



Town of Amherst, NH

BOARD OF SELECTMEN MEETING MINUTES

Barbara Landry Meeting Room
2 Main Street
Monday, February 17, 2020

1 **1. Call to Order**

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3 Chairman Peter Lyon called the meeting to order at 6:30 p.m.

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5 Attendees: Chairman Peter Lyon, Selectman Dwight Brew, Selectman Reed Panasiti,
6 Selectman John D'Angelo, and Selectman Tom Grella.
7 Also present: Town Administrator Dean Shankle.

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9 **2. Pledge of Allegiance** – Steve Coughlin, Town Moderator, led the pledge.

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11 **3. Citizen Forum**

12 Steve Coughlin addressed the Board regarding comments made by Selectman D'Angelo at the
13 last meeting. He explained that the Deliberative Session is a meeting of the legislative body of
14 the town – its voters. It is his job to moderate discussion and debate of the warrant articles.
15 Part of this is allowing the proposer to state why the proposed citizen warrant article was
16 created and what it is intended to do. He gives great leeway to the speakers, in order to allow
17 them to display their case. In the same way that he looks to the Board for knowledge and
18 explanations into their warrant articles, he does the same for petition warrant articles with the
19 petitioner. The meeting is a free forum for the legislative body to do its work and he allows
20 that discussion to go on for as long as the body wants. This allows the legislative body to have
21 themselves heard in a democratic process. He believes the petitioner was very succinct in her
22 discussion and the debate that followed was reasonable. The Selectmen have a voice both as a
23 member of the legislative and government bodies, and thus have a right to speak under the
24 same rules as anyone else at the meeting.

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26 Chairman Lyon thanked Steve Coughlin for running efficient and fair-handed meetings.

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28 Kelly Mullin, 48 Christian Hill Road, also addressed the Board regarding the comments made
29 by Selectman D'Angelo. She expressed disappointment and concern regarding the
30 Selectman's remarks about her, as the author of the warrant article. She believes his
31 comments crossed the line, especially as the Board of Selectmen's Planning Board
32 representative. She believes that the Selectman could have asked her questions regarding the
33 warrant article during the Deliberative Session, but he chose not to. She believes that he
34 instead waited until a meeting she was not present at to make generalized comments. She
35 believes that the statements she made during the Deliberative Session were true to her
36 knowledge. She explained that his comments were meant to belittle her. She believes that this
37 is not the first time he's made these types of comments, but she hopes it will be the last. She
38 believes her comments were respectful and appropriate, and she heard nothing otherwise from

anyone else. She has concerns that the Selectman is working to limit or deny public input at upcoming Planning Board meetings. She requested that the Board reconsider their Planning Board representative when Selectman D'Angelo's term comes up for that role in March.

Selectman D'Angelo stated that there were several items mentioned during Kelly Mullin's statement at the Deliberative Session that were taken out of context. He believes that she falsely implied that the 2015 IIHO created density bonuses. This is incorrect, as density bonuses date back to the 1980's; the IIHO condensed them. He believes she also accused Planning Board members of sleeping through meetings. While it is true that one member was so tired, she was trying to keep her eyes open at a late meeting, the statement made it seem that this is a routine occurrence. Finally, he stated that Kelly Mullin took a quote of his out of context. The quote, regarding restricting public comment, was made in reference to a Planning Board work session, after hearing public comment during a four-hour long meeting. He stated that this quote, in fact, was made because he wanted the Planning Board to take some time to process all of the public comment given to them, without taking in more until the processing was complete. Absent of the context, this looks as though he doesn't care to hear what the public thinks, but he actually wanted a process to occur in order to hear it. He believes that cherry-picking statements and incidents is deceptive.

Kelly Mullin stated that she was the spokesperson for 116 other people during that meeting. She does not believe in eradicating the whole Planning Board, as there is value in experience, but she believes the Planning Board is in a troubling place. She explained to Selectmen D'Angelo that she believes him to be a good public servant, but that he tends to come across to the public as giving a negative impression.

Tom Quinn, 30 Christian Hill Road, stated that the fact that certain Planning Board members were falling asleep in meetings cannot be argued with. He explained that he has had similar exchanges with Selectman D'Angelo, regarding having comments made about himself at meetings he wasn't present for. He doesn't understand why some of the concerns raised were not brought up during the Deliberative Session. He stated that the volunteer handbook for the Town of Amherst states that individuals should conduct themselves in a professional and courteous manner; he doesn't believe Selectman D'Angelo embodies this. He also requested that the Board consider choosing an alternative person to serve as the representative to the Planning Board. He also recommended that the Board consider interviewing candidates for even uncontested appointments on Commissions/Boards.

Chairman Lyon thanked the public members for their comments.

4. Administration

Town Administrator Shankle read a brief email from Steve Coughlin, recognizing Marie Grella as a "hero of the day" for her help during the Primary Election Voting Day.

4.1 Buck Meadow Update

Town Administrator Shankle stated that the town is moving forward with the acquisition of Buck Meadow. This property will be a combination of Recreation Department playing fields, and Amherst Conservation Commission land. There will be two public meetings held in March regarding the acquisition: March 9th and March 23rd. The Board will then hold a special meeting to vote on the acquisition on March 30th.

4.2 SNHMC PILOT Agreement

Chairman Lyon read his comments into the record:

"This is a case which dates back to 2018 when the Town denied Southern NH Medical Center's filing as a tax-exempt charity. SNHMC was seeking relief under Chapter 72 of NH RSA's. We denied the tax-exempt status under the legal theory that although SNHMC was a registered non-profit corporation, in the absence of meaningful charity care being provided at the medical center that alone did not qualify the medical center for property tax relief.

SNHMC responded to the town's denial with an appeal to the NH Board of Tax and Land Appeals. Since that time there have been several legal filings with the BTLA as well as ongoing negotiations between the town and SNHMC.

In recent weeks, the medical center and the town have worked toward resolving the outstanding property tax issue and, to that end, we now have in front of us a PILOT agreement negotiated between the town's lawyer, Attorney Adele Fulton and the medical center's lawyer. Attorney Fuller has negotiated this PILOT at our behest, recognizing that to continue the legal proceedings at the BTLA and NH Supreme Court will become very costly, without any guarantee of the town prevailing.

This PILOT will:

1. Resolve the tax year 2018 appeal and cover tax years 2019 through 2023. If both sides agree, the agreement may be extended for another 5-year term.
2. The Town will retain the total amount of taxes paid by SNHMC for the 2018 tax year.
3. The Town will grant the SNHMC application for a charitable tax exemption beginning with the 2019 tax year and each subsequent year for the duration of the agreement.
4. Given the charitable tax exemption, the Town and SNHMC have agreed to a payment in lieu of taxes equal to 35% of the town's tax rate, multiplied by the assessed property value.
5. The Town will abate the taxes paid in excess of the 35% agreement for tax year 2019, which will be used as a credit to be applied against future PILOT payments.
6. In the event of a change in New Hampshire or federal law that affects SNHMC qualification for a tax exemption, either party has a right to terminate the agreement.

A MOTION was made by Selectmen Brew and SECONDED by Selectman Grella to enter into a Payment in Lieu of Taxes (PILOT) agreement between the Town of Amherst and the Southern New Hampshire Medical Center, located at 8 Limbo Lane, for the five-year period from Tax Years 2019 through 2023 and to authorize the Chairman to sign this PILOT on behalf of the Town of Amherst. This PILOT agreement will impose a tax on this parcel that is 35% of the total Town tax rate which includes the municipal, school and county components.

Discussion:

Selectman Brew read his statement into the record:

"I am going to reluctantly vote to approve this PILOT agreement between the Southern New Hampshire Medical Center in Amherst and the Town even though I have fundamental concerns about the fairness of this agreement regarding the Amherst Taxpayers and to the schools supported with Amherst taxpayer dollars.

Virtually all businesses that operate in the Town of Amherst provide a benefit to Amherst and make Amherst a better place to reside. This includes stores selling food and clothing, doctors and dental offices, and charities operating without expectation of payment for benefits provided.

In this case, we will be agreeing to a significant property tax reduction for the Southern New Hampshire Medical Center in Amherst that has a primary business model of providing medical services for a fee, and in some cases turns over unpaid bills for collection. There may be a charitable component provided by the Medical Center in Amherst, but if so, it's not clear what it is and would certainly appear to be dwarfed by the fee for service component of the operation. We have tried to determine what percentage of the total service provided in Amherst would qualify as charity care but have been unsuccessful in getting that information from the Medical Center. We do know that total revenue for the Medical Center parent organization exceeded expenses by over \$10,000,000 for the last year we have financial information, which was 2017.

Because our school budgets will not likely change as a result of entering into this agreement, the property taxes paid by every other residence and business in Amherst will need to rise. In this specific case, the property tax increase will not be significant to most— rising slightly less than \$6.00 per year on a \$350,000 home. However, if this type of tax reduction is extended to other fee for services businesses in the future, the tax impact could become significant. New Hampshire [RSA 72:23-I](#) makes it clear that the recognition of 501(c)(3) charitable status by the IRS is not enough to make an organization eligible for the property tax exemption. It's also not enough just to provide healthcare. We should expect to see organizations operate differently than for-profit ones would, which is difficult to see when it comes to 501(c)(3) organizations operating primarily as fee for service.

My reason for reluctantly voting to support this agreement is a financial one. This agreement will result in a loss of about \$28,000 this first year in tax revenue. If we taxed the entire property, it would be worth around \$44,000 this year and to litigate this would likely cost in excess of \$100,000 and possibly much more.

While I don't have any high expectations, I would hope that the New Hampshire Legislature takes a serious look at this issue and makes necessary changes.

In closing, I would like to restate that I believe Amherst benefits by having the Medical Center in town, my issue is with the tax exemption for this fee for service operation. I am reluctantly supporting this agreement because litigating it would be expensive."

Selectman D'Angelo stated that this is a distasteful part of the Selectmen's job – to settle a lawsuit when sure the town is in the right, but to do so because it's unclear if the suit will be won, and taxpayer money is being used to fight it. This is probably a better deal, in the end, for Amherst taxpayers.

Selectman Panasiti stated that the legislature is looking into this type of issue. This is affecting every town in the state. He supports Selectman Brew's comments.

Selectman Grella stated that he believes SNHMC has taken away some of the town services, although the operation is critical to healthcare.

Voting: 5-0-0; motion carried unanimously.

4.3 New Hire, Planner

Community Development Director, Nic Strong, explained that this position has been advertised for twice. The second round revealed two applicants, who were interviewed by herself and Town Administrator Shankle. The recommended candidate is very articulate and has a strong customer service background.

In response to a question from Selectman Grella, Town Administrator Shankle explained that the town the candidate is coming from has a population of about 89,000.

In response to a question from Selectman D'Angelo, Nic Strong stated that she believes this candidate has the background to be able to synthesize information and complete staff reports.

Town Administrator Shankle stated that he believes the candidate has the skills to know exactly what to look for when a plan comes in for review.

A MOTION was made by Selectman D'Angelo and SECONDED by Selectman Panasiti to hire Natasha Kypfer as Town Planner for the Town of Amherst at Grade 12, Step 3 on the FY20 wage matrix.

Voting: 5-0-0; motion carried unanimously.

4.4 CRF Withdrawal Request – AFR Vehicle Equipment

Town Administrator Shankle stated that he reviewed the cost/benefit comparison of down payment numbers for the requested Toyne Engine Pumper. It is clear that the best choice is to pay the entire truck upfront.

A MOTION was made by Selectman D'Angelo and SECONDED by Selectman Brew to authorize the town purchase of a fire engine and to approve the request to withdraw \$558,540.45 from the Fire Rescue Vehicle and Equipment Repair and Replacement Capital Reserve Fund for the purpose of purchasing a fire truck.

Voting: 5-0-0; motion carried unanimously.

5. Staff Reports

5.1 Environmental Assessment, Buck Meadow

Town Administrator Shankle stated that this request is due to the fact that, while multiple vendors were sought, only one of the vendors would commit to doing the assessment in a timely manner, therefore the ACC is looking to use a sole source vendor for this environmental assessment.

A MOTION was made by Selectman Brew and SECONDED by Selectman Panasiti to use Stone Hill Environmental to perform a Phase I Environmental Site Assessment of the Buck Meadow Property at the cost of \$2,500. And further to authorize the Town Administrator to sign the proposal, signifying acceptance of the proposal.

In response to a question from Selectman Grella, Town Administrator Shankle explained that this is considered a Phase I assessment because it will be examining and testing the soils of the area. If the results are significant, a Phase II could be sought.

Voting: 5-0-0; motion carried unanimously.

5.2 Baboosic Lake Community Septic Committee Member Appointment
DPW Director Eric Hahn explained that this is the third of three appointments for the Baboosic Lake Community Septic committee.

A MOTION was made by Selectman Brew and SECONDED by Selectman D'Angelo to appoint Jeffrey Affeldt to a one-year BLCS committee appointment, expiring 2021.
Voting: 5-0-0; motion carried unanimously.

6. Approvals

6.1 Septic Warrants

A MOTION was made by Selectman Brew and SECONDED by Selectman Grella to approve and sign the Quarterly Warrants for the Baboosic Lake Community Septic invoices, due April 1, 2020 as follows:

<i>Phase I Quarterly Maintenance Warrant</i>	<i>\$2,047.68</i>
<i>Phase II Quarterly Maintenance Warrant</i>	<i>\$5,675.18</i>
<i>Phase III Quarterly Maintenance Warrant</i>	<i>\$6,834.13</i>
<i>Phase IV Quarterly Maintenance Warrant</i>	<i>\$4,839.04</i>

Voting: 5-0-0; motion passed unanimously.

6.2 Payroll

A MOTION was made by Selectman D'Angelo and SECONDED by Selectman Panasiti, to approve one (1) FY20 Payroll Manifest in the amount of \$218,582.64 dated February 13, 2020, subject to review and audit.

Voting: 5-0-0; motion passed unanimously.

6.3 Concentration Account

A MOTION was made by Selectman D'Angelo and SECONDED by Selectman Panasiti, to approve one (1) FY20 Concentration Account Manifest in the amount of \$153,101.32, dated February 7, 2020, subject to review and audit. (Closing accounts at TD Bank, transfer funds to Citizen's Bank).

Voting: 5-0-0; motion passed unanimously.

7. Action Items – the Board reviewed its action items.

8. Old/New Business

Selectman Grella thanked Steve Coughlin for his comments regarding Marie Grella. Chairman Lyon stated that the comments are well-deserved.

A MOTION was made by Selectman D'Angelo and SECONDED by Selectman Panasiti to adjourn the meeting at 7:22pm.

Voting: 5-0-0; motion carried unanimously.

NEXT MEETING: March 9, 2020

SIGNATURE ON FILE

03.09.2020

Selectman Reed Panasiti

Date