

Selectboard Minutes

October 10, 2023

Present: Jenn Jones, chair
Jon Morgan
Russ Kelly
Paul Kleinman

At 6pm, Jones called the meeting to order.

The Board signed the payroll and accounts payable summary register.

Kleinman motioned, seconded by Kelly, to accept the consent agenda which consisted of public minutes from 10/3/23, recreation manifest, treasurer's report (found at the end of these minutes), and the following building permits:

- Manchester Rev Trust, 76 Dudley Road, Electrical
- Richard & Vanessa Henderson, 50 Fellows Road, Building – roof
- Sevim Perry & Mary-Jo Mohl, 63 Stevens Drive, Electrical

Three were in favor and Jones abstained.

Jones opened the meeting to public comment at 6:03pm.

Letty Bedard, Middle Road, referenced a recent reason the Brentwood ambulance had to visit her home. She shared the EMT's were fantastic, but asked if it would be possible to authorize funding for the ambulances to be stocked with pain medication stronger than over-the-counter Tylenol. She realizes there would be a cost associated with it but suggested it should be funded.

Jones asked who typically handles the stocking of items on ambulances. Karen Clement, Town Administrator, responded it is the EMS Captain, Alyssa Cynewski, who stocks the ambulances.

Bedard also stated the school board does not encumber funds the same way the Selectboard does.

Liz Faria, South Road, reminded those in attendance the SAU coop budget public hearing is scheduled for October 16th at 6pm.

Jones closed public comment at 6:06pm.

Jeremy Lougee, SELT representative, and Bob Stephens, Conservation Commission Vice-Chair, were present to share information with the Selectboard regarding a conservation easement on property located on Pickpocket Road. Stephens explained the Conservation Commission has voted to conserve land on the Fuller property on Pickpocket Road.

Lougee explained the conservation focuses on wildlife habitat, water resources, rural character, and agricultural resources. The Conservation Commission supports the project and SELT is excited to be working on it, according to Lougee. He explained the goal would be to close the project by the end of next year. Due to bond timing, Lougee explained they would not start until around January.

Lougee was looking for a potential vote for a public hearing in November. Morgan asked about the next steps in terms of surveys or analysis. Lougee explained once the Land Trust has the Selectboard and Conservation Commission's approval on the funding, a purchase and sales agreement would be signed with the landowner and a letter of agreement would be signed with the town. The next steps would be to do due diligence with survey work, title review, and environmental hazards study.

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Lougee explained their goal would be to start at the beginning of 2024 once the agreements are in place. Morgan asked what type of public access would be granted. Lougee responded public access would not be required on this easement. He added it would be left to the discretion of the landowner. Lougee explained it is only about 28 acres and it is likely there will be an active farm on the property in the future. He explained there is a fair amount of wetlands on the rear of the property and there are only about 10-15 acres upland. Lougee stated it is not likely a property that would be used for hiking and trails due to the amount of wetlands. Stephens added public access was requested by the Conservation Commission.

Morgan asked if the conservation land would be the 15 buildable acres. Lougee answered that according to the appraiser there would be up to 6 buildable lots.

Jones asked about some of the upfront costs including surveying, hazardous waste assessments, and other items. She explained the town has a \$75,000 conservation fund that the town replenishes. Jones stated that she believed SELT would cover the due diligence expenses upfront and work them into the bond. Lougee responded the funding is to be determined by the Conservation Commission and the town. He explained the answer he would need addressed at the beginning of the process is whether the commitment is there to the total funding.

Morgan asked if there was something specific that was preventing public access to the property. Stephens responded Conservation Commission requested use of the property for recreational use and the property owner respectfully refused public access.

Jones explained it has been a while since the town conserved land and there were some questions that were raised regarding the language of the warrant article passed in 2022 and whether the wording allowed for property to be purchased directly, owning an easement or having executory interest in an easement owned by another interest like SELT. Jones explained the legal counsel the town received is that any of those methods of conserving land would be acceptable as the warrant article was written.

Jones added the second question raised was whether the warrant article supports protecting farmland. Legal counsel feels that if conserving the land would protect wildlife habitat, water resources, and help protect the rural character of the town it would be acceptable to protect the farmland, according to Jones.

Kleinman asked for the wording of the warrant. Jones read the warrant aloud. Kleinman asked if Clement felt the property did not align with the verbiage of the warrant article. Clement explained she was not concerned and that she obtained legal counsel because there were members of the conservation commission that were questioning the allowability of utilizing the bond funds for the Fuller property.

Lougee shared that the Wildlife Action Plan that the NH Fish and Game puts together ranked 25 of the 28 acres of the Fuller property in its top three tiers for wildlife habitat which he expressed is quite rare. In terms of its water resources, Lougee explained, it sits on top of an aquifer, provides pollutant attenuation, and flood storage. He added the property is providing quite a bit of benefit to the town.

Stephens asked Lougee if he was speaking about all 25 acres. Lougee responded the 25 acres pertains to the wildlife habitat. Stephens requested Lougee explain the water resource piece again. Lougee stated 15.3 acres are sitting atop of a high transmissivity aquifer; 7 acres are sitting on top of a water protection area used by Louisburg Circle meaning some of their water is being filtered by this property; 21 acres are contributing to pollutant attenuation into Dudley Brook, Exeter River and the Great Bay; 13.8 acres are contributing to for flood storage for the water shed.

Stephens asked if the maximum allowable space for farming is utilized will these facts still be the case. Lougee responded yes and added with the open field right now, all these facts are accurate. Jones clarified there would be no difference in the water conservation piece whether it remains an open field or a working farm. Lougee affirmed and added the same was true

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for the wildlife habitat facts. Kleinman asked if the information being presented is for the public hearing. He added he does not have a good understanding of the process or how the property was selected. Jones replied the public hearing would be for expending funds from the conservation trust. She added there is no further requirement for a public hearing on this property because Conservation Commission (ConCom) has voted and brought it to the Selectboard for the next step.

Kleinman asked if this was the hearing. Joens responded it is deliberation on whether the Selectboard would like to move forward with the property or not. Clement added there was discussion about possibly posting a public hearing for November 7 in case the board decided to expend money from the Conservation Fund. Jones views the need for a public hearing only if the board wants to utilize funds from the Conservation Fund instead of bonding the project. Morgan added the board has been waiting for action on a property for quite some time. He added the voters asked for property to be conserved and the board requested Conservation Commission for actionable property to acquire. Morgan explained the board was presented with information on the property and noted that it is a small, but rare highly qualified wildlife habitat and water resource area.

Kelly asked Stephens how the property came to be. Stephens responded that after the warrant articles approved, ConCom was approached by SELT stating they had a property owner who was interested in conserving some land. ConCom was asked if they would like to participate in exploring the opportunity and learn more. Conservation Commission then met with the owner and SELT. Stephens explained, ConCom voted to pay for half of an appraisal as part of the process. That appraisal is where the assessed value of \$350,000 comes from according to Stephens.

Stephens stated he had questions about the logistics and details of the project. He noted the cost of the project exceeds the amount of the bond. Stephens requested reassurance that the full amount could be bonded. Clement responded the town was bonding \$250,000. Lougee responded SELT would be agreeable to having that amount go toward the acquisition of the property adding there is almost \$100,000 in private funds available to go toward the project.

Kleinman asked where the donor funds came from. Lougee answered there was a donor, who has since passed away, who donated about \$100,000 for a project like this – conserving a farm at agricultural value ensuring the farm could be passed down in the future. He explained SELT has been waiting for the appropriate fitting property. He explained Norma Fuller was supportive of the idea. Kleinman asked if there was a comparative analysis done around town. Stephens responded a comparison was done by a professional. He noted those properties were out of Brentwood, as they were better comparisons. Stephens offered to get that analysis data to the Selectboard members.

Kleinman asked what the vote was on the Fuller property. Stephens responded there were 7 members in attendance who voted. He explained 5 were in support, 1 was not, and he abstained because SELT is a client of his. Kleinman asked if the town's responsibility is \$250,000. Jones responded she understands that to be the expectation at this time. She added she believes Lougee is looking for a formal vote to move forward with processing the bond next summer.

Liz Faria, South Road, asked if this was the public hearing. Jones responded there is no requirement for a public hearing. Faria requested it noted that the warrant article stated there be public access when possible. Jones acknowledged that and stated there was discussion about public access and it was denied. Faria asked if the reason for denial was provided. Jones responded she did not believe it was disclosed and added this is an easement and the property will remain in the owner's possession.

Jones asked Lougee if her understanding was correct that the property does not lend itself to hiking. Lougee confirmed that was correct. He added that sometimes with conserving property the owner is willing to conserve it but does not want to allow public access. Stephens added the easement does not say they will deny access, it states it is at the owner's discretion.

Kleinman asked how the terms of the easement were determined. Lougee responded SELT uses a standard template and has been used with other conservation easements in Brentwood similar to the game farm project. Kleinman asked what type of basic features does the document protect. Lougee responded it prohibits residential development in the future, it allows

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agricultural and forestry with best practices, no plowing of wetlands, and does not allow any hazardous materials to be dumped on-site. Stephens asked if the easement prevents windmills or solar panels. Lougee responded the easement allows for structures up to 2% impervious surfaces with the requirement it would be used for agricultural, conservation, or habitat management. He also explained solar structures could be added up to 2% impervious surface, but would have to be utilized for the use of the farm and could not be sold to a different property.

Jones asked for an explanation to the public on the difference between SELT owning the easement and the responsibility of Brentwood. Lougee explained SELT would hold the easement which means they are responsible for monitoring it yearly and enforcing any sort of violation. He added the Town of Brentwood would hold an executory interest allowing for the town to enforce violations if SELT does not or if SELT were to dissolve. Lougee explained the town would pay a one-time sum but would not be required to monitor the property every year. He added that it saves the town time, energy, and money.

Jones asked if there would be additional liability implications to the town. Lougee answered under the line item stewardship costs, there is a legal defense fund provided through the accreditation organization SELT belongs to. He explained it is basically liability insurance.

Kelly stated there will be a Conservation Commission meeting tomorrow and wanted to be sure Artimovich would be able to attend. Clement responded she believed he would be in attendance. Kelly asked Stephens if there was anything additional he needed from the board ahead of that meeting or before finishing his time with the Selectboard. Stephens responded he has requested Lougee have language in the agreement that the town be let out of the agreement should the state decide the bond cannot be used how ConCom intends to use it. Jones asked if the town has ever had issues bonding other properties. Clement responded no.

Kelly expressed his appreciation of Mrs. Fuller for engaging with the town and Conservation Commission for their supportive vote. He also expressed appreciation to the citizens of the town who requested the property be reexamined and SELT's work as well.

Morgan motioned, seconded by Kelly, to issue a letter of intent in favor of moving forward with the conservation process of the Fuller property. All were in favor.

Jones asked when the next update to the board would occur. Lougee responded he would work with Clement and counsel to form an agreement and then he would notify the board of the purchase and sales agreement with the landowner.

Rick Murphy, Emergency Management Director, was present to share his budget with the Selectboard.

Emergency Management Budget

- Murphy has been in his role for 14 years
- Has not overspent the budget
- Seabrook station payment
 - \$8500 blanket payment
 - Paid quarterly in increments
 - Designed to cover traffic control points, radiological plans, street signs, repair of generators, Wi-Fi, infrastructure, radios, computers, monitors, etc.
 - Would like to have this account line roll over each year as suggested from state liaison
 - 50-60% generally returned to voters each year, but varies
- Currently heading into a drill cycle
 - October 18, February, April 4

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- Costs about \$10,000 - \$12,000
- \$14,875
- Level-funded

Murphy will work with Clement for warrant article language to possibly create a revolving fund. Kelly congratulated Murphy on 14 years in his role and expressed his appreciation for the consistency Murphy has established. Kelly stated he will be attending the drill.

Kelly motioned, seconded by Morgan, to accept the Emergency Management budget of \$14,875. All were in favor.

Karen Clement, Town Administrator, shared information on the following budgets.

Executive Office

- Level funded budget
- Includes Selectboard salaries
- Pre-employment physicals and medical exams
- Annual medical exams covers the cost of 1 firefighter
- Advertising/notices
- Florals
- Consortium
 - Through Exeter Hospital
 - For highway employees random drug/alcohol testing

Jones asked about the \$1 in the longevity program. Clement responded it was a longevity program the fire department did called "Length of Service". She explained over the years they did not have staff that met the requirements, so the line was reduced to \$1.

Jones asked about the \$1 for books and publications. Clement responded it previously covered RSA books which are now generally available online.

Morgan motioned, seconded by Kelly, to accept the level-funded Executive Office budget of \$25,005. All were in favor.

Legal Budget

- Engineering and surveying
 - Cost paid for driveway permits
 - \$75/driveway
- Town Counsel is level-funded
 - 1 case possibly going to trial next year
 - \$20,885 covers general questions to counsel
- \$1 for perambulations and payments to IRS

Morgan stated the budget seems to be close with engineering and surveying and asked if it should be increased. Clement stated she believes it should be okay left at that amount as Three Ponds has concluded their second phase. Kleinman asked if there is a budget for the case that is going to trial next year. Jones suggested cutting the legal line. Clement explained the need to keep it at the budgeted amount for the potential upcoming trial.

Morgan motioned, seconded by Kleinman, to accept the level-funded Legal budget of \$37,127. All were in favor.

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Welfare Budget

- Salary of welfare director
- Paid \$675/quarter
- Direct assistance
 - Budgeted at \$4,500
 - Covers cost of outlay
 - 1st month's rent or security deposit
 - Hotel stay

Jones suggested cutting the direct assistance line. Clement pointed out the money expended this year was for servicing one person and the amount spent varies based on the number of cases received. Kleinman asked if there was an application process. Clement responded that the applicant is required to submit an application, employment information, lease/rental agreements, among other items. Jones was agreeable to keep the direct assistance line at the current amount for this year and reassess in the next year or two the amount expended.

Morgan motioned, seconded by Kelly, to accept the level-funded welfare budget in the amount of \$7,407. All were in favor.

Waste Collection (Recycling/Waste Disposal) Budget

- Increasing by the 4% escalator set to expire in December 2024
- Landfill fees increased slightly
 - Tonnage costs has an escalator
 - Based on year-to-date actuals
- Going to bid in summer of 2024
- Or extend the current contract for up to 3 years

Morgan motioned, seconded by Kelly, to accept the contractual waste collection budget in the amount of \$490,323. All were in favor.

Jones addressed HB 321 regarding sealed meeting minutes. She explained based on NHMA research there appears to be a 10-year grace period. She believes towns have time to develop a plan or follow the default. Jones suggested it be discussed after budget season.

Jones shared an update on the Mills Falls Neighborhood Association versus the Town of Brentwood Planning Board. She stated Superior Court found in favor of the town. There is a 30-day appeal period according to Jones.

Morgan stated he does not have draft minutes from the Budget Committee yet but knows there was a list of questions. Clement stated she had met with Jack Mitchell, budget committee chairperson, and provided him with several answers. She explained she provided him with 3 years of MS-1 which reports on net valuations, MS-737 which are proposed budgets for the last 3 years, and MS-434 which are revenues for the last 3 years.

Morgan shared there will be a charette presentation at the Brentwood Recreation Center on Thursday, November 2nd at 6pm.

Liz Faria, South Road, asked if the presentation was posted anywhere. Morgan stated it was not.

Letty Bedard, Middle Road, asked if the presentation would be streamed. Morgan responded it could be if he had assistance. Jones stated recording it is something they will work on.

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Kelly shared information on upcoming town events.

- Saturday, October 14, fire department Open House and Pancake Breakfast from 9am – 11am.
- October 16 is public hearing for the coop budget to be held at the high school
- October 16 is a budget committee meeting
- October 16 is a celebration at the library honoring Liz McConnell as NH's library trustee of the year
- October 18 is the Seabrook drill
- October 27 is the haunted walk at the Recreation Center from 6-8pm
- October 31 is trick-or-treating. No Selectboard meeting

Jones mentioned Energy & Efficiency is planning a public hearing in early November to learn about Community Power. No date has been set according to Jones.

Kleinman gave some Planning Board updates with the assistance of Bruce Stevens and Doug Finan, both members of the Planning Board. They are still waiting on brentwoodnh.gov email addresses for the Planning Board members. Clement will follow-up on that. Clement's understanding was that it had been completed.

Audio/visual updates for the meeting room was also addressed by Kleinman. It was suggested Josh Bertoulin from the Communications Subcommittee speak with Jillian Benedix, Planning Board Administrative Assistant, to be sure the Planning Board's meeting needs are being met with audio and visual upgrades. Kelly stated the website has been a priority for the Communications Subcommittee and the AV for the Cross room had been put on the back burner for a bit but has not been forgotten.

Kleinman spoke again about the old Bessie's location. He expressed the Planning Board has not been notified of change of use and therefore believes it is not currently under their purview. Kleinman added that Kip Kaiser, Building Inspector, previously stated he spoke with the contractor to obtain an engineering plan. Kleinman argued the construction activity has continued. He believes it is a cause for concern and is not good optics to allow work to continue. He further believes they are not authorized to continue to work. Jones asked if the property owner or contractor was on a Planning Board agenda. Kleinman responded they are not which is why they are seeking some sort of direction in drafting a letter to the land owner.

Jones asked Clement how it has historically been handled when there is construction that has not gone in front of the Planning Board. Clement stated there are a few things going on. She explained they had a demolition permit previously approved by Kaiser. She added they applied for a plan examination/building permit which was signed off by the Selectboard on September 26.

Clement added that Kaiser is waiting for a certified copy from a structural engineer stating the trusses are safe to sit on the walls and meet the state building code. She explained some of the work was done prior to pulling the permit. Clement stated Kaiser is working with the contractor and the property owner to be sure the information is obtained and that he is satisfied with the information and meets all the building codes. Clement explained Kaiser spoke with the property owner and builder this afternoon at 2:30pm.

Clement added that the property will not qualify for an occupancy permit. The last communication they had was from the contractor stating they intended to use it as an ice cream stand, according to Clement. She explained this would not be a change of use. Clement explained if there is a change of use, that will need to go to the Planning Board. Kleinman expressed there was still inconsistent information. Clement reiterated they cannot occupy the building or operate their business without an occupancy permit or site plan review. Issuing a cease and desist is counterproductive according to Clement. She stated they need to get the building safe and cannot do that if they are not permitted to work on the property.

Both the property owner and contractor are being cooperative and working toward compliance according to Clement. Jones

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asked if Kaiser has any safety concerns that pose a risk to anyone. Clement responded he does not. Jones stated it appears the gold standard process was not being followed but they are working to get into compliance. At some point, they will need to declare their intended use Jones stated. She added if it is a change of use, they will be required to go to the Planning Board.

Kleinman stated the Planning Board feels they are in the dark. Jones asked if Kaiser requested the contractor cease all work. Clement responded he has not. Morgan asked if they have a building permit. He believes they should have to stop completely if not. Clement responded the recourse has always been to issue a fine three times the value of the permit. It has not been to cease work, according to Clement. Kleinman asked if the Selectboard has the authority to at least issue a letter that states to stop work. Clement verified the building permit was signed on September 26. Jones stated it sounds like the timing needs to be looked into further and cleared up with Kaiser's assistance. Kelly asked if there is any action needed by the board at this time.

Morgan requested something be done about the garbage heaps on 335 Route 125. He asked if there could be any enforcement action. Bruce Stevens, Planning Board member, stated there is no ordinance against "general junk". Morgan asked if maybe there is a state RSA. He requests that junk not be allowed to be piled up. Clement will speak with Glenn Greenwood, the Town Planner, about any possible violations.

Doug Finan, Planning Board member, referenced the rock crushing location on Route 125. Clement offered an update. She stated John Wilder, tenant of 62 Route 125, was in the office today. Clement stated it is her understanding the rock crusher has been removed, noting that was the primary complaint brought to the board. Wilder has a meeting with Greenwood tomorrow to discuss his future intents with the property and possible changes to the site plan. Wilder will then connect with Clement to see what information can be updated to the Selectboard to close the loop on the complaint brought to the Selectboard.

Jones stated she received a message from Daphne Woss, Town Clerk/Tax Collector. According to Woss, it looks like the NH Primary will be January 23, but waiting for official word from the Secretary of State.

At 7:34pm, Morgan motioned, seconded by Kelly, to go into non-public for legal. Morgan – aye; Kelly – aye; Kleinman – aye; Jones – aye.

At 7:41pm, Morgan motioned, seconded by Kelly to seal the minutes and go into public session. All were in favor.

At 7:41pm, Morgan motioned, seconded by Kelly to adjourn. All were in favor.

Respectfully submitted,

Tamera Peek

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WEEKLY TREASURER'S REPORT				
DATE:			10/10/2023	
General Fund:		TD BANK		
Previous Balance:		3,718,153.52		
Deposits:		126,668.27		
Payroll:		34,373.21	DDP: \$34,186.76	
			CHK: \$186.45	
FICA:		8292.01		
A/P:		28,059.92	Reg A/P Cks \$28,059.92	NHRS \$
			Swasey: \$	CO-OP: \$
Transfer to REC CC				
Pd Admin CC				
Transfer to Impact Fees				
Account Balance:		3,774,096.65		
Interest Earned YTD:		95,294.43		
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Joyce A. Gallant, Treasurer				