



Board of Selectmen Meeting
Town Office
Wednesday, 9/18/2019
5:30 PM

MINUTES

Present: Selectmen: Bob Hamilton, Roberta Oeser (by phone), Karl Pruter, Executive Secretary Michele Christian, Finance Director Laurie May Members of the community: Sharon Rasku, Holly Koski, Debra Qualey, Roniele Hamilton, Judy Unger-Clark, Craig Clark, David Drouin, Hans Chemello, Deb Sawyer, Al Lefebvre, Paul Dunton, Pamela Dunton, Al L'Epplaitenier, Ashley Saari, Kelen Geiger, Mary Pelletier, Walt Pelletier, Ben Asaff, Candice Starrett, Bill Donohue, Darlene Donohue, Tom Coneys, Pamela Dunton, Artie Cox, Martina Midlin, Larry Bower, Deni Dickler, Jeff Dickler, Karl Geisler (Chessie Holdings) Attorney John Rattigan, Jamison Van Dyke

CALL TO ORDER / PLEDGE OF ALLEGIANCE

The meeting was opened at 5:30 PM. Karl made a motion to enter non-public pursuant to RSA 91 A:3, II(a) for personnel. Seconded by Roberta. Roll call vote: Bob-yes, Roberta-yes, Karl-yes. Entered non public session at 6:00 PM Non Public Session II Pursuant to RSA 91-A:3, II (a), Personnel

Returned to public session 6:00 PM with the Pledge of Allegiance. Roberta is attending the meeting remotely by telephone. Bob asked for a motion to seal the minutes of the non-public session until September 25, Roberta moved and Karl seconded. 3-0-0

GENERAL BUSINESS

Selectmen's Announcements – The POOR meat raffle will be held this Saturday, October 12th at 2:00 PM, the Woman's Club Harvest Festival will be held on the 28th of September from 9-2. There will be a porch dedication at the Historical Society at

2:00PM on the same day. The Conservation Commission is having a walking tour of the Merriam Hunt Forest on Route 119 this Sunday the 22nd at 1:30 PM.

**6:15 PM PM Public Hearing – Junk Yard Permit
58 Route 202, Tax Map 10 Lot 28**

Bob opened the public hearing at 6:17 PM. There was no motion.

Bob read a memo from Tim Halliday requesting the continuance of the hearing. Mr. Halliday is unable to attend due to a family emergency. Bob stated that the hearing will take place tonight and will be continued on 10/2/2019 in this conference room at 6:15 PM. Roberta made a motion that the public hearing be held on 10/2/19 6:15 PM. She stated that if the public hearing is opened it can't be continued. She said that having the public hearing without the applicant being present to answer questions is ridiculous. Bob stated that the public hearing is for the Board to hear from the public and not for the applicant to answer questions. There was no second to Roberta's motion. The public hearing continued. Bob stated that the application is incomplete in Bob's opinion because there is not a certification from the ZBA and site plan approval from the Planning Board. There is also no mentioned of the junk yards being grandfathered in RSA 236:114. There is also no fencing which was part of the restrictions on the Special Exception from the ZBA on the junkyard from the 1980's.

Judy Unger-Clark: Judy asked when the deed transferred from Kathleen Van Dyke to Tim Halliday and is he the sole owner of this property. She asked if there is any way an environmental study can be done on the property. Bob stated that all of the requirements necessary are on the application.

Karl Geisler – Owner of Chessie Holdings and an abutter to the property wants to know where the actual junk will be on the property. His concern is traffic at night and then people may be going on to other properties. He wants to know that the property is secured at night. He also wants to be sure that the yard is fenced in. Bob stated that the area will be addressed when Mr. Halliday comes to the meeting on the 2nd of October. Mr. Geisler stated that he wants to see a site plan review which will be part of the application.

Deni Dickler – Says that she understands that Mr. Van Dyke received a special exception to run a junk yard more than 30 years ago. She stated that the special exception goes with

the person not with the land and she hopes that when the Board makes a decision on the license that they make a different one than they did 30 years ago. She then read a prepared statement. Ms. Dickler's comments ran long and Kelen Geiger gave Ms. Dickler her time. The audience applauded to Mrs. Dickler's comments.

Jeff Dickler lives at 97 Old Jaffrey Road within hearing distance of this establishment and there is a lot more noise in the area and knowing about the junk yard it makes sense. He spoke about a waste dump that polluted the ground water. He stated that the number of jobs that a junk yard is going to provide is not enough of a reason to allow it. He is concerned about the noise but also the contamination of ground water.

Paul Dunton of 66 Highland Drive is an abutter to the property and there is already significant amount of noise and it is all wetlands. He doesn't understand how this can move forward.

Martina Midlin stated that she is not clear on how this application was accepted without so many things missing. She said it makes no sense to her that she doesn't know why the application has not been sent back without the proper documentation. She asked what types of requirements from the town or the state to protect the wetlands that surround the area. She stated that a fence would not protect the wetlands. She also has a concern with the noise is a problem.

Larry Bower from 58 Old Jaffrey Road said that he is concerned about the wells that could be contaminated. There are 12 houses on Highland Drive fed by 2 wells that are very close to that property. There are 14 houses on Old Jaffrey Road. The wetland is also connected to Pool Pond, Contoocook and possibly Red Dam. He said that he is not concerned with the gas and oil, but anti-freeze is a problem and it can poison people. He said his well is several hundred feet away from the property.

Jim Qualey – He is concerned with the environmental impact of an operation such as this as well as the water supply. Aesthetic implications should also be considered. He believes that these things should be taken into consideration when deciding what to do. A new junk yard or salvage yard should be fenced with a 6 foot fence. The owner shall comply with all the provisions RSA 236-129 which states that private persons owning property affected by the site of the junk yard maintained in violation of the subdivision may address the governing body with a complaint. If the governing body doesn't act on the complaint the property owner may seek relief from Superior court.

Holly Koski asked which boards will be involved in the decision making process and what are the next steps. Bob stated that if it is determined that all the requirements have been met it is the Board of Selectmen that make the decision on granting or denying the license.

Ben Asaff asked why there is a hearing if the application is incomplete. He also asked why there are regulations and issuing permits when they don't meet the criteria. Code enforcement is who issues the permits they have to be reissued annually with a new application. Ben lives across the street and stated that his property value will decrease. Roberta stated that it was renewed for Mrs. Van Dyke last April. Ben asked why the junk yard license has been renewed year after year without being in compliance with the fencing and other restrictions that were part of the Special Exception from the ZBA. Roberta stated that it was an existing junk yard and it does not have to comply with the regulations. Bob stated that the last application that was approved does not have a signature and the DES check list may never been seen or filled out.

Al Lefebvre asked if there could be an environment assessment take place before it is approved. He also asked if the town could require a Bond for future environmental concerns. He stated that the town is going to have to define an application and if all the documents that are requested are not included it should not be considered. He is concerned about what is going to be happening at the junk yard. He also is concerned that there are boards that have not been included in this issue. The wetlands are also an issue. He also asked if there is going to be code enforcement in this town and how is the town going to make sure that there is enforcement. Thirty years ago there was a discussion about a trash place in east Rindge on 119. The town said no loudly and forcefully and it went away. Bob stated that within the application there is a short description of the intended use. In the application from last year there is an application of the intended use and they are not at all similar. By signing off on the application you are agreeing to Best Management Practices which is a compliance document in accordance with DES. This is a document that has over 50 questions related to the operation of a salvage yard.

Candi Starrett gave Kelen Geiger her time. Kelen wants to know what the procedure is going to be going forward. The hearing began and is going to be continued and she would like to know which boards are going to be involved in the decision making process. Is the planning board, ZBA and Con Comm weighing in on this, or is this just going to the Board of Selectmen for a decision. Bob stated that there is a process and it will be followed. Kelen asked what the procedure is and Bob said that he will give her a copy of the application and a copy of the laws. She wanted to know if the next meeting is a continuance of the issue. Bob stated that it will be a continuance of this public hearing and if other Boards are to be involved it will be determined at that time. Michele stated that part of the application process is that the Board of Adjustment will have to certify that this property can be used under current zoning laws as a salvage facility. There will be discussion at the October 2nd continued public hearing.

David Drouin stated that the zoning ordinance does not allow for junk yards and in order for this to move forward a variance would be required. The special exception that was issued in 1985 was to allow the storage of recycled metal. David Drouin stated that he doesn't believe that the 1985 special exception was adhered to and should have been revoked. The 1985 special exception would not make this a grandfathered site for approval. A special exception does not go with the land as a variance does. Bob stated that there were 7 more things in 1993 that should have been addressed. There was discussion about the information in the zoning regulations.

Tom Coneys is the owner of TAC properties. The special exception included Tom's property because he was an abutter when it was issued but was not included on the current map location. According to the DOT the property is on a Class I highway and there has been no compliance for years. Tom stated that it is important to note that this application filled out by Tim states (Tom read section 4 of the applicant signature section) the applicant understands the willful submission of falsified or misrepresentative information is a criminal act punishable by law. Tom has done the research on this. Tom stated that everything on the application is false. It is not a grandfathered junk yard, because it ceased to exist with the death of Bob Van Dyke. There was no hearing when Kathy applied for a junk yard permit. It also stated that it is in compliance with the BMP's. Tim stated that it is an existing facility on the application and Tom questions the legality of Tim signing this application. Tom stated there is a storage facility as well and believes the special exception was put in place before he built the building because at the time it was zoned as a residential- agricultural district. This is new application and it should go to the ZBA and Planning Board. Tom had a conversation with DES and he said that a junk yard can be interpreted a couple of ways. It can be a junky yard such as what Bob Van Dyke had so a junk yard permit would apply. The current application from Tim Halliday is for a salvage facility. There is activity happening on the property now that changes the use and Tom urges the Board to issue a cease and desist. There may be an autobody shop there and there is a storage facility near the highway and Halliday should be issued a cease and desist. There should be no activity on the property until it goes to the planning board. The crowd applauded. Tom stated that the DOT should be contacted with regard to the driveway. The property is a change of use and it needs DOT approval. He said that the Board needs to step up to the plate and if this permit is approved he stated that he is going to take it to court and join in with everyone else in this room. Tom stated that the facility needs to be fenced and gated to protect the abutters from people going through one property to another. Tom stated that the Board should deny the application until it goes through the proper channels. He also stated that he believes that Roberta Oeser has a business relationship with Tim as a realtor and he doesn't think that she should be sitting on this Board in regards to this application. Roberta stated that she hasn't had a business relationship with Tim in over a year. She said that his daughter has

a real estate license and that is who he deals with now. Tom said that it is his feeling and personal opinion and he can say this in a public hearing. If he finds any properties of Halliday listed by Roberta she will have to step off the Board on this case by law.

Artie Cox lives on highland drive and he believes that the ground should be tested for contaminants before the application goes through because of the wells and the wetlands. Even if the application is approved the ground should be tested yearly.

Bill Donohue lives on Highland Drive and believes that the codes be enforced.

Roni Hamilton stated that there was one person here from planning and one from zoning. She states that she hopes that this will go to the appropriate boards. She hopes that the respective boards read the RSA's and abide by the rules. Bob stated that he wished to close the public hearing and continue it to October 2, 2019 at which time anyone wishing to speak will have 2 minutes.

Bob made a motion that he public hearing be continued until October 2, 2019 at 6:15 PM in the Selectmen's meeting room, seconded by Karl. Approved 3-0-0

Public Hearing closed at 7:25 PM

Citizen's Forum – Jim Qualey stated that the RSA states that the decision for the public hearing does not have to be decided until 2 weeks after the hearing. Holly Koski wanted to remind everyone of the Farmer's Market. Due to the harvest season there will be more vegetables available. Craig Clark stated that back in June Consolidated Communications sent a non-disclosure agreement to the town. The NDA has not been signed and there is some sensitive information with regard to internet. Bob asked Roberta if she had seen the NDA from Consolidated. She said that she saw it and Craig asked why it was never signed. She said it never got done. With regard to the trash dump on 119 in east Rindge it was discussed at town meeting for quite some time and it was a difficult time for the town of Rindge. This was discussed further. Bob requested that the Board authorize him to sign the NDA document with Consolidated.

Roberta made a motion for the Chair to sign the Non-Disclosure Agreement from Consolidated Communications on behalf of the Town of Rindge, seconded by Karl. Approved 3-0-0

John Rattigan stated that what Non-Disclosure Agreements don't recognize is that they are not subject to the right to know law as municipalities are. He said that Bob should keep that in the back of his mind while reading the document because there may be things that you don't want the public to know and you can scratch them out and they will accept the scratch outs. The contract comes from Houston, they don't know anything about New Hampshire Municipal Law. Ben Asaff asked if there are any other junk yard permits issued in town and if so where are they and do they follow all of the criteria. He wanted to know if they are being enforced consistently or inconsistently. Bob stated that he didn't know that there were any junkyards licenses issued in town until recently. Tom Coneys urged the residents to contact DES if they have any questions. The NHMA website also has a lot of information on salvage facilities and requirements. There's a lot of data out there.

Changes to the Consent Agenda

Consent Agenda – Michele requested that the Monadnock Rod and Gun Club raffle permit application be pulled from the consent agenda until there is more information on the permit. Bob stated that they are scheduled to meet next Wednesday morning so it can be voted on at that time.

1. Approval of:

- **Minutes 9/4/19**
- **Payroll 9/12/19, 9/19/19**
- **Accounts payable 9/12/19, 9/19/19**
- **Special Events Permit – Cathedral of the Pines 5K run, RMS Color Dash and Trunk or Treat**
- **Pitney Bowes Contract**
- **Waiver of Meeting House fee – Rindge Democratic Committee**

Roberta made one change to the minutes.

Roberta made a motion to approve consent agenda, seconded by Karl. Approved 3-0-0

Old Business:

a) Jamison Van Dyke, Cease & Desist – Goddard Road

John Rattigan attorney for Jamison Van Dyke addressed the cease and desist on Goddard Road. Mr. Rattigan presented a letter to the Chair from Monadnock Septic Design in response to the Board's September 5th cease and desist letter addressing the concerns about the wetlands violations. He stated that his client, Jamison Van Dyke, has engaged Monadnock Septic Design to do a wetlands analysis to figure out if an after the fact permit is needed for the work that has been done there. Mr. Rattigan also said there is one question that wasn't clear in the letter from the town was information the town was relying upon in its conclusion that there had been violations that supported the letter. Bob stated that this it is addressing pictures that were received pertaining to the pond that has been built. He said that the Board wanted to know if the pond was actually constructed over wetlands and were the wetlands destroyed. Mr. Rattigan stated that the letter said that the pond was placed over two vernal pools and if there is information that there has been a violation we would be happy to incorporate that information into the wetlands analysis. David Drouin stated that there was some mapping that had been done on vernal pools on some property nearby and the question were there vernal pools there prior to the building of the pond. There are no facts that state there were. Bob reiterated that there was no mapping or knowledge that vernal pools existed on the property. Bob asked if DES needed to be consulted on the building of the pond. Mr. Rattigan stated that it appears that there was no violation and they are currently checking with DES to see if

permitting was necessary to build a pond of that size and they will do whatever DES requests them to do. Candi Starrett wanted to keep the information on the vernal pools open and she is trying to locate more information. Bob asked Candi if she had done a survey on her property. Al Lefebvre said that it bothers him that this had not been researched before the work was done. He stated that he believes that many residents feel this way and that approval should be required before the work begins. Roni Hamilton asked if this went through the Planning Board. Bob stated that there was a site plan review for the home but he doesn't know if it included the pond.

David Drouin asked if both cease and desist orders would be addressed. Bob stated that only the cease and desist issued to Jamison Van Dyke was being discussed tonight. Mr. Rattigan stated that he could address the other cease and desist if it is convenient. This is the clear cutting down by the pond on Kathleen Van Dyke's property. Mr. Rattigan stated that there was a letter from DES and the cease and desist issued to Kathleen Van Dyke. They are taking the same approach by engaging Monadnock Septic Design to look at the property to see what is done and communicate back to DES and then he will tell them what remediation steps need to be taken and we will come back and advise the Board of Selectmen. Mr. Rattigan stated that Jamie is the contractor on the project and he is representing his mother tonight. Bob stated that DES had planned a site review already. Bob stated that the cease and desist was issued and the project was not complete at the time. There was a question if there should have been a silt fence around the property. After the issue was discussed at a meeting a silt fence appeared. Jamie stated that he the cease and desist had not been received. Kathleen Van Dyke was on vacation and she just returned today. Bob asked Michele if the certified mail confirmation had been received and it has not been as of today. Bob said that the cease and desist does exist and he would expect work to cease until there is proper information from DES. Candi Starrett asked how much work Jamison Van Dyke does with Monadnock Septic Design. Jamison said that he uses Paul Grazewic but he is too busy at this time. Al Lefebvre stated that town regulations were ignored. David Drouin stated that the DES information was received before the town cease and desist. Bob stated there may be infractions of the local ordinance. Jamison stated that he did come into the town hall and spoke with Dave DuVernay with a plan and he sees now that he should have come to the Conservation Commission but he wasn't ignoring the Town. Mr. Van Dyke stated that Dave DuVernay apologized for misguiding Jamie. Bob thanked Mr. Rattigan and Jamison Van Dyke for their cooperation.

New Business

a) Police Department Grant Acceptance – Speed Patrols

Chief Anair stated that at least 12 years the police department has applied for and received a grant from NH Highway Safety. This year the department has been awarded \$4,324.00 which will be broken down into two separate grants – one is for distracted driving and the other is for STEP which is speed traffic control that would encompass any driving infraction. There are mandatory patrol dates that must be adhered to in order to be compliant for the grant. The amount breaks down to 34 hour patrols and they are mandated as to how many stops that must be made which 360 traffic infractions. Roberta asked if these are part of a regular 8 hour shift – it can be part of an overtime shift.

Roberta made a motion to accept \$4,324.00 in unanticipated revenue from the NH Highway Safety grant in accordance with RSA 31:95(b), seconded by Karl.
Approved 3-0-0

b) Road name for shared driveway off Route 119

Executive Secretary Michele Christian stated that this agenda item did not go to the Roadway Committee because it got held up. She spoke to Rick Donovan and Kirk Stenersen and they were both fine with the fact that it did not go to Roadway. This is for Lars Sauvola's shared driveway recommending the name Trinity Drive which is Map 5 lot 17-4, 17-5 and 17-6. The reason that this is being pushed through is because one of the homes is being sold and they need a certificate of occupancy for the closing.

Roberta made a motion that the driveway at Map 5 lots 17-4, 5 and 6 be named Trinity Drive, seconded by Karl. Approved 3-0-0

Information Items/Communications/Updates

Roberta stated that she was unavailable for the Feasibility Study Group. Karl updated the Board on the Teltech Committee meeting. Bob stated that there was a Town Gown Committee meeting and said that he met with the new people that have been hired at the college. He has discussed the possibility of using a student to do some of the data input for the computer system. Bob asked if they are going to post in the local paper. It was decided that we should keep the job internally with the college.

Bob stated that since the FPU signs were destroyed Rindge Crime Watch has put up a \$250.00 for a reward and the college has matched the \$250.00. Kelen stated that the football games for FPU are online.

Michele stated that there is a correction to the previous motion for Trinity Drive it is tax map 4 not 5. Bob asked Roberta if she wished to amend the motion.

Roberta made a motion to amend the location of the property to Tax Map 5, Lots 17-4, 5 & 6, seconded by Karl. Approved 3-0-0

August Revenue and Expenses

Roberta stated that whatever is left in the tax collector deputy budget can be used to cover the assistant town clerk. Laurie stated that as of August 1st there was \$5188.00.

Karl has been monitoring the technology budget for hardware and software.

Bob made a motion to adjourn the meeting, seconded by Karl. Approved 3-0-0

Adjournment 8:30 PM

Respectfully submitted,

Michele Christian

Executive Secretary