

Selectmen Meeting Minutes
Monday, August 9, 2021

Present: Chairman Diorio; Selectmen Carrier; Rideout; and TA Collins. Selectmen Johnson and Kondrat excused.

6:00 p.m. Chairman Diorio called the meeting to order.

Selectman Rideout made a **motion to approve** the Deed Without Covenants for Jordan & Angela Bowman for the property at 11 Jackson Drive, second by Carrier. Motion passes unanimously.

Selectman Carrier made a **motion to approve** the manifests of August 2, 2021 & August 9, 2021, second by Rideout. Motion passes unanimously.

Selectman Carrier made a **motion to approve** the public & non-public minutes of July 26, 2021, second by Rideout. Motion passes unanimously.

Selectman Rideout made a **motion to approve** an abatement application for Shingle Creek Realty, Dante Rizzo, for a prorated assessment re: Map 47-29, 2 Main St, for \$3,776.12, second by Carrier. Motion passes unanimously.

Selectman Carrier made a **motion to approve** an Application for Reimbursement to Towns and Cities in which Federal & State Forest land is situated in 2021, second by Rideout. Motion passes unanimously.

Selectman Rideout made a **motion to approve** a Report of Wood or Timber Cut by Chris Ricci for Janet Faucher, Tax Map 11, Lot 5, in the amount of \$3,412.29, second by Carrier. Motion passes unanimously.

Selectman Carrier made a **motion to approve** an Application for Open Container/Alcohol Permit for Lisa Dixon for a retirement party at the pavilion on September 18, 2021 from 2 to 7 p.m., second by Rideout. Motion passes unanimously.

Selectmen Rideout made a **motion to approve** the 2021 2nd quarter water abatement for Beverly Bernier in the amount of \$48.81, for 532 Plain Rd, re: right-of-way, second by Carrier. Motion passes unanimously.

Selectman Carrier made a **motion to approve** to sign the Health Officer and Deputy Nomination form, second by Rideout. Motion passes unanimously.

Joe Fostyck asked for permission to use a metal detector on the grounds of the Meetinghouse located on Plain Road. Consensus of the Selectmen was they had no problem allowing Joe to do so.

TA Collins informed the Board of the following:

- The manifest signature page from July 26, 2021 was on the table to sign;
- Discussed the possibility of using a parcel of property on Plain Road that the Town owns to investigate its future use for a cemetery;
- The auditors spent a day testing compliance on Thursday, July 29th and will be back Labor Day week to perform the audit;
- FEMA came down on Thursday, August 5th and met with TA Collins & Bob Truesdell to go over FEMA project steps and to view the damage on River Rd.

Truesdell discussed the process for regarding FEMA funds. The Town may not hear until October if they will get funding, therefore, the project will need to hold out until that time. Shoring can be done to stabilize the banks if the need arises and to move the barriers back.

PUBLIC HEARING

6:30 p.m. the Chairman called the Public Hearing to order and read the hearing notice.

Chairman Diorio stated we will now conduct a hearing on a Petition to universally amend the pole and conduit licenses and other agreements to allow for the use of the Town's rights-of-ways that the Board of Selectmen or its agent has issued for poles and conduits in the in the public rights-of-ways, and agreements for use of the rights-of-way by gas and water companies to require payment of properly assessed property taxes and notify the Town of addition attachers on the poles and conduits, as required by the New Hampshire law. The Board of Selectmen received the Petition on July 12, 2021. I will not read the whole Petition out loud, because it is lengthy, but there are copies available here.

Chairman Diorio asked Jill Collins, the Petitioner if she would you like to address the Board and explain why the licenses and Agreements need to be amended?

Ms. Collins thanked Chairman Diorio and explained the amendments proposed are in the public good because they would change the licenses and agreements to comply with the requirements of New Hampshire law by referencing the statutory scheme which authorizes the Town to tax entities with poles and conduit in the public rights-of-way and others using the rights-of-way. Additionally, the amendments would require the license holders and those with such agreements to notify the Town of additional attachers on the poles and conduits and other users of the rights-of-way who have perhaps avoided taxation until now. Properly assessing property taxes against all entities using the public rights-of-way is required under the law and is in the public good.

The law of New Hampshire is clear at this time that licenses such as those held by License/Agreement Holders are required by law to include a section requiring the licensee to pay properly assessed real and personal property taxes. Specifically, I point the Board to the cases of N.E. Tel. Tel. Co. v. City of Rochester, 144 N.H. 118 (1999) ("Rochester I"), Verizon New England, Inc. v. City of Rochester, 151 N.H. 263 (2004) ("Rochester II"), N.E. Tel. Tel. Co. v. City of Rochester, 156 N.H. 624 (2007) ("Rochester III"). This requirement also covers others with agreements with the Town to use the right of way, such as gas or water companies.

Additionally, RSA 72:23, I(b) currently requires that all leases or other agreements for the use or occupation of real property owned by the Town "shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date" and further requires all leases or other agreements to provide that the lessee has an obligation to pay real and personal property taxes on structures or improvements added by the lessee."

The law also requires that if the leasee or person using or occupying the property fails to pay the duly assessed real and personal property taxes on the due date, the tax collector must notify the Town and the Town must terminate the lease or agreement. RSA 72:23, I(c).

The Petition to the Board of Selectmen is to universally amend the licenses and other agreements it has issued for conduits or poles or water or gas pipes in the public right-of-way to include these requirements and the requirement for the licensee to notify the Town of additional attachers on the pole or conduit to confirm to the law.

Chairman Diorio thanked Ms. Collins.

Chairman Diorio as if there is anyone else who would like to speak? Any of our current license or agreement holders? Any of our citizens?

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Chairman Diorio stated if no one else wishes to speak, then the hearing is now officially closed.

6:41 p.m. Regular Meeting Reconvened.

Chairman Diorio asked if there is a motion to grant the Petition to Amend Pole Licenses and the Agreements to use the public rights-of-way?

Selectman Rideout stated, so move, second by Carrier. The vote is as follows: Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

Selectman Carrier stated he attended a conservation meeting this past week and the hazardous mitigation meeting has been postponed until this week.

Chairman Diorio stated the new electronic sign has been installed in Heritage Park and would like to thank all that contributed to it.

Selectman Carrier wanted to thank all the Fire Department, Rescue, and the Highway Department for there assistance with last week's event.

Highway Superintendent, Bob Truesdell, discussed the following:

- The issue with the fuel tank. He is working with the state inspector on resolving the issue. He will keep the Selectmen posted;
- Two interviews will be conducted on Wednesday for the highway position;
- The Highway Department will begin line stripping this week.

Chief Rataj discussed the following:

- Arrests are up;
- Josh Moore will be going to the academy in January;
- Wayne Gallagher will be returning as the SRO;
- Mike Carrier is almost done with the evidence inventory.

James will discuss deeding at the next Selectmen's Meeting when there is a full board.

6:58 p.m. Selectman Rideout made **a motion to enter** into a non-public session under RSA 91:A-3, II, (b) hiring, second by Carrier. The vote is as follows: Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

7:06 p.m. Regular meeting reconvened.

Selectman Rideout made **a motion to seal the minutes**, second by Carrier. The vote is as follows: Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

7:06 p.m. Regular meeting reconvened.

Selectman Rideout made **a motion to seal the minutes**, second by Carrier. The vote is as follows: Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

7:07 p.m. Selectman Rideout made **a motion to enter** into a non-public session under RSA 91:A-3, II, (a) personnel, second by Carrier. The vote is as follows: Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

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7:18 p.m. Regular meeting reconvened.

Selectman Carrier made a **motion to seal the minutes**, second by Rideout. The vote is as follows:
Carrier – I; Diorio – I; Rideout – I. Motion passes unanimously.

7:21 p.m. Selectman Rideout made a motion to adjourn, second by Carrier. Motion passes unanimously.

Respectfully Submitted,

Jill Collins
Town Administrator