

TOWN OF LITCHFIELD BOARD OF SELECTMEN

March 27, 2017

Selectmen's Meeting

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

Absent: Frank A. Byron (excused)

Newly Appointed: Kurt D. Schaefer

Also Present: Troy Brown, Town Administrator

5:00 p.m. Paperwork review

6:00 p.m. Call to Order

Pledge of Allegiance

Oath of Office

Town Clerk/Tax Collector - Theresa Briand

Police Chief O'Brion swears in Theresa Briand as Town Clerk/Tax Collector

Selectman - Brent Lemire and Kurt Schaefer

Town Clerk/Tax Collector Teresa Briand swears in Selectman Brent Lemire for another term as a member of the Board of Selectmen and Kurt Schaefer as new member to the Board of Selectmen.

Board of Selectmen Appointments - Chairperson and Vice-Chairperson

Selectman K. Bourque **motioned** for the Board of Selectmen to nominate Selectman B. Lemire for the position as Chairperson to the Board of Selectmen.

Selectman S. Perry **seconds. Vote carries 4-0-1**

Selectman K. Bourque **motioned** for the Board of Selectmen to nominate Selectman S. Perry for the position of Vice Chairperson to the Board of Selectmen.

Selectman J. Brunelle **seconds** the motion. **Vote carries 4-0-1**

Committee Appointments

Chairman B. Lemire reads the Committee Appointments for the Board of Selectmen's approval

John Regan - Zoning Board of Adjustment Member (term expires 3/31/2020)

John Devereaux - Zoning Board of Adjustment Member (term expires 3/31/2020)

Michael Croteau - Planning Board Member (term expires 3/31/2020)

Tyler Perrin - Planning Board Member (term expires 3/31/2020)

Thomas Levesque - Conservation Commission (term expires 3/31/2020)

Joan McKibben - Conservation Commission (term expires 3/31/2020)

Michael Croteau - Conservation Commission (term expires 3/31/2020)

John Bryant - Recreation Commission (term expires 3/31/2020)

Alfred Raccio - Mosquito District Commission (term expires 3/31/2020)

John Pinciario - Road Agent (term expires 3/31/2020)

Sharon Harding Reed - Treasurer (term expires 3/31/2020)

Selectman S. Perry **motioned** for the Board of Selectmen to approve all the Committee Appointments.

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

Board congratulates all and Selectman B. Lemire mentions they will have to see the T. Briand Town Clerk/Tax Collector to be sworn in to their appointed positions.

Review of Items for Consent:

1. Approval of February 27, 2017 Board of Selectmen Meeting Minutes
2. Approval of Payroll Manifest 3/23/2017 (\$51,305.25) & 3/30/2017 (\$50,464.61)
3. Approval of Account Payable Manifest 3/21/2017 (\$33,533.60) & 3/8/2017 (\$67,743.26)
4. Land Use Change Tax - \$40,000
5. Land Use Application (1) - Wren Street Building Lot #150
6. Veterans' Tax Credit (2) - \$300

Approval of Consent Items

Selectman B. Lemire reads aloud the Items for Consent

Selectman S. Perry **motioned** for the Board of Selectmen to approve the Items of Consent

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

Request for Additional Items/Other Business - None

Town Administrator T. Brown mentions to the Board, Theresa Briand will swear in the Appointments who are present this evening. They include:

John Pinciario - Road Agent (term expires 3/31/2020)

Tyler Perrin - Planning Board Member (term expires 3/31/2020)

Thomas Levesque - Conservation Commission (term expires 3/31/2020)

Board of Selectmen signed the necessary paperwork and Theresa Briand swears in the Committee Appointments. Board congratulates the new members and thanks them for their service.

Business

2017 Road Improvement Plan - Project Approval & Impact Fee Approval

Present: Road Agent Jack Pinciario

Town Administrator T. Brown tells the Board the Road Agent has been working with the Town

Engineer and they have gone out to bid for the 2017 Road Improvement Projects that were approved by the voters. Troy mentions due to the concerns regarding if the votes from the Election will have to be revalidated, he and Jack are here to present to the Board of Selectmen two options for moving forward with the road improvement plan.

Option 1: Move forward with the program proposed this year with the original budget. Minus the drainage project which was planned for Robyn Road, this bid came in at just under \$100,000 and they have decided to step back and re-evaluate that situation. So this option would implement everything that has been approved he has shared all the Revenues with the Board. Troy states the Road Agent would like to use Impact Fees for a portion of Page Road, there is an Impact Fee balance of \$41,900. Troy mentions there is construction planned this summer that will replenish the fund back up to approximately \$40,000 by Fall. He states Jack and he have discussed there are no current road or culvert emergencies they can see, and feel it would be an appropriate time to use the balance in this fund.

Option 2: Troy mentions if the Board has concerns at this time due to the discussions in Concord regarding the Elections, he and the Road Agent are comfortable moving forward with Option 2. He states knowing they have funds available if the Board will release the Impact Fees they are comfortable completing projects for Page Road, Underwood Drive, Hildreth Drive, Nathan Drive, and High Plain Avenue. Between the Block Grant Funds, Road Maintenance Article, which are part of the Default Budget and the Impact Fees there is enough funds to complete work. Troy mentions to the Board that by going with Option 2, if Article #7 in the amount of \$200,000 was not validated by the Election, the Town would not be overextending itself and can cover all the above work.

Board discussed if the Election process is validated they can always move forward and complete the other roads as planned. Or if it becomes too late in the year they could always Encumber the funds and complete the work next year.

Selectman B. Lemire mentions the discussions in Concord regarding the Election and that there are competing Bills between the Senate and House that are so up in the air, the process can take some time to resolve. He mentions the Attorneys are seeking a Declaratory Judgement. Board agrees at this time they should go with Option 2 until the Election results are resolved. They do not see any issues with resuming the work later in the year, Continental Paving is the contracted company and they have always worked with the Town.

Jack states they are not cancelling the contract they are just delaying some work till a later date, he is in contact with Continental and their Representatives and they have always worked with and treated the Town great.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the use of Impact Fees in the amount of \$41,000 for the 2017 Road Improvement Plan

Selectman S. Perry **seconds** the motion. **Vote carries 5-0-0.**

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve Option 2 as discussed for the 2017 Road Improvement Plan in the amount of \$249,051.50.

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

Public Hearing - Polling License

Town Administrator T. Brown states it was brought to the Town's attention last year when the

Assessors were working on finalizing the assessments and setting the tax rate, that the Pole license agreements for Utility Poles and Conduits in the Town's right of way were missing some key language in regards to taxation. So Legal Counsel has worked with the Town and many other Towns throughout the State to try and clear this language up. So Litchfield has posted Public Hearing Notices and hand delivered notices to all the Utility Companies that have property in Town. So Troy is asking the Board to adopt Resolution 2017-01, this will insert the proper language on taxation into the applications and licenses the Town Clerk/Tax Collectors Office administers. Troy states this makes a determination that this action is in the best interest to the Community.

Chairman B. Lemire opens the Public Hearing and reads aloud the public notice.

Town of Litchfield PUBLIC HEARING NOTICE

The Litchfield Board of Selectmen will hold a public hearing on Monday, March 27, 2017 beginning at 6:00 P.M. at the Town Office Conference Room, pursuant to the provisions of RSA 231:163 and 43:2, for the purpose of considering amending all existing pole licenses to include language regarding taxation pursuant to RSA 72:23. The Board will also consider adopting a revised Pole and/or Conduit License form which will include language regarding taxation pursuant to RSA 72:23. The hearing is being held to determine if it is in the best interests of the public good to amend the pole licenses so that they are consistent with the property taxation statutes (RSA 72:23). Residents wishing to speak on this matter are invited to attend or residents may send comments by email to: Tbrown@Litchfieldnh.gov or mail to Town of Litchfield, Troy Brown, Town Administrator, 2 Liberty Way, Litchfield, NH 03052.

Chairman B. Lemire asks Town Administrator T. Brown if he received any comments or requests.

T. Brown mentions he received one request for information from New England Hydro, he responded with the necessary information and he has received no further comment.

Chairman B. Lemire states in essence by making these changes to the language it will increase the Town's total evaluation and be a benefit to the taxpayer. Troy states this is correct.

Chairman B. Lemire asks if anyone from the public would like to speak, and seeing no one he closes the Public Hearing.

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve Resolution 2017-01.

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

Fire Station Leach Field Replacement

T. Brown mentions previously (last Fall) he reported to the Board of Selectmen the Fire Station was experiencing problems with the leach field. Since then the holding tank has been pumped 2-3 times. After the last backup Chief Fraitzl had the system inspected with a camera, and it was determined the line to the tank was fine it was the leach field in failure. Troy mention the system

is very old and was never designed for the use it currently has today with showers and washing machines that clean all the firefighters gear (just one load generates 70 gallons of water). As a result, the system is restricted to limited use. This means no contaminated firefighter gear can be cleaned at the station, it is being cleaned at neighboring fire departments.

Troy mentions he has also learned that LCTV is in the process of updating the second floor "general purpose room" into a modern cable/tv recording facility. So when this is completed, they anticipate the public use will increase which will require a bathroom. They have approached the building inspector to discuss ways to construct a bathroom at the station or to have access to the Old Town Hall for use of a bathroom there. Troy mentions that leach field at the Old Town Hall will need to be looked at also. He feels the first priority is to seek a proposal to replace the Fire Station leach field, but get another proposal for the entire site (Fire Station, Old Town Hall and LCTV) this would allow for the possibility of future options with all the buildings involved. It could be beneficial to have one leach field that could service all three buildings, depending all the requirements/site restrictions and cost involved it may not be possible, but should be looked into. He feels this will be more involved than anyone thinks. Selectman J. Brunelle states no matter what happens with the future of a new station, they will be located there for at least another 2-3 years. Agrees they need to look at the big picture, and all options.

Selectman S. Perry states this will be a long process. This leach field started to fail a few years ago when they dug down and put stone down and started parking trucks over the field. Which has now increased the freezability of the leach field, and since then they have started having issues. S. Perry asks if Kevin Lynch (Building Inspector) has been brought in to advise on this matter.

Troy states Kevin has been involved in the discussions. They have discussed the possibility of moving the washing machines to the Old Town Hall and using them there, but are not sure if that leach field can withstand the stress of the excess usage.

Board discuss the washer issues and the options presented.

Selectman S. Perry states the Town is not done with the Fire Station yet and asks why would LCTV be putting a bathroom into a building that is not compliant. Selectman J. Brunelle agrees and states it would take one complaint and the building would be shut down.

Troy states Mr. Pentheny was just looking into if anything was possible, because of a new cooking show they are broadcasting that needs access to water.

Selectman J. Brunelle states once the Fire Department is out of the building, they can discuss future possibilities for LCTV.

Selectman K. Brunelle **motioned** for the Board of Selectmen to authorize the Town Administrator T. Brown to proceed with contracting an engineer to develop plans and cost estimates for a leach field design proposal at the Fire Station/Old Town Hall location.

Selectman J. Brunelle **seconds** the motion.

Troy mentions the Building Systems Trust Fund can be used for design and replacement costs, and the balance of the Trust as of 12/31/2016 was \$50,183.65. **Vote carries 5-0-0.**

Selectman S. Perry states he feels with the issues at the site the \$51,000 will not be enough, he just wants everyone to keep that in the back of their minds.

Resignation Recreation Commission Alternate - Kurt Schaefer

Selectman B. Lemire reads aloud a letter from Mr. Schaefer

“Due to my recent appointment to the Board of Selectmen I need to respectfully submit my resignation from the Recreation Commission.” Thank you Kurt Schaefer.

Selectman K. Bourque **motioned** for the Board of Selectmen to accept Kurt Schaefer's resignation from the Recreation Commission.

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

Selectman J. Brunelle states he would like the Board of Selectmen to appoint Selectman K. Schaefer as the liaison to the Recreation Commission. Board is in agreement.

Volunteer Committee Members

Town Administrator T. Brown states the following volunteer committee members did not resign, but did not seek reappointment:

Russell Blanchette, Planning Board Member (did not request reappointment)

Sandra Vance, Recreation Commission Member (did not request reappointment)

Jessica Philbrick, Recreation Commission Member (did not request reappointment)

Selectman B. Lemire asks Troy to send thank you letter to the members.

Troy mentions in looking through records and with the appointments and resignations this evening, he believes with the exception of one position on the Zoning Board (waiting on if they wish to be reappointed) all Board/Committees fully staffed with volunteers.

Public Input - None

Postponed Town Elections

Troy mentions everyone is aware of the discussions going on in Concord regarding the postponement of the Town Elections. There have been discussion in Concord on the House and Senate sides about various Bills being submitted. Some are trying to ratify the actions the Town Moderators in the State took, some are trying to implement requirements Towns will have to take in order to validate the votes taken last Tuesday. He mentions Litchfield's legal counsel works with many Communities throughout the State and she has reached out to all her customers, and is proposing she work on filing a Declaratory Judgement for all Town who wish to join in together. Troy states if there are no challenges from the AG's office the process could cost \$2,500-\$3,000, which would be shared by all the Towns who join. If it is challenged it could cost \$10,000-\$20,000. Troy feels all the Communities affected will step up and participate, but he cannot guarantee that at this point.

Chairman B. Lemire reads aloud a letter from Legal Counsel

Good Morning -

We are sending this email to those of our clients who postponed their elections due to the March 14, 2017 blizzard. As you are well aware, the Secretary of State took the position that the town moderators did not have the authority to reschedule the elections and subsequently he and certain other individuals in state government have asserted that the elections and their results are unlawful. While these actions have created difficulties for all towns which postponed their elections, it has created an especially untenable situation for those towns whose voters approved the issuance of bonds and notes.

Without reciting all of the activity that has occurred in the last two weeks as the result of the position taken by the Secretary of State, the following facts are important to your town:

1. Our opinion is that the decision of your Moderator to postpone the voting was lawful pursuant to the clear language of RSA 40:4.

2. That opinion has been joined in by the Attorney General's office, the NHMA legal department, and every municipal attorney we have communicated with, including the members of the New Hampshire Bar Association's Municipal Law section.

3. An effort was made to get beyond any question by the filing of legislation which would simply ratify the legality of postponing the election, but that effort appears to have been stymied or at least significantly delayed by the objections of the Secretary of State, the Speaker of the House and others. Inserted below this email is a description of legislation the Speaker of the House was considering as of March 23, 2017. As you can see, if this legislative effort is successful, towns which passed bond articles would no longer be the only ones seriously impacted.

4. Bond articles face a critical issue because buyers of bonds require certification from a bond attorney that the procedures a town used to approve the bond were lawful. Because of the loud and public opposition to the postponements, the law firm of Devine Millimet, which provides the required legal opinion on each of your approved bond articles, has announced and Attorney David Barnes testified to a Senate Committee, that the required opinion cannot be given under these circumstances.

5. The only way out of this, so that bond projects may proceed and the cloud be lifted from all towns, is to petition the court asking for a ruling that the postponements were lawful.

6. The most efficient and cost effective way to do that is to file a joint petition for declaratory judgment involving as many towns as possible, to be filed in the Merrimack County Superior Court against the State. If this is to be filed, it needs to be filed this week.

Chairman B. Lemire asks if the Board of Selectmen wish to participate in the effort to validate the Town Moderators decision.

Selectman J. Brunelle **motioned** for the Board of Selectmen to proceed and participate in the legal action.

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

Administrator Report

Town Administrator T. Brown tells the Board Karen White has been coordinating the annual Audit, and they have been providing information to them on a daily basis. The Auditors are scheduled to be at the Town Office on April 14, 2017.

Also now the Budgets, Warrant Article and the Election process have ended there are various documents to be filed and submitted to the NH DRA, and they are in the works.

Troy also wanted to make everyone aware PFOA construction work will be resuming on 3A and the residential neighborhoods impacted. Also pavement cutting is taking place on Mallard Court.

Selectman Reports

Selectman B. Lemire welcome Selectman K. Schaefer to the Board

Selectman J. Brunelle welcomes both Selectman B. Lemire and Selectmen K. Schaefer to the Board.

Selectman S. Perry mentions he is unavailable to attend the PFOA meeting being held Thursday evening at Campbell High School.

Selectman B. Lemire mentions he attended a meeting in Concord last Thursday with Troy and

the Town's attorneys, and they are moving forward with the PFOA informational meeting on March 30, 2017 at Campbell High School at 7:00pm. Also the Board of Selectmen authorized PretiFlaherty to send the letter of request for all the items Litchfield is requesting from St. Gobain (letter has been sent and they are waiting for a reply). All the members who were present at last Thursday's meeting will also be present at the informational meeting being held at the High School.

B. Lemire also mentions a resident brought to their attention a request for information on a cancer cluster. A Representative from Wastewater gathered information on this matter and how it could be affected and they will be sharing this information on Thursday evening. He mentions Senator Soucy was also at the meeting in Concord and has put in a request with Representative Kuster's Office to get information from the Center of Disease Control on how to proceed with information on the possibility of a cancer cluster. Selectman B. Lemire states he will be attending the informational meeting and would like anyone who can attend to be there.

Selectman B. Lemire would like to remind everyone a State Primary Election will be held on Tuesday April 4, 2017 at Campbell High School from 7am-7pm.

Items moved from consent - None

Other Business - None

Selectman J. Brunelle **motioned** for the Board of Selectmen to adjourn.

Selectman K. Bourque **seconds** the motion. **Vote carries 4-1-0.**

The next Board of Selectmen's meeting will be on April 10, 2017 at 6:00pm at Town Hall

Brent T. Lemire, Chairman

Steven D. Perry, Vice Chairman

John R. Brunelle

Kevin C. Bourque

Kurt D. Schaefer

