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**Town of Henniker
Selectmen Meeting
January 3, 2017
Henniker Town Hall**

Members Present: Kris Blomback, Chairman; Tia Hooper, Vice Chairman; Ben Fortner, Selectman; Scott Osgood, Selectman; Bob French, Selectman

Town Administrator: Christine Trovato

Guests: Leon Parker, Peter Flynn, John Kjellman, Steve Forster, Bruce Trivellini, Bill Marko, Kathleen LaBonte, Bob Morse, Mike Flecchia, Leo Aucoin, Michael Ponn, Bill McGirr, Chris Robert

Recording Secretary: Karen Rose

Chair Blomback called the meeting to order at 6:15 pm with the Pledge of Allegiance.

CONSENT AGENDA—

1. Lake Sunapee Bridge Loan Correction
2. Hiring of Lucy Marie Beckwith part-time Transfer Station Attendant

A motion was made by Selectman Fortner to approve the Consent Agenda. Vice Chair Hooper seconded. Motion passed 5-0.

Public Forum #1

John Kjellman brought up the noise ordinance in conjunction with the discussion at the last meeting on 60 Juniper Ridge. He read in part – Chapter 71, Article 2. He suggested that the noise the Kriesters mentioned at the meeting falls within the purview of the town’s noise ordinance and believes that the Select board made an error in judgement and it should be corrected.

OLD BUSINESS

Chair Blomback stated he received an email dated 12-22-16 from Dr. Trivellini that the definition of ancillary and accessory use was not defined in the last meeting on 12-20-16. There was a vote of no action. Chair Blomback asked the Board if this matter should go to town counsel for an opinion.

Chair Blomback stated in his opinion it did not need to go to town counsel. Vice Chair Hooper stated she thought it should go to town counsel for an opinion. She stated that Mark Fougere’s email was a summary of what town counsel said and not a formal opinion from town counsel. Selectman Osgood stated that the issue was noise and dust and feels it is a zoning issue. It’s not the use that is causing the issue. That is worth going to town counsel.

Selectman Fortner asked if noise complaints were made to the police department? Town Administrator Trovato stated that Chief French’s opinion is that there is no violation of the noise ordinance if the activity is conducted during the day.

Dr. Trivellini stated that the ancillary and accessory use runs through every piece of property in every zoning category in town. The best definition was given by the State Supreme Court. In the brief filed by town counsel this date for Forster v. Henniker, on page 5, he cites the Supreme Court’s definition. (Dr. Trivellini read from the brief). He stated the court has defined the uses and it applies to all accessory uses in Henniker and has to rise above that which is rare. A motocross track is not rare. They have to prove it

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is reasonably and customarily associated with the primary use. The Select board, he stated, did not apply any of this to the case brought before you.

Selectman French didn't think recreational activity on one's own property constituted a violation of the noise ordinance. Selectman French stated there was no need to spend taxpayer dollars to prove that riding the bikes is an ancillary and accessory use and violation of our laws. Selectman Osgood stated he didn't think it would hurt to have the town counsel answer the three questions— (1) noise violation (2) ancillary use and (3) accessory use.

Vice Chair Hooper made a motion to have the town counsel look into the case at 60 Juniper Ridge and ~~the~~ clarify the definitions of ancillary and accessory use to see if there is a potential violation of the noise ordinance. Selectman French seconded. Motion failed 2-3 (Fortner, French, Blomback).

NEW BUSINESS

Item 1: Review of job description for Director of Welfare

The Town Administrator provided the job description of the Director of Welfare and the Director of Human Services and Human Services Case Worker. She merged the case management practices into the newly revised Director of Welfare job description. Selectman Osgood wanted to see the hours and days of the week listed in the description. The Town Administrator is proposing Fridays from 1-6 pm and Saturdays from 9-Noon. Chair Blomback said he thought 8-10 hours a week broadly was fine. Selectman Fortner questioned the second item under Position's Goals and Attributes. He didn't feel that reducing benefits was legal. He wanted that line removed. Selectman Osgood recommended to replace the word recipients with the word need.

The board agreed by consensus 5-0 to include 8-10 hours a week as needed, 2-3 days a week and replace the word recipients with need.

Item 2: Road Management presentation

Mike Flecchia, chair of the Road Management Committee (RMC), submitted the Paved Road Evaluation and Phase 1 Report dated 1-3-17 to the Select Board and gave a presentation on same. He walked the Select board through each page and explained how the committee arrived at their findings. He stated that Tom Weston was immensely helpful in this process.

The roads were broken into categories (see page 2 for explanations) and groups as defined on page 4 and charted on page 5. The costs are addressed in Section 5.3 with the standard cost of \$75 per ton. The committee received a note from Pike that the prices will be increasing. The fluctuating price of oil has an impact.

The costs in the report are for application only and do not include culverts, reclaiming and repaving, grading, grinding and repaving. For the application alone the cost is over \$8 million. Adding in the cost for engineering and contingencies the cost is over \$10 million as presented now. If the roads are allowed to deteriorate, then the cost rises exponentially to over \$14 million. Under 6.1 is the committee's recommendation. Mike referred the Board to Option E and illustrated the increase to the project if allowed to deteriorate.

Leon Parker stated that the first priority should be Western Avenue. He stated that Category 3 can last a little longer but the town should pay attention to Category 1 and 2.

Selectman Osgood asked how much we have from the state. Town Administrator Trovato stated \$300,000 this year. Selectman Osgood stated we are putting in roads and not paying for them. There was some discussion regarding dirt roads as an option.

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Selectman Fortner had several questions:

- Could the committee provide the Board with the stated and federal standards as mentioned in the report? Chair Flecchia said he would get them.
- Is there any evaluation on dirt roads that were paved?
- How did you evaluate the roads? What was your approach and methodology? Was it driving around, history etc? Leon Parker stated that the members drove each paved road and had a worksheet they used to grade the roads as well as past history knowledge.
- Were the roads assigned and if so could the Board have the list of assignments or the minutes of same? Vice Chair Hooper stated it was a collaboration and not individual assignments.
- If we were to evaluate the roads again in the future, is the process of how the committee conducted the evaluation available?
- Can the committee provide the actual traffic data? Chair Flecchia stated that DOT provided counters and gave us 5 slots.
- Do we have enough data on the widths of our roads? Vice Chair Hooper stated the state uses 24 feet wide as a standard.
- Is the spreadsheet on 12-22-16 the full and complete spreadsheet asked for on 11-15-16? Vice Chair Hooper stated that the engineering costs had to be pulled out until they were known.
- What were the parameters for excluding a road? Chair Flecchia stated that the committee used the list generated by Tom Weston and then drove the roads themselves.

Selectman Osgood and Chair Blomback both stated the report was excellent. The town never had a good picture of the roads and costs and now we do. Selectman Fortner stated when there are violations of the law the validity of the work comes into question. The board requested the data on 3 occasions with no responses. Leon Parker asked what was the Freedom of Information act request outside of the group? If FOIA was the Town Administrator, then that is a misuse of the rule. Chair Blomback stated that there is no need to revisit the past.

Mr. Parker stated that this was Phase 1. The committee was dealing with paved roads. It is up to the Select Board how they would like to proceed on other phases.

Selectman Osgood stated that this was a valuable document that would support an argument about the gas tax. He intends to share it with some legislators. Chair Blomback stated it should be sent to Rep. Dave Woolpert.

Selectman Fortner stated he supported and appreciated all the work that was done. He would like to get more of the process that is in everyone's head out on paper. He suggested to send the report to the Planning Board and see how it fits with the master plan. He'd also like to hear from the road agent. Vice Chair Hooper stated that the RMC will be meeting with the water department on Phase 2.

Item 3: Budget Discussion

Bill McGirr, Superintendent of the Transfer Station, came before the board with a request to distribute the \$34,385 from the Concord Regional Solid Waste Co-op as follows:

- 1) \$15,785 apply to the general fund to offset the 2017 increase in the proposed budget.
- 2) \$10,000 to the capital reserve fund instead of \$5,000 previously suggested.
- 3) \$8,600 to be spent on purchasing two 40-foot-high cube shipping containers.

(refer to memo dated 12-29-2016)

A motion was made by Selectman Fortner to allow John Kjellman to address the board. Chair Blomback seconded. Motion passed 5-0.

A motion was made by Vice Chair Hooper to allow Bill McGirr to distribute the \$34,385 as stated in his letter of 12-29-16.

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Selectman Fortner did not agree with \$10,000 to the capital reserve and preferred to keep the original distribution of \$5,000 and made a motion as such. Selectman Fortner withdrew his amendment.

Original motion passed 5-0

Town Administrator Trovato raised the issue that the Select board had not addressed all the items brought to them by the Budget Advisory Committee. The only item addressed was the town clerk/tax collector position.

Selectman Osgood stated that New London does not enforce the building code. Their website explains how they handle this. They do enforce zoning and require a building permit and conduct health and fire inspections. He stated Vermont is similar. No decision was made on a code enforcement officer until Selectman Osgood could conduct further research. He stated he would like to work on changing the zoning ordinance reflecting the use of a code enforcement and without and have this ready for the next Select board meeting.

Town Administrator Trovato stated she had not moved forward with the building inspector position. She has 3 applicants ready to be interviewed however there is no proposed budget for next year. It was removed by consensus. Selectman Fortner stated that there was no motion to remove it and he was not satisfied. Chair Blomback stated there is no money in code enforcement.

A motion was made by Chair Blomback to not proceed with interviewing and hiring a building inspector until there is further research from Selectman Osgood. Vice Chair Hooper seconded.

Selectman Fortner amended the above motion to change the parameters of the board's decision whether we move forward. No second. Motion fails.

Original motion passed 3-2 (Fortner, Osgood).

A motion was made by Selectman Osgood to look for a part-time contractor to serve as building inspector. No second. Motion failed.

Town Administrator Trovato stated that the Select board accepted the Budget Advisory Committee report but did nothing further. She will send out another electronic version to the Select Board. Vice Chair Hooper asked that the schedule of deadlines be included.

OTHER BUSINESS

Item 4: Review public and non-public minutes of 12/20/16

The public December 20, 2016 minutes were reviewed.

A motion was made by Selectman Osgood to approve the 12-20-16 public minutes as presented; Chair Blomback seconded. Motion passed 4-0-1 (French).

The non-public December 20, 2016 Item 10 RSA 91-A:3II(c) were reviewed.

A motion was made by Vice Chair Hooper to approve the 12-20-16 non-public minutes as presented; Chair Blomback seconded. Motion passed 3-0-2 (French, Fortner).

Item 5: Town Administrators Report—

Town Administrator Trovato reported on the following:

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- Received a letter from Central NH Regional Planning Commission dated 12-16-16 regarding the 10-year plan update for FY 2019-2028 for the Regional Transportation Improvement Program. Town Administrator Trovato and Mark Fougere will meet with the Town of Hopkinton to discuss the intersection at 127. The intersection is within the 10-year plan and she said the town would like to move up to with two years. Chair Blomback asked about grant money and if there is a clearinghouse and what is the formula. He would like the Town Administrator to look into seeing if we can acquire more funding.
- Western Ave project is still ahead of schedule. Tuesday will be the monthly construction meeting. Anticipated opening of the new road will be the end of June or the first part of July.
- Selectman Fortner asked about the safety glass being installed and if the Administrator had any more information. She stated she has requested the minutes from the Safety Committee but has nothing more since the last meeting.
- Selectman Fortner asked about the Administrator's evaluation which comes due in January. She said she will send out the forms to the Select board.
- Selectman Fortner asked if there is anything more the Administrator needs from the Board. She stated more communication on a regular basis would be ideal.
- Selectman Osgood asked if the town had a representative on the Regional Planning Commission on a regular basis. Town Administrator Trovato state that Vice Chair Hooper was appointed in September.

Item 6: Selectmen's Reports –

Selectman Fortner – no report

Selectman French – no report other than the Road Management Presentation

Chair Blomback – no report

Selectman Osgood – no report

Vice Chair Hooper – As the Emergency Management Director, she went out on the road while the crew was plowing to see what they do and how they operate in terrible conditions. It was amazing to watch what they do. Incredible work.

Chair Blomback encouraged the Select board to go out and see what the departments are doing, however, it should be coordinated with the Town Administrator.

Item 7: Non-public RSA 91-A:3II (c) – moved to the end of the meeting.

PUBLIC FORUM#2

Dr. Trivellini asked the Chair to confirm a comment he made earlier that the town has not adopted prohibition against riding motorcycles on private property. Is that correct? Chair Blomback agreed. The zoning regulation is permissive. The town doesn't have to prohibit it because it is not listed. All permitted uses are listed. Nowhere does it state that motorcycles can be driven on the property. It all goes back to the ancillary and accessory use. And if that is not going to be followed, then we must make it clear in the notes. Also he wanted to address the acquisition of grant money. In the minutes in the sixties, there's a standing motion was made to get as much grant money as possible. We keep fostering the attitude of free money and set ourselves up to create an unsustainable situation. It has to stop.

John Kjellman raised the issue of private roads previously mentioned in the Road Management Committee presentation. He asked what the legal requirement was to maintain them. Was the town legally responsible? Vice Chair Hooper said that they are not private roads, even though they are referred to that way. They are public roads and the town maintains them. Town Administrator Trovato stated there is an RSA that covers these roads. Selectman Fortner would like the Administrator to direct the Road Agent to draw up those roads that might be abandoned.

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By board consensus, the Board directed the Town Administrator to have the Road Agent identify the roads that might be abandoned.

John Kjellman stated he agreed that the use at 60 Juniper Ridge is not an ancillary use. He believes there is ample legal basis that the noise ordinance is being violated.

John Kjellman stated that it saddens him that the town is talking about safety glass in the town hall. He asked were there other measures that could be taken instead such as video cameras or more of a police presence. Chair Blomback stated that he has been in the town offices when people have acted irresponsibly and the police had been called.

Kathleen Labonte stated that every year for 6 years she talks about unpaid taxes and liens. Every year it is typically under \$1 million and this year it is \$1,290,000. She is opposed to monies going to privately owned businesses and non-profits and feels that the Planning Board should start doing their own work vs. relying on a consultant.

Item 7: Non-public RSA 91-A:3II (c)

Selectman Fortner, Selectman French seconded to enter into non—public session pursuant to the authority granted in RSA 91-A:3II (c). A roll call vote was taken, Vice Chair Hooper – yes; Selectman Fortner – yes; Chair Blomback - yes; Selectman French – yes; Selectman Osgood – yes. Motion passed 5-0

[Selectman Osgood and Vice Chair Hooper left the meeting.](#)

Chair Blomback moved, Selectman French seconded to come out of non—public session pursuant to the authority granted in RSA 91-A:3II (a). A roll call vote was taken, Selectman Fortner – yes; Chair Blomback - yes; Selectman French – yes; Motion passed 3-0

A motion was made by Selectman French and seconded by Chair Blomback to seal the non-public minutes. Motion passed 3-0.

Adjournment

A motion was made to adjourn the meeting at 9:05 pm by Chair Blomback and seconded by Selectman French. Motion passed 3-0.