issue. Chief Fratzel states all fire trucks carry 1,000 ft of hose, and 500 feet is ideally what they require. However, in order to get this project completed in a timely manner he feels 800 ft. would be a reasonable compromise, and hydrants be placed at intersections to have access available to two streets. Chief Fratzel states the number of hydrants planned at 800 ft, already increases the Town’s fire protection 10 fold, and will allow access to most all areas of the Town.

Selectman F. Byron mentions the Town implemented standards for a reason and if 500 ft is the Town’s standard before this issue occurred, that is what the Town should be asking Pennichuck for and let the conversation continue from there.

Group discusses this issue and costs associated with these additional hydrants. Also mentioned is the prospect of having a conversation with legal counsel regarding the maintenance costs to the Town from Pennichuck (\$65,000 annually) that will be added to the yearly budget due to these additional hydrants. Group agrees to move forward with asking for the 500 ft and have a discussion with legal counsel and continue the conversation depending on the response.

Selectman F. Byron states there will be many issues that are going to have to be negotiated with all parties involved and Legal Counsel before this is resolved. So the Town should ask for what is already required by standards/ordinances and move on from there in order to protect

and do what is best for Litchfield.

Louis also mentions that there should be a discussion with NHDOT regarding hydrants installed on Charles Bancroft Highway, because that will not involve the Town's requirements it will be a State decision. Chief Fratzel states there will be 9 hydrants installed on CBH.

Selectman F. Byron, asks Louis Caron for a contract and price estimates for his services.

Louis states his estimate would be based upon the construction schedules and the contractor. If Pennichuck can furnish him with a construction schedule and number of days anticipated he would be able to furnish the Town with an estimate.

Troy mentions Louis has been involved in these types of projects before, and can he shed any light on things that may go wrong. He thinks this seems to be a straight-forward standard construction project.

Louis states the Police Department should be concerned with traffic control on a project this size, there will be large equipment in the roads and construction workers in and out of holes dug into the ground. Police Department may want to require flaggers extra signs and cones, as well as an Officer and cruiser on site.

Troy also asks how many feet do you feel the construction team will be able to cover in a day.

Louis, states the best day on a site in Franklin was 150 feet, that was with no fittings (just a straight shot of pipe). Group discusses they have been told there is a total of 20 miles of pipe that needs to be laid (10 miles of main line piping and 10 miles of additional service line).

Selectman F. Byron mentions Pennichuck anticipates this project will be done before snow flies. The group discusses the pipe should be ductile, if it is going in the road. Jack and Board state they are making it a lot easier for Pennichuck by allowing them to lay this piping in the roadway Group discusses they have already made Pennichuck aware there will also be issues with some homeowners who are not going to want service, or are going to want someone to pick up the expense of a water bill. They also discuss that the homeowner is responsible for their own property and installation from that water main in the right-of-way to their home.

Group all agrees they are comfortable with the outcome of discussions this evening and will gather any information needed and supply the Board and Town Administrator with those necessary documents as soon as possible.

Group closes discussions for tonight, and the Board of Selectmen and Town Administrator T. Brown continue with a discussion regarding Legal Counsel.

PretiFlaherty Environmental Practice Group Contract

Selectman F. Byron states they received information from PretiFlaherty regarding their background, references and terms of their contract. He mentions that Troy and he split up the list and did some background checks with today. Selectman F. Byron shares that he spoke with a gentlemen from Jamestown Rhode Island, he was a private individual who explained his legal issue with Frank and stated he hired PretiFlaherty and they helped him navigate successfully through. He also spoke with an individual from Naples Maine who had a legal issue with some forgery that occurred with a water issue, and mentioned how PretiFlaherty helped him through also. Selectman F. Byron states both gave very high marks to PretiFlaherty and commended the Firm for all that was done.

T. Brown mentions he spoke with David Owen who is a Town Manager of Wolfeboro New

Hampshire who used this Firm for General Counsel and have used them for over 20 years. Mr. Owen states they have been very please with all aspects of their service. Troy states he asked if they had any environmental cases worked on by PretiFlaherty. He stated they had hired an engineering firm to work on separating the Town's stormwater from their treatment facility. This firm designed and oversaw the construction of this infrastructure improvement and it completely failed. PretiFlaherty filed a lawsuit on the Town's behalf and won the court case with a settlement of 7.5 million dollars.

Troy mentions that Town of Barnstead New Hampshire has had PretiFlaherty acting as General Counsel for over 10 years. The Administrative Assistant has been very pleased with the Firm's responsiveness to emails and phone calls. She spoke of the detail of the Firm's monthly billings, right down to the minute.

Selectman F. Byron states that he and Troy received very high marks for the Firm from the calls they made, and all stated they would retain the Firm again if needed.

He mentions they also received an estimate of what the cost for the Town to retain them would be, as well as a list of the attorneys:

Attorney David Van Slyke rate of \$250/hr

Attorney Jeffrey Talbert rate of \$250/hr

Attorney Kara Sweeney rate of \$235/hr

Attorney Dana Luker rate of \$235/hr

Town had also requested a delay in payment, which they discussed and stated

"We understand the Board of Selectmen wish to delay payment of our legal fees until such amounts are appropriated at the next regular Town meeting held in 2017. We are agreeable to deferring payment of our legal fees up to an amount not to exceed \$50,000. But propose the Town of Litchfield make an initial deposit in the amount of \$10,000. The outset will be billed against the deposit till it is exhausted and payment of fees above the deposit and not to exceed \$50,000 will be deferred until the Town votes to have those funds appropriated at the next regular meeting of 2017."

They also gave a list of costs associated with tasks which they broke down into 4 Phases.

Phase 1 - Review of any Town documents and review of NHDES current response to the contamination issues. Review of Saint Gobains documents. Reactions and proposals. Estimated cost \$5,000-\$10,000 (20-40 Partner hrs).

Phase 2 - Representation of meetings with NHDES and Saint Gobain to evaluate proposals. Estimated cost \$15,000

Phase 3 - Work with the Town and regular Counsel for authorization of documents and a settlement. Estimated cost \$5,000.

Phase 4 - Review final documentation and monitor execution of plan
Estimated cost - \$5,000.

For a total cost proposal of approximately \$35,000.

Board discussed the fees and were satisfied with their presentation, abilities and agree they are highly recommended and seem very efficient in their capabilities. They also feel satisfied where they were recommended by the Town's current Counsel. Board states they need to move reasonably fast with finding representation due to this issue moving quite quickly and major decisions are being made that will affect the Town of Litchfield, and need to represent the best

interest of the Citizens as well.

After a continued discussion the Board agrees to contract and retain the Legal Counsel of PretiFlaherty Environmental Practice Group.

Town Administrator T. Brown tells the Board he has been working the last 48 hours with the Town's current Legal Counsel looking at the Unanticipated Revenues that the Board of Selectmen appropriated for pipeline defense in the amount of \$18,000. To date only \$6,300 has been expended, this is not the Warrant Article from Town meeting this is what the Board appropriated. His questions to legal was since this action was taken by the Board of Selectmen, and know the pipeline has been suspended and the legal defense for that will be wrapping up, could the Board go back and re-appropriate the balance of this fund. Legal Counsel has reviewed the meeting minutes and in her opinion if an additional public hearing is held and there is agreement the Board can re-appropriate those funds in the amount of \$11,700 towards the deposit to retain PretiFlaherty. Board discusses this action.

Selectman B. Lemire **motioned** for the Board of Selectmen to enter into a contractual agreement with PretiFlaherty Environmental Practice Group to protect Litchfields interest in this water contamination issue. Also to move forward and hold a public hearing in order to repurpose funds which were appropriated for the pipeline legal defense, in order to pay the deposit to retain PretiFlaherty for their legal services.

Selectman J. Brunelle **seconds** the motion. **Vote carries 5-0-0.**

Selectman F. Byron tells Troy to contact the Firm and tell them they have been retained by the Town of Litchfield for representation. Also have a contract reviewed by our legal counsel for the Board of Selectmen to sign.

He also states that T. Brown can proceed with scheduling a public hearing regarding this matter. Selectman F. Byron states they need to share information with the Budget Committee explaining what has occurred and the decisions made by the Board.

Town Administrator T. Brown tells the Board there has been a Hawkers and Peddlers license pending, and this person Brian Thompson who represents Edward Jones would like to have it approved so he could pick it up. Troy states that the Police Department has reviewed and approved.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve a Hawkers and Peddlers license for Brian Thompson representing Edward Jones.

Selectmen K. Bourque **seconds** the motion. **Vote carries 5-0-0.**

Selectman S. Perry **motioned** for the Board of Selectmen to adjourn

Selectman B. Lemire **seconds** the motion. **Vote carries 5-0-0.**

The next Board of Selectmen's meeting will be on May 23, 2016 at 6:00pm at Town Hall

Frank A. Byron, Chairman

Brent T. Lemire, Vice Chairman

John R. Brunelle

Steven D. Perry

Kevin C. Bourque