

Selectboard Minutes

April 4, 2023

Present: Jennifer Jones, chair
Andy Artimovich, vice-chair
Jon Morgan
Russ Kelly
Paul Kleinman

At 6pm, Jones called the meeting to order.

Chief Ventura was present to speak about the promotion of Sergeant Doty to Lieutenant. He thanked the board and those in attendance for the opportunity to speak. Ventura stated he is a firm believer in involving family and the community whenever possible when officers are being sworn in. He explained Doty joined the Brentwood PD a year ago and has done everything asked of him. Ventura thanked Doty's family for their support and acknowledged Doty for his hard work. Ventura spoke about the adjustment Doty endured moving from a patrol role to an administrative role. He shared Doty has adjusted well and is very proud to be able to offer this promotion.

Daphne Woss, Town Clerk/Tax Collector, swore Sergeant Doty in as a Lieutenant of the Brentwood Police Department. Taylor Doty, Officer Doty's wife, was present to pin on the lieutenant badge. Photos of the department were taken along with pictures with Lieutenant Doty and some family members.

Artimovich motioned, seconded by Morgan, to sign the promotional form. All were in favor.

The Board signed the payroll and accounts payable summary register.

Artimovich motioned, seconded by Morgan, to accept the consent agenda which consisted of public minutes from 03/28/2023, nonpublic sealed minutes from 03/28/2023 recreation manifest, treasurer's report (found at the end of these minutes), and the following building permits:

- R&J Gillespie Family Rev Trust, 60 Dudley Road, Building
- Beebe Family Living Trust, 335 South Road, Electrical
- 14 Shawmut Avenue Trust, 23 Three Ponds Drive, Electrical
- Sherman Family Revocable Trust, 10 Lake Road, Electrical
- Ryan & Jennifer Gardiner, 72 Dudley Road, Electrical

All were in favor.

Lois DeYoung, Crawley Falls Road, thanked the board for the expanded posted packet. She asked about the Rockingham County building permit and how it had gotten to the current point. Jones responded the permit for the Rockingham County Complex was discussed at two previous meetings. She explained Rockingham County had requested the town waive building permit fees and allow the State Fire Marshal's office to oversee the project. Jones explained the last meeting resulted in an action item to confirm the fire marshal's office was willing and able to take on the project. She explained the board would be voting tonight on how to move forward with that issue.

DeYoung asked if the committee form was being used to fill all vacancies. She shared that previously the chairman of the committee made a recommendation for the appointment. DeYoung asked if people now needed to fill it out if they were interested on serving on a committee. Jones responded it was going to be discussed during the meeting tonight.

Lastly, referring to the Doe Project, DeYoung asked how the remains were in "their" (UNH's) possession. Jones responded the information would be shared later in the meeting.

Letty Bedard, Middle Road, speaking as a private citizen, stated she understands why it would make sense for the State Fire Marshal's office to oversee the Rockingham County Complex project due to the scope of the project and the size of the town's department. She shared she is hesitant for the permit to not go through the town because she understands the town ordinance for impact fees requires the building permit prompt. Bedard requested the board consider that when making their decision.

Selectboard Minutes

April 4, 2023

Jim Hajjar, Mohawk Lane, thanked the board for the details posted with the agenda. He explained he understood the President of the Historical Society would be speaking later in the meeting about capital improvement. Hajjar wanted to offer some insight following his experience on Saturday at the Brentwood Historical Society's Open House. He shared a story of a young girl needing to use the bathroom facilities. Hajjar explained his support for the use of ARPA funds for the capital improvement project.

Hajjar asked about the board reappointments. He believes that people who are doing a good job should be able to remain on a board even if they have served a long time. Hajjar does not believe people should have to reapply for their position.

Becky Dunham, Block Drive, stated she believes the application process was good for the creation of a new committee and believed it was the original intent for the use of the form. She asked if the plan was to use the Statement of Interest form for all open positions of all committees. Jones responded the process would be discussed later in the meeting.

Jones explained she had conversations with Karen Clement, Town Administrator, regarding the laws and regulations surrounding the building permit process for the County Complex project, how the town and county interface with each other, and the history. She then asked Clement to clarify what has been learned pertaining to impact fees.

Clement explained that historically the county has applied for building permits, but no fee was assessed for any of their projects thus far. She shared she reached out to the State Fire Marshal's office and have confirmed they are willing to accept jurisdiction and be the building official for the town once they receive a letter requesting such. Clement went on to clarify impact fees by stating a governmental entity undertaking its governmental function is exempt from municipal zoning. She expounded the premise works across all jurisdictions which includes the county. Clement explained the impact fee ordinance is a zoning ordinance. She added the county would be exempt as long as what they are doing and what they are constructing falls under the responsibilities of their governmental function. Clement stated this was determined by case law of McGrath vs. Manchester in 1973 that established municipalities and counties are exempt from zoning.

Jones stated that this clarifies why Brentwood and other towns have not collected impact fees from the county. She shared it is not something that can be done by New Hampshire judicial rulings and believes it makes it a more simple decision for the board. Jones asked if the board was comfortable giving Rockingham County a waiver to utilize the State Fire Marshal's office to do the permitting and inspections or if there is a preference for it to go through the town's building inspector.

Artimovich responded that Kip Kaiser, Building Inspector, has already expressed the project is too large to handle alone. He suggests giving the State Fire Marshal's office the authority. Artimovich cautioned against spreading Kaiser too thin to not allow time to handle other town business.

Kleinman stated it sounds like the McGrath case allows for the county to not pay impact fees regardless of who does the permitting. He asked who gave the town that source of information. Clement responded it was provided by Glenn Greenwood, the town planner.

Morgan asked if Town Counsel or NHMA has been consulted. Clement responded she spoke with counsel regarding the building permit process and explained they are exempt from following local zoning.

Kleinman stated he was not comfortable reading case law on the spot and believes counsel should review it. He agreed that the statute allows for the Fire Marshal's office to oversee the project with inspections and permitting. Kleinman is not sure the impact fees could not be collected.

Jones responded the town could charge a fee for the building permit based on square footage. She believes based on Greenwood's expertise the town could not collect impact fees. Jones added she does not believe Kaiser has the bandwidth to handle the County Complex project.

Artimovich stated he believes the building permit has to be handled through the town. Clement responded with information from the email from the District Chief that "...[they] will be able to move forward with plan review, permit issuance, and inspections." Jones suggested a motion could be made to seek legal counsel before taking a vote.

Morgan asked if delaying the vote would affect the project. Clement responded the county had hoped to start April 1. She reminded the board they would not be meeting again until April 18. Morgan expressed his hesitation to walk away from possible impact fees.

Selectboard Minutes

April 4, 2023

Artimovich expressed his hesitation of spending additional money for town counsel opinions from an already reduced budget. He reminded the board they look to Greenwood for many things and if he is advising the town impact fees cannot be collected, Artimovich suggested they take his advice. Jones added historically the town has not charged the county impact fees.

Morgan stated he remembers Kaiser's hesitation with taking on the inspection of the County Complex due to limited staff. Kleinman stated the case law seems to be on point based on his research. He expressed his hesitation that newer case laws do not exist.

Kelly does not believe the board has authority to enforce the collection of impact fees based on what he has heard. Jones stated she accepts the advice of the town planner. It was decided it would be tabled until later in the meeting to allow the opportunity for Kleinman to research newer case laws while remaining agenda items were addressed.

Jones moved onto board reappointments. She explained the selectboard needs to decide if the process is for vacant positions or positions coming open for reappointment. Jones expressed a desire for streamlining the process. She read Section R. Appointments of Town Officials in the Selectboard's handbook which states . . . "Ultimately decisions to appoint should be made based primarily on a candidate's qualifications, experience, track record and ideology, even when considering re-appointments." She suggested using the new process to fill any current or upcoming vacancies on committees.

Morgan stated he could not recall being part of the last updating of the Selectboard handbook. Artimovich added it should be updated by every new Selectboard.

Jones proposed using the process of submitting a letter of interest or resume for all open positions listed in the town report. Clement requested employees in the official roles be excluded. Jones suggested changing the language a bit on the form to reflect it is not for employees or elected officials, unless the elected position becomes vacant. Artimovich requested clarification if it would be for vacancies or whenever a term is up. Jones asked for the thoughts from the board. She supports it be utilized for all openings to allow the public more opportunity to apply.

Kelly stated there are some people on several boards. He believes the process will encourage new people to join. Kelly feels the process will not hurt.

Clement asked if the process would include alternates as well. Morgan supports including the process for alternates. Kleinman asked if the process will be a disincentive. Jones does not believe the process is laborious and feels it will allow for transparency in the process. Artimovich suggested establishing a timeline and believes the process should start 2 months prior to the term expiring. Jones believes the previous use of the form allowed for a 30-day posting. Morgan suggested a 60 - 90 day timeline.

Jones reminded the board this was not something new being implemented. She suggested the handbook be updated to reflect the timeline, form being used, and the process.

Russ motioned, seconded by Morgan, to utilize the Statement of Interest as part of the process for filling board vacancies, selectboard to consider interested candidates in non-public, add a paragraph to the state of interest that it does not include employees, openings will be publicized 90 days in advance, allowing 30 days to apply and the board to review. All were in favor.

Terms currently up were discussed next. Jones asked for clarification on ZBA and the selectboard member's role on the board. Artimovich explained he was the selectboard rep at one time. At some point he was "appointed" to be a member. Clement explained NHMA does not recommend the selectboard member to be a voting member of the ZBA. Kelly reminded the board he broached that subject in the past and was concerned about conflict of interest should a Selectboard decision be appealed to the ZBA.

Artimovich moved to make Kathy St. Hilaire a full member. Clement responded St. Hilaire has offered a resignation. Artimovich motioned, seconded by Morgan, to accept Kathy St. Hilaire's resignation from the ZBA; advertise for 2 open positions on the ZBA; move Kelly to a non-voting member. 4 in favor. Kelly abstained.

Clement requested Tammy MacNeil have a temporary extension while the process is worked out. Kelly motioned, seconded by Morgan, to extend MacNeil's term to June 30, 2023 and post for 2 open positions in September ahead of the December term expiration. All in favor.

Selectboard Minutes

April 4, 2023

The communications committee was established in May 2022. All members were 1-year terms. Clement suggested tabling the vote until communications has their meeting on April 13 at which time they can discuss how to stagger terms. The board was in agreement that terminating the committee or having a complete turnover would not be beneficial since they are in the middle of a new website project. Kelly supports the communication's formation for at least another year. Jones requested a member from the committee come to the next selectboard meeting with suggestions of how terms would be staggered.

Planning Board vacancies were discussed next. Jones asked if the established process should be utilized for the Planning Board. Artimovich responded the Planning Board members are appointed by the Planning Board. Clement confirmed that by statute the Planning Board members are appointed by the Planning Board. Jones responded Section R may need to be amended to list that distinction in the process. Kleinman will provide a resignation letter to the board for his position on the Planning Board.

Joyce Keegal, cemetery superintendent, was present to share information with the board about the DNA Doe Project (DDP) and request Clement be the authorized signer. Keegal explained the DDP is a non-profit initiative that uses investigative genetic genealogy to identify unidentified remains. She explained in September 1999, commingled skeletal remains, consisting of at least five people were inadvertently disinterred during the removal of fill from a local residence. These remains are believed to represent burials from a poor farm located in Brentwood in 1841-1868. The Town of Brentwood is working in collaboration with anthropologists from the University of NH Forensic Anthropology Identification and Recovery (FAIR) Lab to do a complete analysis of the remains in association with archival research. This analysis is instrumental for the town to offer a dignified and honorable burial for their misplaced residents, according to Keegal.

Keegal further explained the remains have been at UNH under the authority of the State Medical Examiner's office since spring of 2022. Per NH RSA 289, the remains cannot be returned without a burial permit. Keegal explained the dilemma in getting the burial permit and suggested a solution which includes partnering with DDP. To move forward, an affiliation and address to go onto the paperwork along with authorizing name and contact name would be provided to the DDP according to Keegal. This would allow the organization to oversee fundraising and move the process forward.

Jones asked if the project would remain on hold until the money is raised by DDP. Keegal responded it would be. Kleinman confirmed the \$5000 to get started would be raised by the DDP and not from the town. Keegal confirmed this was correct. Jones asked if Keegal had a sense of the success of the fundraising. Keegal responded the organization is confident it will be successful. She explained Brentwood would be setting a precedent as this has never occurred in NH before and the organization has been successful in solving other unidentified remains.

Keegal added students at UNH will study the history of the people. Jones asked if the bodies would be interred at Tonry. Keegal responded that is the plan. Jones thanked Keegal for the presentation.

Artimovich motioned, seconded by Morgan, to name Karen Clement as the authorized signer. All were in favor.

Jim Hajjar, cemetery trustee, thanked Keegal for all her hard work.

Dexter Swasey, Historical Society President, was present to request the use of ARPA funds for capital improvements to the Brentwood Historical Society. His request was an estimated cost of \$30,516 which includes a drilled well, septic holding tank, ADA wheelchair accessible vanity, sink and toilet, safety bars, on demand hot water tank, ramp materials, plumber and electrician charges.

Artimovich would like to see a better estimate. He believes prices may have increased since the well at the cemetery went in. Artimovich requested more solid numbers. Morgan shared he would prefer funds were directed to addressing a safety and liability issue at the library. Kelly agrees with Morgan regarding the safety and liability of the library being a priority. Kleinman suggested possibly both projects could be completed depending on the cost.

Swasey mentioned the puddling in the parking lot of the grange. He believes it cuts down on parking and accessibility. Artimovich suggested perhaps the highway department could help with leveling out the parking lot. Morgan reminded the board that the highway department's budget was also cut.

Jones explained she recently attended the Budget Committee meeting where the Capital Improvement Plan was discussed. She explained

Selectboard Minutes

April 4, 2023

she is not necessarily opposed to the upgrades at the Historical Society or the use of ARPA funds. Jones expressed the importance of looking at all the buildings and their needs and prioritizing those needs. She suggests Swasey provide firmer pricing and work to get the project on the Capital Improvement Plan.

Morgan shared that the Budget Committee would be meeting with the Planning Board to discuss the Capital Improvement Plan on Thursday at 7pm.

Swasey stated he felt it was reasonable to go through the Capital Improvement Plan. He reminded the board the Historical Society is the only town building that does not provide for a basic human “need”. Jones suggested Swasey return with more concise numbers and answers as to whether or not the property can fit a septic.

Artimovich motioned, seconded by Morgan, to name Nathan Richard as the deputy forest fire warden which allows him to sign for permits. All were in favor.

Clement presented the board with the MS-232. Artimovich motioned, seconded by Morgan, to sign the Report of Appropriations for the budget adjustments approved at the prior meeting. All were in favor.

Kleinman stated that he could not find any case law to contradict the McGrath vs Manchester case law. Jones stated she believed it was the consensus of the board that there is no ability to charge impact fees, the board would support the use of the Fire Marshal’s office to handle the inspections. She stated the benefit would be Kaiser’s time.

Artimovich motioned, seconded by Morgan, to sign the letter to the NH State Fire Marshal’s office allowing them jurisdiction over the Rockingham County Complex project. All were in favor.

Artimovich stated there is a Conservation Commission meeting on Wednesday, April 12 at 6:30pm. He stated he has a conflict. Morgan offered to attend in Artimovich’s place.

Morgan stated there was good attendance at last night’s Economic Development meeting. He thanked those who attended. Morgan announced there will be the first quarterly Brentwood Breakfast on May 8 at 9am at the Brentwood Recreation Center. He shared it is open to the public and requested people sign-up to attend.

Morgan reminded the board and attendees there will be a Community Engagement Seminar on Friday, May 12th and Saturday, May 13th at the Recreation Center. He highlighted 3 input sessions on Friday:

- 1:30 – 3pm → key community business leaders to be invited to join the discussion with the design professionals
- 3:30 – 5pm → public listening session to actively seek input, what the recreation facility could be, the vision of residents
- 6:30 – 8pm → public listening session to actively seek input, what the recreation facility could be, the vision of residents

And the Saturday session offering the reveal with pictures and presentations will be held at 3pm.

Morgan reminded people it is a “what is possible with the Brentwood Rec” and invited those who are interested/able to attend to sign-up. Jones asked if it would be posted in the same places as the Quarterly breakfast. Morgan responded it would be posted in as many places as they are able to.

Kelly had no committee updates. He requested consideration from Jones, as chair, as to how to handle the issue of people demanding Clement speak up when she is addressing the board. He noted he is sympathetic to having an issue hearing. Kelly admitted he does not know the solution but knows yelling at someone speaking is rude and unnecessary. He suggested maybe following up after the meeting in conversation or with an email if someone missed part of the discussion. Kelly knows that yelling while someone is in the middle of a sentence is not the answer.

Kleinman shared the Planning Board has a meeting on Thursday and the Budget Committee will be present.

Jones offered an update on the School Board meeting held at Swasey School last night. She shared it was the first meeting since the

Selectboard Minutes

April 4, 2023

election and the school board reelected Alison Higgins as the chair and chose Brian Duffy as the Vice-Chair. Jones explained the SAU had established a wellness committee and there was discussion about whether Swasey was meeting some of the educational goals that were formed.

Jones shared there was also a financial discussion at the school board meeting. She stated due to two unanticipated expensive projects the budget for Swasey school was going to fall into the negative. Jones explained that due to an error with how money was encumbered and spent that likely the budget will be in the positive. She added they are still examining the numbers.

Jones shared there was a discussion at the school board meeting about using impact fees and the need for the projects to be added to the Capital Improvement Plan was discussed. Additional discussion included that Rick Labrecque has been an invaluable resource with the early discussions of bringing solar to the school, according to Jones. She added the school will be getting a new playground and it is planned to be installed during April break.

At 7:38pm, Morgan motioned, seconded by Artimovich, to go into non-public for personnel. All were in favor.

At 7:56pm, Morgan motioned, seconded by Kelly to seal the minutes and go into public session. All were in favor.

At 7:56pm, Morgan motioned, seconded by Kelly to adjourn. All were in favor.

Respectfully submitted,

Tamera Peek

WEEKLY TREASURER'S REPORT

DATE:		4/4/2023		
General Fund:		TD BANK		
Previous Balance:		5,548,596.73		
Deposits:		87,893.09		
Payroll:		28,544.64	DDP: \$28,544.64	
			CHK: \$	
FICA:		6836.92		
A/P:		797,157.61	Reg A/P Cks \$30,920.61	NHRS \$
			Swasey \$181,000.00	CO-OP: \$585,237.00
Transfer to Impact Fees				
Admin CC Pd		(2,809.56)		
Trans to Rec CC				
Account Balance:		4,801,141.09		
Interest Earned YTD:		33,926.41		
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Joyce A. Gallant, Treasurer				