

Draft Minutes

**Exeter Board of Selectmen
December 30, 2013**

1. Call Meeting to Order

Chairman Don Clement called the meeting to order at 7:00 pm in the Nowak Room of the Exeter Town Office building. Members present were Vice Chairman Dan Chartrand, Selectman Frank Ferraro, and Selectman Matt Quandt. Also present: Town Manager Russ Dean.

2. Public Comment

There were no public comments at this time.

As a public announcement, Chairman Clement announced there were tickets still available for the 375th celebration New Year's Eve gala being held at the Exeter Inn from 9:00 pm to 12:00 pm on December 31, 2013. Tickets could be purchased at Churchill's, Trends and Water St. Bookstore.

3. Minutes and Proclamations

Vice Chairman Chartrand moved to accept the draft minutes of the December 16, 2013 as presented; seconded by Selectman Quandt. Motion carried.

There were no proclamations at this time.

4. Appointments

There were no appointments at this time.

5. Discussion/Action Items

a. New Business

i. Fiscal Year 2013 Year End Encumbrances

Mr. Dean referenced the six (6) Encumbrance Requests as outlined in members' packet for a total of \$30,151.83; amounts from the general fund. From the sewer fund, a request for \$41,000 for consulting services of Underwood Engineers. All funds requested are based on work(s) in progress not yet complete. Mr. Dean did wish to add to the requests, a \$150,000 amount approved at the 2013 Town meeting for the Linden/Court St. culvert work as stated in Article 23. This amount is separate from the list of general fund encumbrances and the sewer fund; will be carried over to next year.

Vice Chair Chartrand motioned to encumber \$30,151.83 from the general fund for the six items/projects as listed in prepared sheet in packet; seconded by Selectman Ferraro. Motion carried.

Vice Chair Chartrand motioned to encumber the \$41,000 from the sewer fund for work not yet complete on a consulting contract with Underwood Engineers for inflow and infiltration; seconded by Selectman Ferraro. Motion carried.

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Vice Chair Chartrand motioned to encumber the \$150,000 amount approved by the voters at Town meeting 2013 under Article 23 for Linden and Court St culvert (design) work; seconded by Selectman Ferraro. Motion carried.

ii. Exeter Sportsman's Club: RAP Update.

The Chair referenced the RAP update as the Remedial Action Plan for the Exeter Sportsman's Club on the Town-owned property around the Exeter Water Works pond. At the request of Chair, Mr. Dean continued stating this is another meeting to discuss the details of the RAP the Town has with DES involving the building of the berm at Club site.

Stating there are three (3) components of the Plan:

- Removal of a portion of the trap range containing the clay targets for offsite disposal
- Removal of top soil from the stated area to a designated depth (until no clay fragments are visible) and relocation of the soil to a designated area.
- Backfill, loam and seed the excavated areas.

Meetings have taken place between the Town and Club officials and the Chair noted this meeting is to come to an understanding/agreement on the next steps and who was to do what and the financial responsibility of each party. The Chair referenced a memo from Assistant Chief Ken Berkenbush listing costs for the actions. Also noting, although there have been meetings and verbal offers extended, any final determination should be approved by the Board.

Mr. Butch York, president of the Exeter Sportsman's Club, took to the podium summarizing the topics covered at the different meetings and outlined what the club was willing to do but had questions on payment and amount and who was to be the contractor.

The Chair called on Assistant Chief Berkenbush to address the sequencing...what comes first. Mr. Berkenbush noted the area of clean up contains two separate issues. The remnants of the clay targets will be removed placed in dumpster and go to landfill; considered solid waste. Second task is the old shooting range where there is lead shot that needs to be excavated, taken and put into the construction of a berm (approximately 500-700 cubic yards), backfilled, loamed and seeded. Because of the locale being next to reservoir Mr. Berkenbush suggested the backfill come from the Town (Simpson pit) where the origin/history of the soil is known. Third item is the actual building and finishing of the berm.

Again it was determined no one contractor has been designated; did not want three different contractors working on different tasks in such a small area. When questioned, Assistant Chief Berkenbush said no conversations had been had with Town DPW other than possibly trucking in the dirt from Town pit.

With the completion of these tasks, confirmation samples collected and submitted to DES and an implementation report summarizing the work performed along with photos etc., will complete Phase 1 of the RAP. But the Chair noted until the responsibility is determined for each task, no completion date can be set and there is the need to get RAP done.

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Asking for comments from the Board, Selectman Ferraro conceded it becomes a complex matrix of possibilities and then presented various scenarios for both parties. The premise was for the Town to supply the dirt and the Club's contractor to provide the manpower and heavy equipment but take the soil from the Town: costs were discussed. Mr. York spoke of the variables in amount of soil that may be needed; not an exact amount thus making it difficult to assign a specific dollar amount.

Selectman Chartrand raised an ongoing question for him, at what point do the taxpayers no longer subsidize the Gun Club and the Club takes responsibility for its' activities and the results of its' activities. He feels the action of charging/accepting funds may put taxpayers in harm's way further on down the line. He values the Club and its location and activities but does not feel taxpayers should subsidize the Club and its' activities. He does acknowledge the Town is the landlord and there are obligations under the lease and that there are obligations of the tenant; wants to start dividing out the activities.

Chairman Clement stated he wanted to take into consideration the comments of the BOS and understands Selectman Chartrand's comment but is trying to separate the responsibility and activities required to implement to the RAP; monetarily and physically. In spite of having similar discussions at previous meetings, he wished to do this in a transparent manner.

Additional comments from Board members reflected their tentativeness and wondered if this was the place and format to decide such. Selectman Chartrand asked if not an ad hoc committee be formed with the appropriate representatives to bring a plan back to the BOS.

Selectman Quandt expanded the suggestion of an ad hoc subcommittee and return to BOS to see if it was something members could approve. Selectman Chartrand added the provision to have the proposal vetted by Town Counsel. As to transparency, the report of the subcommittee could be brought back to the BOS for presentation with the details and could be approved or not approved at that time.

Chairman Clement recognized Assistant Chief Berkenbush who offered his opinion on a possible solution with the accompanying caveat that he normally doesn't offer personal comments but because of his longtime involvement with the project was willing to do so. The tasks were itemized and the associated projected costs and added the Club should build the berm and but suggested the soil from the Town pit may not be suitable as a more clay-like soil is needed (Mr. York replied clay type soil on top of berm is needed; interior could be mixed.)

Asking for further comments from the public:

Ms. Lynda Beck of Robin Lane, Exeter echoed the sentiments of the three members present but strongly recommended getting legal opinion first and not run the risk of developing a proposal only to have rejected by Town Counsel; suggested to be proactive.

Mr. Jim Cimilion of Robin Lane, Exeter echoed Ms. Beck's comments. He referenced the indemnification clause in the lease; has been asking for clarification at three previous meetings and is awaiting an answer.

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Mr. Len Benjamin of Exeter, spoke to Article 20 in the lease referencing indemnification and demise of the premises (with no reference to when it occurred). As to activities of the Club, that provision references after the signing of the lease.

He does understand the Town has a responsibility to the State (DES) but feels the Club has a responsibility to the Town. He and others would like the berm built to attenuate the sound coming from the Club's activities.

He had two suggestions for the interim. The Club received approval from Planning Board for night lights and was to be in conjunction with the other projects in RAP but are in use at this time. That being said, he would ask the Club, when the lights are on and functioning, to limit the shooting to the smaller size caliber of gun for less noise; would be a gesture of good will to the neighbors/abutters.

As for the second suggestion, Mr. Benjamin referenced the length of time from the signing of the lease and the time lapse of three years before an application was made (for the improvements). He urged the BOS to set a timetable for construction/completion of the berm.

Selectman Ferraro, after hearing the conversations at the meeting wanted to make a two part suggestion. Initially, have Town counsel or an outside counsel review the responsibility/indemnification article as referenced in lease. He would also volunteer to be a member of a small group, along with Assistant Chief Berkenbush, a member from the neighborhood/abutters to work together to draw a proposal to bring back to BOS for approval; did emphasis the need for legal opinion first to know where are the responsibilities. .

Selectman Chartrand asked to make a suggestion and if approved by the Chair, frame into a motion; a subcommittee of Selectman Ferraro, Ms. Beck, a representative of the Club chosen by the Club, and Assistant Chief Berkenbush to work on a proposal and give the group access to Town Counsel for opinions as needed. Chairman Clement asked that Mr. Dean be included in the work group as he as well as Mr. Berkenbush have a long history of being involved in the project.

Selectman Quandt liked what Assistant Chief Berkenbush had outlined (on possible division of tasks) but asked that any motion include an end date for the proposal to come back to the BOS for final approval. In discussion with Assistant Chief Berkenbush, the Chair and Mr. Dean, the first meeting of the BOS in February was deemed feasible for a report date.

Selectman Ferraro agreed with Assistant Chief Berkenbush's remarks but did not want them to be the baseline for the work group; conversation with Town Counsel may determine a different avenue.

Selectman Chartrand then motioned for the Chairman to appoint a subcommittee of a representative of the neighborhood (Ms. Beck indicated she was not available to serve in this time period), a representative of the Gun Club, Selectman Ferraro, the Town Manager and Assistant Chief Berkenbush to be the Chair of the work group to come up with a proposal vetted by Town Counsel. Motion seconded by Selectman Quandt.

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Selectman Ferraro clarified that Town Counsel be available throughout the process; Selectman Chartrand replied that was his intent.

Calling for a vote on the motion, all members voted in the affirmative. Motion carried.

The Chair acknowledged Assistant Chief Berkenbush as the designated Chair but added he would like the focus (of the work group) be the implementation of the RAP and the subsequent building of the berm.

At the request of Selectman Chartrand, Chairman Clement declared a 5 minute recess.

Reconvening, The BOS resumed addressing the item remaining under New Business.

iii. Department of HHS Grant Acceptance

Assistant Chief Berkenbush requested the Town accept a grant for \$10,000 from the Department of Health and Human Services. The grant will support the Medical Reserve Corp Division of the Citizen Corp Team; recruitment and development of such Team. The Team is already in place and the grant will allow Team development. Grant is to be administered through the Public Health Division of the Health Department.

Selectman Chartrand moved to accept the \$10,000 grant from the Department of Health and Human Services; seconded by Selectman Quandt. Motion carried.

b. Old Business

1. Water/Sewer Chemicals Bid Award

Chairman Clement referenced the time spent at previous BOS meeting opening the bids for the chemicals requested by the Department of Public Works. The bid totals were forwarded onto the Department for the review. In a memo dated December 17, 2013 in members' packet, Mr. Matthew Berube, Water and Sewer Engineering Technician, stated the DPW had review the bid results and recommended awarded to the lowest bidders to the companies as listed.

Selectman Chartrand motioned to accept the bids as noted in memo; seconded by Selectman Ferraro. Motion carried.

6. Regular Business

a. Bid Openings/Surplus Declarations

Mr. Dean replied there were none at this time

b. Tax, Water, Sewer Abatements & Exemptions

None at this time

c. Permits and Approvals

A request for the use of the Town Hall for the Festival of Trees event on the dates December 2- 5, 2014 was received.

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Selectman Chartrand moved to accept the application for the Festival of Trees event; seconded by Selectman Ferraro. Motion carried

d. Town Manager's Report

Mr. Dean commented on the winter wonderland appearance of the Town on Christmas Eve and thanked all the volunteers who placed the luminaries along the streets of the downtown that always adds the finish touch to the holiday atmosphere for the Town.

e. Legislative Update

No updates at this time

f. Committee Reports

There were no Selectmen Committee reports at this time

g. Correspondence

- The Chair noted a letter was received from Jan Russell, Chairman of the Festival of the Trees, expressing their appreciation for the assistance of Mr. Doug Rich, Town Custodian, in setting up this year's event.
- A letter of appreciation sent to Chief Richard Kane, Exeter Police Department, from Bob Bilharz, President of the Exeter Farms Homeowners' Association, thanking Officer Saluto and members of the Department for their timely assistance and rapid results with an incidence occurring in their neighborhood on December 12, 2013.
- Correspondence from Comcast notifying the Town of the price adjustments for equipment and services to become effective January 22, 2014.
- Not in members packet, but a notice was received that Wayne Almon, a member of the Town DPW, has advanced to a higher level with the NH Roads Scholar program, a not-for-profit educational travel program.

7. Non- Public session

The Chair asked for a motion to go into a non-public session as permitted under RSA 91-A under the exception of land acquisition and fee waiver. So moved by Selectman Chartrand; seconded by Selectman Ferraro. As required, Selectman Chartrand called the roll of Board members for their vote. All voted in affirmative.

8. Adjournment

The Board emerged from non public session. With no further business, meeting was adjourned at 8:46 pm.

Respectfully submitted,

Ginny Raub
Recording secretary