

Selectboard Minutes

May 21, 2024

Present: Jenn Jones, chair
Andy Artimovich (via zoom)
Jon Morgan
Paul Kleinman
Letty Bedard

At 6:15pm, Jones called the meeting to order.

The Board signed the payroll and accounts payable summary register.

Bedard motioned, seconded by Morgan, to allow Artimovich to attend remotely. All were in favor.

Kleinman motioned, seconded by Morgan, to accept the consent agenda which consisted of public minutes from 05/07/2024, nonpublic sealed minutes from 05/07/2024, the recreation manifest, the treasurer's report (found at the end of these minutes), and the following building permits:

- Justin & Jodi Barrett, 39 Homestead Lane, Plumbing
- T&M Wanyo Rev Trust, 20 Three Ponds Drive, Minor Projects – finished basement
- Thomas Oliver & Kimberly Hardy, 20 Gallant Drive, Building
- River Run Development, 1 Edgewater Drive, Plumbing
- Jonathan & Kathleen Morgan, 51 Lake Road, Pool

Artimovich – abstain; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Chief Bird was present to discuss earned time buy out with board. Karen Clement, Town Administrator, read the section of the handbook that was drafted as an update to more accurately reflect Chief Bird's request about fire department earned time at the last Selectboard meeting. Clement read, "annual leave should be used during the calendar year it accrues; however, employees may carry a maximum of 2 weeks base hours (96 hours for full-time fire) to the following calendar year and/or add time to their sick pool leave (see section regarding sick leave accumulation). If an employee has accrued hours in excess of the allowable maximum carryover, they may request to buy out the excess hours at a rate of 100% of their current rate up to 1-week base pay (48 hours for full-time fire) at the end of the calendar year".

Kleinman stated he met with Chief Bird to better understand the previous request to allow firefighters to carry over 96 hours instead of 84 hours. He stated he better understood the schedule and request after meeting with Chief Bird. Kleinman stated he was in support of the change to allow fire fighters to carry over 96 hours.

Chief Bird asked Morgan if he understood and was agreeable to that change. Morgan responded that his concern is that the policy be fair and equitable across all departments. He wants to avoid policies that are not equal across all town departments. Morgan added he wants there to be no perception of favoritism.

Jones asked Clement if she feels there is any unfairness with the policy. Clement responded that she does not feel there is unfairness with the policy. Bedard suggested changing the wording from full-time fire to any employees working a 24-hour shift.

Jones noted that Chief Bird has built the amounts for a 1-week buyout into his budget.

Kleinman suggested leaving the language as firefighters because they are the only department that has 24-hour shift. Chief Ventura, police chief, stated he would not be putting any of his staff on a 24-hour rotation. Bedard agreed that keeping the

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current language would be acceptable.

Bedard motioned, seconded by Kleinman, to accept the earned time policy language as amended “employees may carry a maximum of 2 weeks base hours (96 hours for full-time fire) to the following calendar year and/or add time to their sick pool leave (see section regarding sick leave accumulation)”. Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

The board then discussed the earned time payout. Bedard raised concerns about the payouts not being budgeted if it was to take effect for 2024. She also asked how the expenses would be tracked. Clement responded that she would like that payout line to fall under the benefits budget and not the payroll budget lines.

Jones added there have been unbudgeted expenses during her tenure on the board. She added that looking at the budget, she does not see an issue with making this work. Clement stated the average weekly payroll is about \$38,000 and noted that it includes, officer details, shift differentials, and training. She anticipates the amount being less than that. Additionally, Clement noted that not every eligible employee would take advantage of the buyout.

Kleinman motioned, seconded by Morgan, to accept the buyout policy amendment “If an employee has accrued hours in excess of the allowable maximum carryover, they may request to buy out the excess hours at a rate of 100% of their current rate up to 1-week base pay (48 hours for full-time fire) at the end of the calendar year”. Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – abstain; Jones – aye. Motion passed.

At 6:31pm, Jones opened the meeting up to public comment.

Lois DeYoung, Crawley Falls Road, asked about the status of the alternates. Jones responded that there was a new process for filling open positions that was established over the last few years. She added that the board is now trying to improve the process by standardizing the timeframe and making a more collaborative effort to the process by having the Selectboard and committee filling the opening(s) together in one meeting. DeYoung expressed her interest in serving as a library trustee. She was encouraged by Jones to apply even if the position is not yet open.

Betsy Ibbitson, Scrabble Road, asked a question about the earned time payouts. She questioned if the salary employees would also benefit from the payout. Clement confirmed that they would.

Stefanie Kizza, Mary Vey Drive, was present to offer follow up information on the DOT presentation done at the Recreation Center recently. She offered her assistance on the project solicitation process. Kizza added that two projects that could be considered are connecting Swasey and the library with a sidewalk and improving recreation center access.

Kizza added that the board should also consider the long-term improvement option from the Road Safety Audit. She explained that there is a June 5th deadline for submitting the application. Kizza explained she would offer her services to help with the wording and assumed costs of the projects.

Jones asked if the application would come from the Selectboard or the Planning Board. Kizza responded that there is no requirement it comes from the Selectboard. It could come from the Town Administrator with the support of the Selectboard or other board, Kizza explained. Bedard asked if there would be a need for a special meeting since the timeline is short.

Morgan noted that much of the information has already been put together. Kizza added that if the application is submitted, there is no obligation by the town to accept funds or move forward with any projects. Clement asked how time intensive the grant application would be. Kizza responded that it is not terribly time intensive and suggested keeping the request broad without many minute details.

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Jones added that based on the presentation, the grant application seems like a good idea. Kleinman added that he believed the board had already supported those decisions. Jones responded that the board sent a letter to the DOT supporting the intermediate solution presented during the Road Safety Audit presentation.

Becky Dunham, Block Drive, asked what the next steps would be with the charette. She questioned when community input would come into the plan. Jones responded that there are no definite plans in place. Morgan added that within the last 2 weeks the rec had a vision session. Dunham asked if the meeting was recorded. Bedard responded that it was.

Jones closed public comment at 6:46pm.

Tricia Canty, South Road, was present to request the board consider the idea of displaying graduation banners on Middle Road from Lindy's to Swasey School area. She explained the banners would be about 2' x 4' and attached to the telephone poles with brackets. The banner would display the student's name, photo, and graduation year, Canty explained. She added that she estimates there will be about 55-60 graduates. Canty believes displaying the banners would bring more positivity and display that the town values the education provided to students.

Canty added that she spoke with Epping and Kensington and obtained information from them about their banner displays. It is estimated that the banners would cost between \$65 - \$70 each. She explained the brackets are estimated to be about \$50 - \$70 each. Canty added that each banner would require 2 brackets.

Jones asked how the banners and brackets would be paid for. She also questioned how the banners would be put up and taken down. Canty responded that in Epping, the town purchased the brackets originally. There is a parent that stores them when they are not needed and the banners are hung by volunteers each year, Canty explained. Canty explained that in Exeter, project graduation funds are used to help cover the costs.

Jones asked what the project graduation fund was and if it was part of their town budget. Canty explained that it is a fundraising effort that is added to during the student's high school career. Money is obtained through fundraisers like bake sales. Canty stated she was told that the town would need to obtain permission for the utility poles to be used to hang the banners.

Canty noted that the parents would give permission for the banners to be made and displayed. She added the parents could keep the banners after they are done being displayed. Canty shared that Synergy in Manchester makes banners for other districts and can handle the request for Brentwood students. Jones stated she believes there would have to be a volunteer champion to take on this project.

Morgan asked Canty if the idea was approved, would she have the volunteers to make it happen. Canty responded that she understands the banners would not be able to be done this year because of the short timeframe. She noted that she has not recruited volunteers.

Jones asked what the thoughts of the board were. Clement responded that she believes it should be a school initiative to create the banners and obtain the photos and appropriate permissions. Bedard asked if the brackets could be used for other reasons. Canty responded that it could possibly be used to display banners of Veterans in the town. Jones questioned if Canty's request was for the purchasing of brackets and the use of the utility poles. Canty affirmed it was.

Kleinman stated he supports the idea. Morgan expressed he was supportive of the idea and suggested a fund be established to help offset costs for students who cannot afford to purchase a banner.

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Bedard motioned, seconded by Morgan, to request pole use from the utility company to hang the banners. Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Artimovich stated he does not want volunteers hanging the banners and suggested it be the responsibility of Wayne Robinson, Road Agent, and his department. Jones suggested that ARPA funds could be considered for the purchase of the brackets.

Chief Ventura was present to withdraw their request for funding a new cruiser. He explained they would be approaching the board in a few weeks for some other department needs. He expects it might be 1/3 of the original request.

Lt. Doty was also present to discuss new proposed ordinances. He explained the existing noise ordinance was last updated in 1977 and the hawkers/peddlers/vendor ordinance was last updated in 1992. Doty stated the ordinances are about improving quality of life for residents and public safety.

Chief Ventura stated the department receives calls about suspicious people in town all the time. He believes by making changes to the ordinance, it would allow the PD to better vet people who are soliciting in town.

Jones asked if there is currently a noise ordinance. Doty responded that it is for excessive use of power only. Jones questioned if the noise ordinance is reflective of the RSA. Doty responded that the language was taken from the RSA but made it a little more reader friendly and inclusive of Brentwood's needs.

Kleinman offered to meet with PD to discuss the ordinances offline. Jones asked about the timing in the ordinance. Doty responded that the change is reflective of Brentwood and its needs. Ventura responded that it is tailored to the community and fines would be returned to the town.

Jones stated she would like the final version to be available to the public to allow for feedback. She added there would be public comment available at the public hearing. Clement stated there will be 2 public hearings as required by law. Bedard noted that the plow trucks could still operate as needed and farming equipment could still be operated with the updated noise ordinance in place. Ventura stated there will still need to be some discretion, but noted this is framework.

Artimovich, referencing the hawkers/peddlers ordinance suggested that the language referencing RSA 320 and 321 be removed from the ordinance as those RSA's were stricken by legislation. Jones asked if it is general practice to have the Selectboard approve the permits for hawkers/peddlers. Doty responded that is how other towns do it, unless they select a designee. Jones notes that it could be an issue with the Selectboard's spring/summer schedule. Ventura responded they could add the language for a designee.

Jones asked what criteria would deny an application and how the board would be made aware of it. Doty responded it would be obtained from the criminal records. Jones stated the ordinances would be put in the minutes and on the website. The ordinances have been attached to the end of these minutes. She added the public hearings must be 10 days apart. Jones asked if it could be discussed at the next scheduled meeting. Clement responded that if the statute requires it to be published in the newspaper, there would not be enough time before the next Selectboard meeting.

Julie Avant, chair of Trustees of the Trust Funds, was present to speak to the board about the inactive account. She explained there is a forestry trust fund which was established in 2004 and funded in 2005. Avant explained allowable uses are for culvert repair, cutting, and logging. She explained it has never been used. Morgan asked how much was in the trust fund. Avant responded \$6500. She explained it was funded at \$5000 and interest over the years has increased the balance to \$6500.

Morgan stated that people love using the trails. He shared that people would like to see the trails more maintained. Bedard

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asked if there were restrictions on how the money could be used. Avant responded it could be used specifically for culverts and selective culling. Bedard asked if money could be used for a culvert that provided better drainage near a trail. Jones asked if there was a plan. Avant responded yes. It was from 2004. Bedard asked if the money could be expended by the Selectboard.

Jones asked Avant if that was the only inactive account. Avant confirmed it was.

Jim Hajjar, editor of Brentwood Newsletter (BNL), was present to discuss a statement of assurance with the Selectboard. He thanked the board for an opportunity to meet with them. He explained that the Statement of Assurance was devised from the December 2022 drafted MOU and community feedback.

Hajjar stated he hopes the memorandum will end political divisions, offer transparency to the town and community, clearly define the policies of the BNL content, suggest a liaison to provide public mediation, document expectations regarding the payments, and establish trust. He explained section A of the policy applies to all submissions. Hajjar stated they have been abiding by that policy for the last 18 months.

Hajjar stated #3 eliminates endorsing candidates and #4 agrees to make no changes to the printed submissions without prior approval from the submitter. Under B, Hajjar suggested considering the Town Moderator or other neutral party to fill this role. Hajjar explained that all submissions are reviewed by the BNL review board. Under the liaison idea, review and resolutions would be in public.

Hajjar explained the payment terms to be \$4704.55 being paid after the publication of the first three issues, be \$4,704.55 being paid following the publication of the second three issues, be \$4,704.55 being paid after the third three issues and \$3,136.35 after the publication of the final 2 issues.

Jones opened the floors to questions and comments from the board. Kleinman believed the document is an important step to put content standards into place. He believes it goes a long way to address those issues. He believes it addresses all previous concerns.

Hajjar thanked Kleinman for his input. He added that Section A of the document is posted on their website. He believes that because it was implemented it changed the newsletter for the better. Kleinman stated that as a matter of transparency, he spoke with Hajjar regarding the policies he believed needed to be put into place.

Jones stated that she was impressed with how many items were in the document. She believes it represents a fair, equitable, non-controversial plan. Jones believes the agreement represents a town funded newsletter. She asked why the BNL would not consider bringing the newsletter under the town.

Jones noted that there is no other company that the Selectboard would adjudicate with/for during a public meeting. She questioned why it needed to be a separate organization. Hajjar responded that legally he believes the newsletter being under the town would open Brentwood up to legal issues. He also believes that graduation announcements, obituaries, local charities, new businesses, and other notices would not be able to be published under the town.

Jones questioned the reason those items could not be published in the newsletter if it was under the town's oversight.

Hajjar argued that the legislative body voted to fund the newsletter. He added he believes the town counsel had issues with content. Bedard questioned why the newsletter committee could not be under the town. She noted the printer would be paid by the town as would postage. Bedard added the same volunteers could help create the newsletter. Jones stated she does not see the downside of the newsletter being under the town.

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Hajjar expressed his confusion as to why the town would want to take on the responsibility of the newsletter. Bedard stated the Selectboard is just proposing it. Hajjar stated that people expressed they did not want the newsletter to be political. He argues that moving the newsletter under the town makes it political.

Bedard stated she does not believe the agreement is enforceable. Kleinman questioned why she believed that. He stated he believes it is enforceable. Jones questioned why it would become political by becoming a town publication. She stated she sees no drawback to taking it under the town.

Bedard asked Jones who would oversee it. Jones responded the Selectboard would have to figure that out. Kleinman was willing to discuss the newsletter coming under the town.

Morgan asked how many members of the board of directors have changed since March 2022. Hajjar responded that he was unsure. He stated he was added to the board of directors. Jones noted she did not see him listed on the Secretary of State website. Morgan asked if any other changes had occurred since 2022. He stated he believes there were no other changes since 2022.

Morgan stated that the document is a good document. He believes that true leadership requires true change when things go wrong. Hajjar argued he was added to the board of directors as a result of that situation. He believes the last 18 months should prove there have been changes.

Artimovich stated he liked the agreement document. He questioned the payment structure since there will not be 11 issues. Artimovich noted that if the newsletter became a town function, there would be a lot of work ahead. He added there would be a need for a subcommittee to be appointed. He noted that the Brentwood Newsletter appears to have put forth a lot of effort to curtail some of the previous concerns. Hajjar, responding to the payment comment, responded that the first payment would be for the April, May and June issues.

Jones opened the floor to comments from those in attendance at 8:05pm.

Losi DeYoung, Crawley Falls Road, stated she has been in town for 50 years. She explained the newsletter was started 48 years ago by Linda Rousseau and it has been done by volunteers ever since its inception. DeYoung claimed that the Selectboard instructed the Brentwood Newsletter to become incorporated due to liability reasons. She added that after Rousseau stepped down, the newsletter expanded. DeYoung believes it would be more expensive for the town to oversee it. She requested the Selectboard not change its "ownership".

Michelle Siudut, Middle Road, asked Morgan what his answer would be to the leadership of the BNL. Morgan responded it is not his decision for the leadership of private entities. Siudut questioned if he wanted certain people removed from their leadership. She added she believes the BNL has done everything they could to extend an olive branch.

Siudut stated the town did not vote for a contract. Jones responded that at the public meeting held at the recreation center under Ken Christiansen's leadership, the majority of people polled wanted some kind of editorial control.

Siudut asked Jones what it would look like with the newsletter under the town's control. Jones responded that she would expect it to look similar without the inclusion of editorials. She added that she appreciated the agreement document. She believed it seemed to be pointing in the direction of a town-funded newsletter.

Siudut, speaking to Jones' comment, stated she does not believe the document says the Selectboard "will hash it out" referencing the Liaison section of the agreement. Siudut stated she believes Section B is intended to be different than how Jones understands it. Morgan stated that if Boeing or some other large corporation has a serious issue, there is always a Board of Directors shake up.

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Siudut asked Jones what would change by bringing the newsletter under the town. Jones responded that it would be reviewed and approved by the town. Kleinman questioned it compares to other vendors.

Laura Hajjar, Mohawk Lane, stated that if the newsletter is brought under the town, the newsletter would lose its credibility. She explained it would appear that the newsletter would be a “mouthpiece” for the Selectboard. Hajjar stated she believes the town would also be controlling the information that is received and the newsletter would no longer be an independent publication from the people to the people.

Janice Wiers, library director, spoke to the board as a department head receiving town funds. She explained that she has to produce receipts, have an audit and prove that every penny spent is worth spending. Wiers expressed her frustration that \$18,000 would be expended so easily while her department is under scrutiny for requesting \$6,000. She suggested the use of the new website and offer the newsletter as an email with an option for people to opt-in for mailed versions which could help reduce costs.

Hajjar responded that if the newsletter was part of the budget process, he would have had to sit and explain how the request for money came based on the estimated costs. Bedard stated that being part of the budget process does not guarantee it would be funded. Hajjar affirmed he understood that.

Tracy Descoteaux, Middle Road, explained that she serves as the treasurer of the BNL. She stated she is competent, tried to cut costs when possible. She added people want the newsletter in print on yellow paper.

Steve Dawson, Ladd Road, shared that he spoke against spending money at Town Meeting to fund the newsletter. He shared he supports the proposal that the BNL supplied. Dawson explained he understood that the vote of the town was to fund the BNL and realizes it is not a directive to expend the funds. He stated his support of the newsletter. He believes if the newsletter is not funded, further division will ensue. Dawson expressed his hope that funding it would be considered and pointed out that it is a year vote and a chance to see how it works.

Betsy Ibbitson, Scrabble Road, stated she personally likes the newsletter. She added that she has not heard or read an official apology from BNL. She noted the item that has been expressed as a “little thing” was a very “big thing”. Ibbitson stated it became national news and was an extreme embarrassment to the town.

Rob Wofchuck, Peabody Drive, stated he is generally against the newsletter. He added that the people have spoken with the vote, and it should be followed.

Eric Turer, Peabody Drive, stated has loved and valued the newsletter over the last 25 years. He shared that he was glad to see an honest effort to return to what the newsletter was when he first lived here. Turer believes it is moving in the right direction.

Doug Finan, Gove Road, expressed support for the funding of the newsletter. He believes they can now work within the perimeters of the Selectboard. He believes that if the Selectboard votes to approve the payments it would show that the elected officials are willing to listen to the residents.

Leslie Kleinman, Diane McCain Drive, stated she believes if the Selectboard does not fund it, more division will ensue.

Julie Avant, Bartlett Road, stated she is on the board of the newsletter. She shared that she does not like controversy or division. She believes the Selectboard has made an effort to come to the middle. Avant stated does not see the necessity of bringing the newsletter under the town.

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Jones closed public comment at 8:44pm.

Bedard stated she believes there is a lack of trust on both sides. She is wondering if there is a way to trust each other in a very defined way. Bedard is not sure how to get past the trust issue.

Morgan stated that it is important to recognize that as a town of 5000 people with many who voted at the most recent election who were not at Town Meeting and the Selectboard represents the whole town not a small group of people. He encouraged the board members to hold onto that thought as they are making a decision.

Bedard asked again why the current BNL board could not come under the town. Morgan responded that they do not seem to be willing on their side. Bedard responded it would be the same group of people. Hajjar expressed his confusion as to why the BNL Inc would go under the town. Bedard responded that they could be part of the Town of Brentwood newsletter committee. She questioned why they would not try. Hajjar responded that there is no reason to.

Jones noted that it would be an agreement 1 year at time. She expressed again that her preference would be to bring the newsletter under the town. Jones also shared she appreciated that the warrant was amended at Town Meeting regarding the payment. She also shared the intention of Selectboard is not to “wreck” the newsletter.

Hajjar stated he was open to conversations with the Selectboard. Jones stated she assumes good intent with no ulterior motives. She requested the BNL keep the lines of communication open.

Kleinman, responding to Morgan’s point regarding the 5000 people that he believes the Town Meeting representation spoke. Morgan responded that after the article, Russ Kelly who was serving on the board at the time, gave the BNL “one more chance”.

Kleinman motioned, seconded by Artimovich, to accept and sign the statement of assurance and to expend payment as outlined in Section D of the agreement. Artimovich – aye; Morgan – nay; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Jones shared her hesitation, but noted she is willing to try because of how the agreement is written. Bedard clarified that the criteria refers to the June publication as well. Hajjar affirmed that it does.

The board took a short recess at 9:10. At 9:17, Jones called the meeting back to order.

Bedard motioned, seconded by Kleinman, to purchase 2 more microphones for the table and expend \$1100 from impact fees.

Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Clement presented the board with 2 reappointment slips for Conservation Commission. Bedard motioned, seconded by Kleinman, to reappoint Doug Cowie as an alternate for 90 days with a term expiring July 31 and Brian Silva as a full member for 90 days with a term expiring July 31. Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Jones asked Clement about the Rec van MOA. Clement responded that it would be okay with Andy Gray, rec director, to bump that.

Jones shared that June 4 is the deadline for changing your political party for the state primary.

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Jones asked if there needs to be a vote for the phones. Clement responded that she executed a contract to switch all of the phones to Comcast. She expects the conversion to take place before June 1 otherwise it would be a prorated rate.

Jones shared that Russ Dean, Exeter's town manager, emailed Jones and shared that there will be a meeting on May 28 to review the recommendations of the River Advisory study. She noted there is no final action expected to be taken at the meeting.

Artimovich shared that the library amphitheater dedication will be on June 15th starting at 2pm.

Morgan shared that Economic Development met and voted in favor of searching and hiring a grant writer for the town. He added that the committee voted to support the idea of making Bob Rossman chair of Economic Development. Jones asked if there were terms for Economic Development. Morgan responded they are a subcommittee of the Planning Board and the members do not currently have term limits.

Morgan shared that the Recreation Commission had a visioning session and discussed the long-term vision. He added they voted to support further conceptualization of doing a pavilion setting near Olsen Field to offer pickleball, ice rink, and pool. Morgan also shared there was discussion about establishing a fund to help cover the cost of Brentwood kids to attend summer camp. He added there was discussion about a new community center that could offer basketball, space for voting, theater, bathrooms, and more storage. Bedard asked if there was a discussion to phase the project. Morgan responded no, but they want to do it "right" the first time.

Kleinman shared the Conservation Commission finalized the subcommittee for the Open Space. The members will be Lise McNaughton, Rob Wofchuck, Becky Dunham, Jeff Dvorak, and Robin Wrighton. Dunham stated from the audience that one more person has been approached to round out the committee.

Clement stated for the record that people with expired terms could not vote, and she did not give that information.

Clement shared there will be a Conservation public meeting at 5pm on June 4 to consider making a recommendation to seek bonds for the Fuller project. She added the bond deadline is June 14.

Bedard stated the Planning Board had their RPC presentation and reviewed the 10-year plan process. She added that it sounded like the board would be getting something ahead of the next meeting to apply for the grant. She questioned who would be in charge of completing the form. Jones responded that someone would check with Kizza to see if she is willing to handle that.

Bedard shared the Municipal Complex Building Committee met last week. She explained there was a document outlining the timeline and believes it is important to get out to the public. Jones shared that Ventura plans to have public meetings ahead of the Municipal Complex Building Committee meetings.

Jones shared that she is the representative to the Budget Committee. She noted the committee recently visited the police station and had a conversation with Chief Ventura. The committee was able to see how tiny, cramped, and flood prone that space is.

At 9:37pm, Morgan motioned, seconded by Kleinman, to adjourn the meeting. Artimovich – aye; Morgan – aye; Kleinman – aye; Bedard – aye; Jones – aye. Motion passed.

Respectfully submitted,

Tamera Peek

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ORDINANCE – TOWN OF BRENTWOOD
This ordinance shall take effect upon passage.
HAWKERS, PEDDLERS AND ITINERANT VENDOR ORDINANCE

Authority:

Pursuant to the authority conferred by Chapter 31, Section 39, New Hampshire Revised Statutes Annotated, (RSA 31:39), the Selectboard of the Town of Brentwood adopt the following ordinances; As well as what is outline in NH RSA 31:102-a Hawkers, Peddlers and Vendors (Appendix B) as well as RSA 31:102-b Background Checks for Certain Vendors (Appendix A.) This ordinance is not to supersede RSA 31:102-a Hawkers, Peddlers and Vendors or RSA 31:102-b Background Checks for Certain Vendors. and may be used in conjunction with it.

Purpose:

The purpose of this ordinance is to protect the safety, health, and welfare of the general public.

Definitions:

Hawker and Peddler: (RSA 320:1) the terms "hawker" and "peddler" shall mean and include any person, principal or agent, who:

- Travels from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefore, any goods, wares, or merchandise, either on foot or from any animal, cart, or vehicle; or
- Travels from town to town, or place to place in the same town, offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or
- Keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise.

"Itinerant Vendor" (RSA 321:1) shall mean and include those persons whose principal place of business is not in this state, who engage in a temporary or transient business in this state, either in one locality or traveling from place to place, selling goods, wares and merchandise, with a total value greater than \$500, from stock or by sample for future delivery, and who, for the purpose of carrying on such business, hire or occupy a temporary place of business. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

Exceptions: The provisions of this ordinance shall not apply to:

- Any person selling the product of his or her own labor or the labor of his or her family or the products of his or her own farm or the one he or she tills.
- "Lemonade stands" or other similar enterprises operated solely by children under the age of 18
- Any person selling product(s) for patriotic purposes when none of the entity's earning benefit any private shareholder or individual.
- Any person conducting sales of personal household goods on his own property.

"Farmer's Markets" and any non-profit organization, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or education purposes when no part of the entity's earnings benefit any private shareholder or individual are required to submit a permit application but will be exempt from the fee.

License required: No person shall engage in hawking and peddling or itinerate vending without first having

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been issued a license by the Town of Brentwood Selectboard or their Designee.

License application: Every Hawker and/or Peddler, or Itinerant Vendor shall, at least 30 days prior to selling any goods or services apply to the Selectboard for a Vendor Permit using the application form provided by the Town.

Application review: The Brentwood Selectboard shall review all complete applications. Incomplete applications will not be reviewed. Background checks for certain Vendors – See Appendix A. Complete applications will consist of:

- A completed and signed Town of Brentwood application form
- A copy of the applicant's valid State of New Hampshire Hawkers and Peddlers license
- The application fee as set forth in this ordinance, in the form of cash, bank, cashiers or certified check, payable to the Town of Brentwood.
- A copy of the principal's and any agent's driver's license or other State issued picture identification card.
- A copy of the applicant's, principal's and agent's criminal record from the State in which they reside as well as the State of New Hampshire.
- For food vendors only, a copy of a State Food License.

The Brentwood Selectboard/Designee shall approve a Vendor Permit application only when a review of the application materials results in a conclusion that issuance of the license will not pose a threat to the safety, health or welfare of the general public. All other applications will be denied. Examples of conditions that would result in a denial of a permit include, but are not limited to:

- A finding that the persons engaged in hawking and peddling have been convicted of an offense involving activity which if repeated would pose a threat to the citizens of Brentwood – As determined by the Brentwood Police Department.
- A finding that the persons engaged in hawking and peddling have been involved in dishonest, fraudulent, or deceptive practices leading to misappropriation or theft – As determined by the Brentwood Police Department.
- A finding that the application contains false or misleading information.

Term: License granted shall be effective for up until local or state revocation, expiration of applicant's State of New Hampshire hawkers, peddlers, and vendor's license, or at midnight, December 31 of the calendar year in which the license was granted, whichever is shorter.

Posting of Permits: Vending permits shall be posted in such a manner to be in the plain view of all customers.

Fees: Application fee \$100.00

The Town of Brentwood reserves the right to charge additional fees or require the deposit of funds in escrow to cover the cost incurred in maintaining public safety, crowd control, traffic control or other services that may be required due to the hawking and peddling or itinerate vending activities provided for under this ordinance.

Locations where permitted:

Hawkers and Peddlers and Itinerant Vendors are permitted, with the written permission of the landowner, to operate in the Commercial/Industrial zone, or on any other commercial property that is a lawful non-conforming use, or which has received a variance from the ZBA. The site must have sufficient on-site parking and a safe means of entrance and exit.

Hawkers and Peddlers and Itinerant Vendors are permitted to operate on town property only upon approval by the Brentwood Selectboard.

No peddler, hawker, or vendor shall have any exclusive right to any location in the public streets and sidewalks, nor shall any be permitted at a stationary location, unless the license specifically grants a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of the Selectboard with guidance from the Police Chief, exercised in good faith, shall be deemed conclusive as to whether the area is congested

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or the public impeded or inconvenienced.

Special condition for frozen confection vending: Hawking and peddling of frozen confections may be conducted within the public right of way of Brentwood highways and roads, provided that such activity is conducted from the side of the road, and is not conducted in the traveled portion of any public right of way. The vehicle must be clearly marked to indicate their product and shall be equipped with safety equipment as recommended by the Police/Fire Chief.

Revocation of License:

The Selectboard or their designee may, upon a determination that public safety, health or welfare is compromised by the activities provided for under a Vendor Permit, revoke such permit. The Health Officer may, upon a determination that public health or welfare is compromised by the activities provided for under a Vendor Permit, revoke such permit. Any person whose permit has been revoked under this section shall be ineligible to be a permitted hawker or peddler, or itinerate vendor, in the Town of Brentwood. The Selectboard shall notify the New Hampshire Secretary of State of any person whose permit has been revoked.

Penalties:

Any person who violated any provision of this Ordinance shall be guilty of a violation and subject to a penalty in the amount of \$500.00. Such person shall be deemed to have committed a separate violation for each and every day or portion thereof which any violation of the Ordinance is committed, continued or permitted by such person.

Any property owner who allows an unpermitted itinerate vendor, hawker or peddler to operate on his private property shall be subject to a \$500.00 fine for each day the unpermitted itinerant vendor, hawker or peddler is allowed to operate on his property.

Section 31:102-a

31:102-a Hawkers, Peddlers and Vendors. –

The governing board of a city, town or village district may adopt, by ordinance or regulation, provisions for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers, merchants, or other persons who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within a town or who go from town to town or place to place within a town for such purposes. Any person who violates any provision of such ordinance or regulation shall be guilty of a class B misdemeanor, and each continuing day of violation after notice shall constitute a separate offense. A city, town, or village district shall be specifically prohibited, however, from licensing or regulating a candidate for public office in the process of obtaining signatures on nomination papers, who seeks to have the candidate's name placed on the ballot for the state general election by submitting nomination papers under RSA 655:40. Persons who are under the age of 14 who are selling soft drinks on family owned or leased property shall be exempt from city, town, or village district licensing requirements. Provisions adopted under this section shall be in addition to any requirements imposed by the state under either RSA 320 or RSA 321 and may include, but shall not be limited to:

- I. Classification of licensees consistent with constitutional requirements of equal protection;
- II. Imposition of reasonable requirements, including fees, for the issuance of a license;
- III. Restrictions as to the areas of the municipality open to licensees and the hours and days of their operation; and
- IV. Other reasonable conditions and terms deemed necessary for public convenience and safety as the governing board determines.

Source. 1973, 558:9. 1981, 515:1. 1993, 164:1, eff. July 23, 1993. 2001, 274:2, eff. Jan. 1, 2002. 2010, 298:1, eff. Sept. 11, 2010. 2021, 166:1, eff. Sept. 28, 2021.

Appendix B

31:102-b Background Checks for Certain Vendors. –

- I. Any municipality may require persons who go from door to door, place to place within a town, or town to town, who sell, offer to sell, or take orders for merchandise or offer to perform personal services for household repairs or improvements, to submit to a state records check only, or both a federal and state records check. Municipalities that require a public criminal history record information check shall have such person submit to the municipality a public criminal history record information authorization form, as provided by the division of state police, which authorizes the release of the person's public criminal history record information, if any. To obtain a federal records check, such person shall submit to the municipality a criminal history record authorization form, as provided by the division of state police, which authorizes the release of the person's criminal history record information, if any, and a complete set of fingerprints.
- II. For a state and federal criminal records check, the municipality shall request that such person submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. The municipality shall submit the criminal history records release form and inked fingerprint card to the division of state police which shall conduct a criminal records check through its records and through the Federal Bureau of Investigation. Fingerprints taken digitally by Live Scan or similar device shall be transmitted directly to the New Hampshire division of state police. In the event that the first set of fingerprints is invalid due to insufficient pattern, the municipality may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 10 years. Upon completion of the records check, the division of state police shall release copies of the criminal history records to the local law enforcement agency of the municipality which shall maintain the confidentiality of all criminal history records information received pursuant to this section. The municipality may charge a fee to recover the costs of such investigation.
- III. To obtain a state records check only, the municipality shall submit a state criminal history records release form, completed by such person, to the division of state police.
- IV. Such person shall also include the location of all municipalities in which such person seeks to transact business. Such municipalities, in accordance with their licensing requirements, shall have access to the results of the criminal history records check and the New Hampshire division of state police shall release copies of the criminal history records to such municipalities. Such person shall be responsible for any additional fees for any administrative costs incurred by the New Hampshire division of state police under this section.

Source. 2010, 298:2, eff. Sept. 11, 2010. 2018, 318:4, eff. Aug. 24, 2018. 2019, 297:3, eff. July 1, 2019.

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ORDINANCE – TOWN OF BRENTWOOD
This ordinance shall take effect upon passage.
NOISE ORDINANCE

Authority:

Pursuant to the authority conferred by Chapter 31, Section 39, New Hampshire Revised Statutes Annotated, (RSA 31:39), the Selectboard of the Town of Brentwood adopt the following ordinances; As well as what is outline in NH RSA 644:2 Disorderly Conduct. This ordinance is not to supersede RSA 644:2 Disorderly conduct, and may be used in conjunction with it.

Purpose:

It shall be unlawful for any person to make, continue, or cause to be made any excessive, unnecessarily loud noise, or any noise which either annoys, Disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the Town, and in accordance with the concepts, measurements definitions, and procedures set forth below. And/or it shall be unlawful to make loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities

- A. Radios, Televisions sets, Musical Instruments and Similar Devices: It shall be unlawful to operate, play, or permit the operation or playing of any radio, television, phonograph, drum musical instrument, sound amplifier or similar device which produces, reproduces, and/or amplifies sound capable of disrupting a person of reasonable sensibility at the level played, between the hours of;
 - i. 11:00 PM and 06:00 AM Sunday through Thursday and 12:00 AM and 06:00 AM Friday and Saturday in such a manner as to create a noise disturbance across a real property boundary.
- B. Loading, unloading, opening, closing or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters or similar objects between the hours of; 11:00 PM and 06:00 AM Monday through Friday and 12:00 AM and 06:00 AM on Saturdays and Sundays.
- C. The operation of construction vehicles to include, but not limited to, bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front end loaders, log skidders, ETC. and
- D. The operation of construction tools, or construction equipment to include but not limited to, cement mixers, hammers, staple or nail guns, power tools (i.e. saws, drills, grinders, sanders, chain saw, electric hedge trimmers, lawn mowers, snow blowers, jack hammers etc.) between the hours of;
 - i. 11:00 PM and 06:00 AM Monday through Friday and 12:00 AM and 06:00 AM Saturdays and Sundays.

EXEMPTIONS;

The following uses and activities shall be exempt from the noise ordinance:

- A. Noise of safety signals, warning devices, and emergency alarms. ORDINANCE – TOWN OF BRENTWOOD This ordinance shall take effect upon passage.
- B. Noises resulting from any authorized vehicle, when responding to an emergency call or when acting in time of emergency or when testing proper operation of said device.
- C. Noise resulting from emergency maintenance work as performed by the Town, State or Public Utility Companies, to include snow removal.
- D. The operation or use of agricultural equipment to include but not limited to, tedders, balers and tractors.
- E. Municipal maintenance work
- F. Any other noise resulting from activities of temporary duration permitted by law and for which a license or permit therefore has been granted by the Town or State.

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G. Vehicles, tools and equipment enumerated in paragraphs C and D except during time periods of their prohibited use.

H. Parades and public gatherings for which the Selectboard or Chief of Police/Fire has issued a license or permit to include New England Dragway.

I. Bells, Chimes, or carillons while being used for religious purposes or in conjunction with religious services and those bells, chimes, and carillons that are presently installed and in use for any purpose.

*Other Exemptions may be made at the discretion of the Selectboard and/or the Brentwood Police Department.

APPLICATION FOR SPECIAL PERMIT:

Application for a permit for relief from the noise ordinance on the basis of undue hardship may be made to the Selectboard or Chief of Police. Any permit granted by the proper authority, shall set forth all conditions pertaining to the specified noise, and reasonable time limit for its abatement.

PENALTY:

Any person who violates the provisions of the ordinance shall be subject to a fine not to exceed fifty dollars (\$50.00) for each offense. An enhanced penalty of not less than one hundred dollars (\$100.00) and no more than two hundred and fifty dollars (\$250.00) for three (3) or more convictions or violations of the provisions of the ordinance in a six