

FINAL



**Town of Henniker
Selectmen Meeting
December 20, 2016
Henniker Town Hall**

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

Town Administrator: Christine Trovato

Guests: Leon Parker, Peter Flynn, Leigh Bosse, John Kjellman, Tom Weston, Steve Forster, Bruce Trivellini, Bill Marko, Linda McGuire, Spencer Bennett, Scott Dias, Silas Little, Michael Kriester, Michelle Russell, Cody Russell, Kathleen LaBonte, Keith DeMoura, Jenn McCourt, Ron Taylor, Heather French, Sachie Howard, Johanna Hauptman, Nancy DeMoura, Amy Bossi, Steve Burritt

Recording Secretary: Karen Rose

Chair Blomback called the meeting to order at 5:45 pm with the Pledge of Allegiance.

Other Business

Item 1: Non-Public RSA 91-A:3, II(a)

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

Vice Chair Hooper moved, Chair Blomback 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, Vice Chair Hooper – yes; Chair Blomback - yes; Selectman Osgood – yes. Motion passed 3-0

A motion was made by Vice Chair Hooper to allow the Chair to call on anyone during the meeting as needed; Chair Blomback seconded. Motion passed 2-1 (Osgood)

CONSENT AGENDA—

1. Appointment of Troy Power to the Safety Loss and Prevention Committee.
2. Appointment of Kristen Bergeron to the Safety Loss and Prevention Committee.
3. John Margeson to the Road Management Committee—*This item was pulled from the agenda*
4. Hiring of Norma Martin as part-time Recording Secretary

A motion was made by Vice Chair Hooper to approve the Consent Agenda with item 3 pulled off the agenda. Selectman Osgood seconded. Motion passed 3-0.

Selectman Fortner entered the meeting at 6:20 pm.

Public Forum #1

Jenn McCourt asked the reason for the long route for the sidewalk plow since the plow is “on its last leg”. Town Administrator Trovato stated that the area in question is part of the grant and must be maintained year-round.

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PRESENTATION:

Item 2: Presentation to Tom Weston, Master Roads Scholar

Tom Weston and Town Administrator Trovato attended a graduation ceremony at UNH on December 8th. Mr. Weston received his Master Roads Scholar certification along with an engraved clock. A presentation was made by Town Administrator Trovato and the Select board congratulated Mr. Weston.

NEW BUSINESS

Item 7: Request to fill vacant highway position

Tom Weston is seeking approval to advertise for a Truck Driver/Laborer position to fill a vacancy recently created.

A motion was made by Vice Chair Hooper to advertise for the Truck driver/Laborer position at Labor grade 15-1; Selectman Osgood seconded. Motion passed 3-0.

A motion was made by Vice Chair Hooper to move Item 4A before Item 3 on the agenda. Selectman Fortner seconded. Motion passed 3-1 (Osgood).

Item 10: Discussion regarding Sidewalk tractor/snowblower

Mr. Weston came before the board on 12-6-2016 to discuss the sidewalk snow plow and its need for replacement. He has since demo'd two units. The preferred unit is the Wacker Neuson WL32 Wheel Loader. It is a multi-purpose unit with a 2-year warranty, rental and lease options. A five-month rental would be \$2,500 per month and would include a bucket, snow blower attachment, drop spreader and warranty. All rental monies would be applied to the purchase. To purchase the unit would be \$69,810 minus \$2,350 for a salt spreader for a total of \$67,460. Mr. Weston provided all the specs and references to the Select board. Selectman Osgood saw the machine and thought it was a solid unit with a steel frame and has 360 degree visual abilities.

A motion was made by Selectman Osgood to purchase the complete unit. Selectman Fortner seconded. Town Administrator Trovato reported that there weren't funds to purchase it. Selectman Osgood withdrew his motion.

A motion was made by Vice Chair Hooper to lease the Wacker Neuson unit for \$2,500 per month for a minimum of 5 months with the larger blower and with an option to purchase and to provide authority for the Town Administrator to sign the documentation with the additional specifications. Selectman Fortner seconded. Motion passed 4-0.

Item 4a: Request from a resident to discuss 60 Juniper Ridge

Sy Little, spoke on behalf of his client Dr. Trivellini. He posed the question whether the use of the motorcross track at 60 Juniper Ridge Road was an ancillary use of the property. He stated that the terrain had been altered, and pictures taken by his client and from Google Earth indicate a worn pattern by the track. The use of property for a track does not meet the standards of primary use for a residential property. He stated the property should be restored and the Select board have an obligation to enforce the ordinance.

Michelle Russell, landowner at 60 Juniper Ridge, stated that her son uses the track with a small pit bike and does not use it during hours that would impact neighbors. She agreed there were issues with dust and had spoken to Mr. Kriester, a neighbor, about this. He had donated a large amount of hose so the track could be hosed down. She said her son is out on the track only a few hours after school and never after 7:30 pm. They do not have races.

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Selectman Fortner asked if the track was used commercially and have they ever advertised. Ms. Russell stated no. Selectman Osgood asked how it was built and with what? Did they use dirt from the property or haul in dirt? Ms. Russell stated it was built with dirt from the property and used shovels and a skid steer.

Mrs. Kriester stated that during the summertime she can't take her dog out of the house or open her windows because there is so much dust. She also can't sit out on her deck. And the noise is so loud she has to retreat inside her home.

Keith Demoura asked for clarification on ancillary use. He wondered if he rode his lawnmower around the yard would this be a problem. He stated that if they pay their taxes they should be allowed to do what they want on their property. Scott Dias agreed. Kathleen LaBonte suggested that the lawnmower analogy is not a good one.

Peter Flynn stated that the first thing that should be done is getting a ruling from the town's counsel. Town Administrator Trovato spoke with Chief French and he stated that as long as the noise is within the hours in the ordinance, there is nothing the police can do.

Attorney Little stated that having a dirt track on a ½ acre lot is not commonly associated with the village district and that remains the test. Is it reasonably associated with the primary use not whether you support it as an appropriate activity and not whether it falls within the noise ordinance. The issue is whether it meets the legal definition under the zoning ordinance.

Selectman Osgood stated that it is not an illegal use, the law does not give the select board the ability for a remedy. Mr. Kriester stated he cannot sit on his deck and is not able to enjoy his property.

Chair Blomback closed the public portion at 6:58 PM. He asked the select board for discussion.

Selectman Fortner stated this is a deliberation of the board and not everyone. He understands the concerns with the noise but there are no rules being violated. Vice Chair Hooper stated she would like to do additional homework on the zoning laws and return it to counsel.

A motion was made by Chair Blomback that the Select board take no action at this time. Selectman Osgood seconded. Motion passed 4-0.

Item 3: Request to approve Planning Consultant contract

Vice Chair Hooper requested for this item to be placed on the agenda. She stated that the Select board should be looking at contracts on an annual basis to make sure that all the terms of the contract are being met. In Mr. Fougere's contract, she has concerns with the lack of detail in the timekeeping and invoices and also the secretarial duties he is doing at his current salary. She asked how many hours he is working on projects, for example, Dollar General. Town Administrator Trovato stated he works one day a week. Vice Chair Hooper also stated that as development increases, he may need additional assistance but we cannot know this without more detail.

Selectman Fortner asked if there is another contract written up that will remove those items of concern?

Kathleen LaBonte addressed the Select board and stated she had put together a packet for the board's consideration. She is submitting a no confidence letter and would like his contract placed on hold. She read her letter to the Select Board. (refer to the town office for a copy).

Selectman Osgood asked for input from the planning board members. Leon Parker spoke at length about the history of the position and his time on various boards. He was on the committee that hired Mr. Fougere and feels that he provides valuable assistance to both the Planning and Zoning boards. He also works with applicants prior to the meetings so they come prepared. He stated it was inappropriate to judge him based on a letter to Mr. Forster. His greatest value is his work in the office, helping the residents with appeals etc. as well as overseeing documentation for the town. He asked the Select board to keep him on.

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Ron Taylor agreed with Mr. Parker. He stated that Mr. Fougere always provides the boards with options and helps out with impossible outcomes. He meets with him weekly and values his work. Scott Dias agreed that Mr. Fougere is well prepared and likes that he knows when he is available.

Vice Chair Hooper reminded everyone that this item was not pulled from the consent agenda for termination but for modifications to the contract.

Dr. Trivellini stated he is confused about the provisions in the contract for code enforcement. He stated that the consultant should not be in charge of zoning compliance and violations. The Select board does not have the authority to grant him the authority.

Chair Blomback closed the public discussion at 7:29 pm.

Selectman Osgood stated that it appears the work is getting done. He asked if there was anything to be added to the contract.

Vice Chair Hooper reiterated she would like more detail in billing. He should also be added as a representative on the following committees: Planning Board, Zoning Board, Historic District Commission, Economic Development Committee, Conservation Commission. And the 5th bullet from the bottom should state that he will assist with Administrative duties as needed. Vice Chair Hooper raised the question of a potential conflict of interest if he is reviewing development plans on behalf of applicants and then also coming to the Planning Board. Selectman Osgood asked if we knew how many larger developments, if any, he has been involved with that required escrow.

Selectman Fortner stated that it was appalling what the Select board allowed to happen, having Mr. Fougere's reputation being paraded when in fact Vice Chair Hooper was trying to have adjustments to his contract. Has an attorney looked at the contract? Town Administrator Trovato stated she does not know if an attorney reviewed the original contract but this recent contract was submitted by Mr. Fougere. The contract expires December 31, 2016. Selectman Fortner asked if we require any of our other contractors to do itemized billing and Town Administrator Trovato stated no. Vice Chair Hooper disagreed.

A motion was made by Selectman Osgood to add delegate to Economic Development Committee and itemize billings on the 5th bullet from the bottom. Chair Blomback seconded.

Vice Chair Hooper amended the motion to strike secretarial duties. Chair Blomback seconded. Motion failed 2-2 (Fortner, Osgood).

A motion was made on the original motion by Selectman Osgood. Chair Blomback seconded. Motion failed 2-2 (Hooper, Fortner).

A motion was made to act as a delegate to the Economic Development Committee as well as the Planning and Zoning boards, Historic District and Conservation Commissions and assist with administrative duties as needed. Also to itemize billing with time kept by projects. Selectman Osgood seconded. Motion passed 3-1 (Fortner).

Item 4b: Request to approve Azalea Park Committee ARM-Grant

Sachie Howard reported that the Azalea Park Committee was awarded a grant for \$24,000 from DES under the ARM program. The grant money is dedicated to the costs for design and construction of a stone wall in the parking lot. The Committee needs a designee with authority to sign contracts and agreements for the grant.

Jen McCourt reported that the Committee is looking to have a 250th anniversary in 2017. She handed out photos of an arch to be constructed to create an entrance. There will be a fundraiser in March to raise funds for the design and construction of the arch. Last January, the committee received four donated park benches.

A motion was made by Selectman Osgood to accept the ARM grant and to authorize the Town Administrator to administer the grant; Selectman Fortner seconded. Motion passed 4-0.

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Item 5: Budget Advisory Committee Presentation

Peter Flynn, chair of the Budget Advisory Committee, came before the board to present the Committee's recommendations for next year's budget. He stated that the committee was comprised of six individuals who worked hard and were committed to the process. Their report includes all the emails and minutes for the meetings and the Committee agreed to treat the December 12, 2016 draft minutes as their report. Mr. Flynn went over the line items as written in the December 12, 2016 minutes.

Dr. Trivellini stated the committee recommends to the Select board they encourage billing for the ambulance service to Bradford be done more often than once a year and to create a committee for a study on the feasibility and needs for a new police facility. He stated the committee discussed curbing the town's appetite for grant money as there may not be grant money available in the future.

Mr. Flynn stated that after the committee netted out estimated revenues that an increase to the tax rate of 92 cents was necessary. He stated that the committee would like an opportunity to review a bond for Western Avenue, possibly an increase of \$70,000 to the budget for a new tractor and an increase of \$15,000 for safety glass at the town office.

Chair Blomback thanked the committee on behalf of the Select board for all their hard work.

Item 6: Road Management presentation

This item has been tabled until January 3, 2017

Item 7: moved up on the agenda

Item 8: Request to expend Fire/Rescue funds for SCBA

Chief Steve Burritt submitted a request to expend Fire/Rescue funds to purchase SCBA equipment from the 2016 budget. Chief Burritt stated that he has tried for five years to acquire a grant to replace the older units and was not successful. He has 25 units in inventory of which 20 he would replace in the coming years. He has already replaced 5 units in the FY 2015 budget. He would like to replace another 5 from the FY 2016 budget and another 5 from the FY 2017 budget. The Chief stated that on his report of 12-14-16 he had a balance of \$119,851 left. The cost would be \$32,570.

A motion was made by Selectman Fortner to approve the purchase of 5 units from FY 2016; Chair Blomback seconded. Motion passed 4-0.

Item 9: Budget Discussion--Informational only

Town Administrator Trovato reported that the Safety and Loss Committee met on December 13, 2016 and discussed the installation of protective glass windows at the Town Clerk/Tax Collector's office. The estimated cost is \$13,755. At a future meeting, installation of a safety door at the back of the town hall will be discussed.

Selectman Fortner asked if the police chief was part of the meeting and recommended the insurance carrier be notified. Town Administrator Trovato stated she would look into this. Selectman Osgood asked if the staff had concerns about their safety and Town Administrator Trovato stated that the police have come on a few occasions to handle irate individuals.

A motion was made by Chair Blomback to adopt the existing employee structure and not support any additional hours for the town clerk, tax collector and town offices. Selectman Osgood seconded. Motion passed 2-1 (Fortner-opposed) -1 (Hooper-abstained).

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OLD BUSINESS

Item 10: moved up on the agenda

Item pulled from Consent agenda-- John Margeson to the Road Management Committee

Vice Chair Hooper asked for this item to be pulled from the consent agenda. Mr. Margeson was a former road agent and some of his work is being critiqued, therefore there is a potential for conflict. Selectman Fortner stated that he didn't understand why there was a reason to deny him and it would diversify the committee. Vice Chair Hooper stated that the RMC is interested in the water commissioner. Chair Blomback concurred that having the Water Commissioner on the committee would be an excellent opportunity.

A motion was made to deny the appointment of John Margeson to the RMC by Vice Chair Hooper. Selectman Osgood seconded. Motion passed 3-1 (Fortner).

Selectman Fortner asked Town Administrator Trovato if she had received the spreadsheet from RMC that was requested by the Select Board. She stated that the town secretary had received a paper copy but her request was for an electronic copy which she has not received. Selectman Fortner stated that this was asked of the committee four weeks prior and he didn't understand why they weren't complying. It is the responsibility of the chair of the committee. Vice Chair Hooper stated she would email it when she got home.

Note—Vice Chair Hooper left the meeting at 8:45 pm.

OTHER BUSINESS

Item 11: Review public and non-public minutes of 12/6/16

The public December 6, 2016 minutes were reviewed.

A motion was made by Chair Blomback to approve the 12-6-16 public minutes as presented; Selectman Osgood seconded. Motion passed 3-0.

The non-public December 6, 2016 Item 10 RSA 91-A:3II(c) were reviewed.

A motion was made by Chair Blomback to approve the 12-6-16 non-public minutes (Item 10) as presented; Selectman Fortner seconded. Motion passed 3-0.

The non-public December 6, 2016 Item 11A RSA 91-A:3II(a) were reviewed with minor edits.

A motion was made by Chair Blomback to approve the 12-6-16 non-public minutes (Item 11A) with minor edits; Selectman Osgood seconded. Motion passed 3-0.

The non-public December 6, 2016 Item 11B RSA 91-A:3II(a) were reviewed.

A motion was made by Chair Blomback to approve the 12-6-16 non-public minutes (Item 11B) as presented; Selectman Osgood seconded. Motion passed 3-0.

The non-public December 6, 2016 Item 11C RSA 91-A:3II(a) were reviewed with minor edits.

A motion was made by Selectman Fortner to approve the 12-6-16 non-public minutes (Item 11C) with minor edits; Chair Blomback seconded. Motion passed 3-0.

A motion was made by Selectman Fortner to make the above Item 11C minutes public; Chair Blomback seconded. Motion passed 3-0.

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Item 12: Town Administrators Report—

Town Administrator Trovato reported on the following:

The Quaker street road relocation will come to the board at the January 17, 2017 meeting for a request to place a warrant article before the town at town meeting. The town has received a letter from Reagan Bissonnette of the Forest Society who holds an easement on the property. The Forest Society approves condemnation of the easement with proper compensation. (see letter dated 12-1-16). Chair Blomback asked for a map of the project. Jen McCourt is putting together a plan for the Select board. The owner has hired a surveyor.

The town received a letter from the Army Corp of Engineers acknowledging the town's timely response to the debris removal and stabilization of the area. The ACOE is working on a new supplemental agreement to identify the uses of Tract No. 1911. (see letter dated 12-8-16).

Item 13: Selectmen's Reports –

Selectman Osgood stated that he attended the Azalea Park Committee meeting and a fundraiser will be held on March 26 at Daniels. He stated that Kevin Daniels looked for plans for the properties in the area and could not find them. He asked to have the town planner see what he could do. This project requires private industry to get involved and possibly changing the zoning district. He stated the landowners should be involved.

Selectman Fortner asked if the Economic Development Committee meeting has been scheduled yet as he would like to be included. Town Administrator Trovato stated she spoke with Mark Fougere and they are looking at a date in January.

Item 14: Non-public RSA 91-A:3II(a)—moved to the end of the meeting.

This item was tabled.

PUBLIC FORUM#2

Peter Flynn spoke about code enforcement. He stated that the laws says if you adopt a system then you have to enforce the code. If you have no system, then you tell the contractors to find their own code inspector. Mr. Flynn stated he went through town reports and remembered a vote back in the eighties to establish a town enforcement officer. Selectman Osgood reported that he had done a presentation on code enforcement a few meetings ago and would be happy to share it.

Mr. Flynn also stated that he had helped design the contract with Mark Fougere and that the Select board should have approached Mr. Fougere with the changes they were going to implement to see if he was in agreement. Selectman Osgood stated that the purpose of the agenda item was for the public to hear and understand his contract. Selectman Fortner expressed his issue if the select board put an item on the agenda for display. Jen McCourt asked about the fact that part of Mr. Fougere's contract was taken out in the budget discussion and yet the Select board approved his contract. She asked that his contract be reinstated. Chair Blomback stated that the Budget Advisory Committee is advisory only.

John Kjellman suggested that the Select board chair use the gavel for when the public goes on and on in their remarks. He also suggested the town have stricter and tighter noise ordinances which would help with the problem at Juniper Ridge. Selectman Fortner stated that we have a policy that outlines how meetings are to be conducted.

Leon Parker, Vice Chair of the Roads Committee, stated that he understands the spreadsheet is wrapped up in personality conflicts but reminded the board that whatever Vice Chair Hooper disseminates should not be advertised for public information. A report from the Committee will be forthcoming. Town

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Administrator Trovato reminded everyone that it's a public document and subject to the Right to Know laws.

Selectman Fortner made a motion to immediately cease actions of the RMC pending an investigation into why they are insubordinate. No second was made. Motion failed.

Adjournment

A motion was made to adjourn the meeting at 9:27 pm by Chair Blomback and seconded by Selectman Osgood. Motion passed 3-0.