

DRAFT MINUTES
BOARD OF SELECTMAN MEETING **MINUTES** **FEBRUARY 27, 2012**

1. Call Meeting to Order

Vice Chairman Matt Quandt convened The Board at 7:00 p.m. in The Nowak Room of the Town Office Building. Other members of The Board present were Selectman Frank Ferraro, Selectwoman Julie Gilman, Selectman Don Clement and Town Manager, Russ Dean.

2. Public Comment

Rene O’Barton, of 5 Blanche Lane, Exeter comes forward. Ms. O’Barton is concerned that she was trying to view some of the meeting minutes from the Budget Committee online. She emailed Mr. Swanson expressing her concerns, indicating she had even tried to view the meetings online at www.townhallstreams.com. Mr. Swanson replied to her email the same day, advising her that the Town Hall Streams website was undergoing a server move and would be unavailable for a few days. She presented a copy of the email and screen shot prints from each of the several committees with no minutes available to the public. The list of missing meeting minutes includes three meetings from 2012 and sixteen meetings from 2011. Ms. O’Barton visited the Town Hall and requested the minutes from the Clerk’s office and she was told they are not available. Ms. O’Barton cites NH Regulation 91A indicating that all public meeting minutes are supposed to be submitted within five business days. Mr. Dean responded to Ms. O’Barton’s concerns indicating that the minutes are still in draft form, some of which are still in handwritten form and are currently in the possession of the previous recording secretary. They need to be reformatted and finalized and are not available at this time. Mr. Ferraro reminds the Board of a proposal made in June, 2011 to change the current statute to require meeting minutes to be submitted by the recording secretary within five days of the meeting, and the finalized minutes within five days of that. Vice Chairman Quandt requests that the policy and procedure be added to the agenda for next week.

Mr. Gerry Hamel, Exeter resident comes forward to comment on the last televised Selectmen’s Meeting. Mr. Hamel’s concerns relate to the operating contract between the Town of Exeter and JBC Communications. Mr. Hamel first expresses that his opinions do not relate to the integrity or professionalism of JBC Communications itself. Mr. Hamel is a member of the Cable Advisory Committee and is well aquatinted with the concerns raised at the last Selectman’s Meeting regarding the contract itself. Mr. Hamel indicates that the Cable Advisory Committee was originally given a proposal from JBC Communications. The contract raised several questions and concerns across the Cable Advisory Committee members. There were many issues the Committee felt needed to be changed or negotiated. He feels that the contract was lacking. Mr. Hamel expresses his disappointment that the voice of the Cable Advisory Committee seemed to fall upon deaf ears. He does not feel as though the Board of Selectman took the opinions of the Committee and utilized them to make a decision to approve or deny the contract.

Anne Surman, of 12 Hampton Falls Road, Exeter comes forward. Ms. Surman is also a member of the Cable Advisory Committee. She expresses her concerns regarding the contract between the Town of Exeter and JBC Communications. She feels the contract is missing several key elements including a scope of work. She also believes the contract has no payment schedule tied to milestones is unacceptable. She also wishes to express that her opinion has nothing to do with the vendor, his credibility or his reputation. The language of the contract is her primary concern. She asks the Board to reconsider the contract. She suggests The Board could edit the contract, including the vendor in the editing. She also implores The Board to reorganize the Cable Committee so it can have a voice that can be heard. Mr. Clement suggests the Board look at the charge of the Committee to possibly redefine its statement. Vice Chairman Quandt agrees to put this issue on the agenda and requests a copy of the current charge so it can be reviewed and possibly redefined.

3. Minutes & Proclamations

a. Regular Session: February 13, 2012

Mr. Ferraro proposes a change to the February 13, 2012 minutes indicating he would like to strike the word ‘feel’ and insert the phrase ‘believes that.’

Ms. Gilman moves to approve the February 13, 2012 minutes with the proposed changes suggested by Mr. Ferraro. Mr. Clement Seconds. Vote: Unanimous.

4. Appointments – Heritage Commission, Conservation Committee, River Study Committee

Mr. Clement moves to appoint Richard Huber to the open position on the River Study Committee with a term to expire April 30, 2012. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Clement moves to appoint Robert Field as an alternate to the Conservation Committee with a term to expire on April 30, 2013. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Clement moves to appoint Cynthia Field as an alternate the Conservation Committee with a term to expire on April 30, 2014. Ms. Gilman Seconds. Vote: Unanimous.

Ms. Gilman moves to appoint Jamie Lopez to the open position on the Heritage Commission with a term to expire on April 30, 2014. Mr. Clement Seconds. Vote: Unanimous.

5. Department Reports - None

6. Discussion / Action Items

a. New Business

i. Public Hearing: Fire Department Grants

Mr. Clement moves to open a public hearing on the Fire Department Grants. Ms. Gilman Seconds. Vote: Unanimous.

Fire Chief Comeau comes forward to summarize the two grants available to the Town of Exeter. The First is a \$5,000 grant from the National Association of County and City Health Officials. This grant will be used to help develop and train and recruit volunteer health aides. The second grant available to the Town of Exeter is a \$100,000 grant from the Assistance to Firefighters Program through FEMA. The grant will pay \$95,000 to the Town of Exeter to install a sprinkler system in the Exeter Public Safety Complex. In order to receive this grant, the Town of Exeter must provide a \$5,000 match in either funds or work in hand.

Mr. Clement moves to close the public hearing on the Fire Department grants. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Clement moves to approve the receipt of the grant from the National Association of County and City Health Officials in the amount of \$5,000. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Clement moves to approve the receipt of the grant from the Assistance to Firefighters fund in the amount of \$100,000 with \$95,000 from the grantee with a \$5,000 match. Ms. Gilman Seconds. Vote: Unanimous.

ii. Pawnbroker Ordinance

Mr. Dean advises The Board that Police Chief Kane will be available to speak to the Pawnbroker Ordinance on March 12, 2012. A draft of the proposed ordinance is in the packet. Mr. Clement suggests that as a public hearing and first reading, The Board should publicize the event so the residents can attend with an opportunity to express their opinions. Mr. Clement suggests reaching out specifically to the current vendors of second hand items, and have them sent a direct invitation. Mr. Dean advises the Board that the standard is disclosure and discussion. According to policy, the draft ordinance needs to be read three times.

iii. Tattoo Ordinance

Mr. Dean advises that the process regarding the Tattoo Ordinance is the same, it would require a public hearing. Vice Chairman Quandt reminds the Board and the public that this ordinance was passed at a town vote in 1998 and needs to go into the policies. Fire Chief Comeau comes forward to advise the Board that the new recommended ordinance is in the packet. The previous ordinance was part of the public health code. The Town of Exeter adopted the State of NH ordinances. Mr. Clement points out that the new ordinance indicates the Public Health Department is suggesting the massage therapy portion of the ordinance should be removed. Chief Comeau advises The Board that the State of NH no longer require inspections of massage therapy parlors, making it a non issue to the Public Health Department. Mr. Dean recommends that The Board separate the two policies into two separate ordinances, one for massage and one for tattoo, as both processes are very lengthy.

iv. Review Purchase and Sale Agreement: Getty Property

Mr. Dean summarizes a memo from Credere Associates regarding the Getty Property. The site assessment included a review of the online files available in the NH Department of Environmental Services OneStop Database for the site. There is also comprehensive data in the memo indicating the current environmental status of the site. Mr. Dean also advises the Board that the Purchase and Sales agreement is in the packet, along with an email from Getty Realty Corp. indicating they acknowledge some interest from private residents offering to purchase the property. Mr. Ferraro points out that the memo from Credere indicates the two remaining 10,000 gallon gasoline USTS tanks were not actually removed from the site, but rather were cleaned and filled with concrete and are buried. Mr. Ferraro further points out that the seller; Leemilt's Petroleum Inc. is an entity that is not related to Getty at all. All of the documents filed with the NHDES list the owner of the property as either Getty Properties or Getty Realty. Mr. Ferraro indicates he has called NHDES to try to verify the relationship between Getty and Leemilt's Petroleum Inc. Mr. Ferraro expresses some concern in the language of the Purchase and Sales Agreement. The current language mandates any disposal of contaminated soil in the future must be disposed of by low-level thermal desorption. Mr. Ferraro is concerned this could limit the options available to the Town of Exeter. He does not feel the seller should have the authority to determine how any contaminated soil shall be disposed of. Secondly, Mr. Ferraro is concerned about the time frame in which the seller can be held liable or responsible if the NHDES issues a letter of no further action after water samples are taken. He believes this twelve-month responsibility should be extended to 18 months. If the NHDES declines to issue the letter, the current language allows the seller to negate responsibility after twelve months, knowing that it will require a twelve months worth of water samples in order to request a new letter. Mr. Ferraro also expresses concern relating to the leaseholders rights to the property. The seller maintains that the leaseholder has forfeited any rights and the leaseholder has been issued an order to vacate. Mr. Ferraro feels it is the obligation of the seller to provide legal proof that the tenant has vacated the property. Mr. Dean reminds the Board that any conditions that are not met by the Town or that could prevent closing negate the purchase and sales agreement and purchase of the property is not required if the Town does not close.

Ms. Gilman moves to approve the purchase and sales agreement with the amendments that Mr. Ferraro suggested. Mr. Ferraro seconds.

Mr. Clement expresses concern in amending the purchase and sales agreement. He is concerned that changing the language would nullify the contract that was signed January 3, 2012. The Town of Exeter would have to go back to the seller's agent and if the seller does not agree, this could prove to have grave consequences. He is concerned the property could go to the open market. Mr. Ferraro suggests that the consequences are such that we should have seen the agreement previous to any signature. There is no current legal opinion that says it should have been signed. Vice Chairman Quandt calls for a vote.

In favor: Mr. Ferraro and Ms. Gilman. Opposed: Mr. Clement and Vice Chairman Quandt. The motion fails.

Mr. Ferraro wishes to be clear on his opinion of the contract. He expresses, again that there was no legal opinion that the contract was legally authorized to be signed and entered into. There is no current legally binding contract if it was not entered into legally. Mr. Ferraro advises The Board that he sent an email to the attorney at the Mitchell Group asking for clarification of her opinions. Vice Chairman Quandt reminds Mr. Ferraro that the usual process for contacting the Town Attorney is through the Chairman of the Board or the Town Manager. Ms. Gilman also expresses concern that conversations via email need to be had in a public forum; these should be discussions that come to a vote. Mr. Clement expresses his concern relating to individual members of the Board contacting the legal representation of the Town. He feels the board should act as a governing body, not as individuals. He agrees with Ms. Gilman that discussions between the Board members should be held in a public forum. Renee O'Barton, Exeter resident comes forward. She asks the Board to clarify the monetary responsible party for removal of the storage tanks. Should the tanks, currently filled with concrete need to be removed in the future, would NHDES or the Town of Exeter cover remediation. Mr. Ferraro clarifies that the tank removal would be the monetary responsibility of the Town of Exeter. Any contaminated soil surrounding the tanks would be at the cost of NHDES.

b. Old Business

i. Exeter / Stratham Study Update

Mr. Clement summarizes his meeting from a few weeks ago he and Mr. Dean attended. At the meeting the group walked through the project and timeline including milestones and deliverables. Mr. Clement feels the project is very broad based, but all in all there is a good feeling about what the consultants proposed as a task track. The study should take approximately sixteen weeks with a set milestone every four to six weeks. Mr. Clement briefly summarizes the five different possible results of the study. The consultants will provide the study group with the regulations and requirements of inter-municipal

agreements if collaboration is recommended. Mr. Dean reminds the Board that as a part of the process there will be a draft and final report. The reports will include a lot of technical details from the initial meeting. Mr. Dean also wishes to remind the Board that the Town of Exeter is not looking to appropriate any money for any future collaboration. The study will be reviewed and whether collaborating with the Town of Stratham makes sense for the Town of Exeter must be determined, but this collaboration will require no new costs to the Town of Exeter. Mr. Ferraro inquires if tax-sharing opportunities have been addressed. Mr. Ferraro describes a Town of Exeter policy that disallows provisions of water and sewer services to any address outside of the Town of Exeter and acknowledges it was created long ago. He feels these issues need to be addressed. Mr. Dean expects that an answer to these issues will be part of the study.

7. Regular Business

a. Bid Openings - None

b. A/P and Payroll Manifests

Mr. Ferraro moves to approve an accounts payable warrant for checks dated 2/24/12 in the amount of \$93,875.62. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to approve an accounts payable warrant for checks dated 2/24/12 in the amount of \$300,901.28. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Ferraro moves to approve an accounts payable warrant to the Town of Exeter SAU for checks dated 2/24/12 in the amount of \$2,052,363.00. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to approve an accounts payable warrant for checks dated 2/17/12 in the amount of \$138,480.95. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Ferraro moves to approve a weekly payroll warrant for checks dated 2/15/12 in the amount of \$157,503.27. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to approve a weekly payroll warrant for checks dated 2/22/12 in the amount of \$154,178.99. Ms. Gilman Seconds. Vote: Unanimous

c. Budget Updates - None

d. Tax Abatements & Exemptions

Mr. Ferraro moves to accept the abatement requested for map 62, lot 58 in the amount of \$1,746.85. Ms. Gilman Seconds. Vote: Unanimous.

Mr. Ferraro moves to accept an abatement for map 64, lot 30 in the amount of \$3,349.60. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 61, lot 22 in the amount of \$1,208.38. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67, Unit 1 in the amount of \$1,519.33. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67, Unit 2 in the amount of \$1,519.33. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 3 in the amount of \$1,574.94. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 4 in the amount of \$1,516.80. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 5 in the amount of \$1,516.80. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 6 in the amount of \$1,676.06. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 7 in the amount of \$1,610.34. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 8 in the amount of \$1,519.33. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 9 in the amount of \$1,529.44. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 10 in the amount of \$1,582.53. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 11 in the amount of \$1,516.80. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 12 in the amount of \$1,514.27. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 13 in the amount of \$1,676.06. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 14 in the amount of \$1,630.56. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 15 in the amount of \$1,610.34. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 16 in the amount of \$1,537.02. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 17 in the amount of \$1,514.27. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 18 in the amount of \$1,580.00. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 19 in the amount of \$1,537.02. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 20 in the amount of \$1,516.80. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 21 in the amount of \$1,592.64. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 95, lot 67 Unit 22 in the amount of \$1,524.38. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an abatement for map 90, lot 33 Unit 1 in the amount of \$781.15. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to deny an abatement for map 74, lots 79 and 76 and map 75, lot 5. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to deny an abatement for map 74, lot 79 Units 1 and 3. Ms. Gilman Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 104, lot 79 Unit 18. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 64, lot 105 Unit 93. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 104, lot 80, unit 1. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 55, lot 31. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 54, lot 4, Unit 107. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept an elderly exemption for map 32, lot 12, Unit 11. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept a Veterans Credit for map 63, lot 251. MR. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept a Veterans Credit for map 104, lot 79 Unit 103. Mr. Clement Seconds. Unanimous

Mr. Ferraro moves to accept a Veterans Credit for map 15, lot 1. Mr. Clement Seconds. Vote: Unanimous

Mr. Ferraro moves to accept a Disability Exemption for map 95, lot 64, Unit 257. Mr. Clement Seconds. Vote: Unanimous

e. Water / Sewer Abatements - None

f. Permits

The Exeter Women's Club applied to use the Town Hall for a craft fair on July 21, 2012 from 7am to 4pm.

Mr. Clement moves to approve the Exeter Women's Club permit request. Ms. Gilman Seconds. Vote: Unanimous

The River Study Commission applied to use the Town Hall for Dam Removal Forum on April 18, 2012 at 6pm.

Mr. Clement moves to approve the River Study Commission permit request. Mr. Ferraro Seconds. Vote: Unanimous

The Key Club at Exeter High School applied to use the Town Hall for a yard sale on April 1, 2012 from 6-7am until 2-3pm.

Ms. Gilman moves to approve the Key Club permit request. Mr. Ferraro Seconds. Vote: Unanimous

The Faith Lutheran Church applied to use the Town Hall on April 8, 2012 for a worship.

Ms. Gilman moves to approve the Faith Lutheran Church permit request. Mr. Clement Seconds. Vote: Unanimous

Mr. Frank Ferraro applied to use the Town hall on March 3, 2012 from 8am to 10am for a public forum address open to all residents for the purpose of answering any questions residents may have for him.

Mr. Clement moves to approve the permit request of Selectman Frank Ferraro. Ms. Gilman Seconds. Vote: Unanimous

g. Legislative Updates

Vice Chairman Quandt reports that House of Representatives are on vacation this week. Last week The House voted on the telephone pole tax exemption extension. The bill was killed and assessments for the telephone pole tax can begin soon. Mr. Dean advises that a supplemental tax warrant will be issued and he suspects FairPoint will appeal the decision. He also advises that all monies collected should be kept separate in case of any necessary abatement.

h. Town Manger's Report

i. Selectmen's Committee Reports

Mr. Ferraro reports that the Planning Board will meet in a few weeks. He also reports the Select Board Committee of himself, Mr. Clement and Mr. Dean will meet regarding the RFP for the website a week from today.

Ms. Gilman has nothing to report.

Vice Chairman Quandt has nothing to report.

Mr. Clement reports the River Committee met last week. He reports a Council of Aging meeting. Mr. Clement also wishes to report to The Board that a Mayors for Meals is coming up on 3/21/12. He summarizes this event as a chance for town legislators to ride along with the local meals on wheels chapter and deliver hot meals.

Mr. Ferraro comments on the website materials. He would like to issue a memo soon to the various Town of Exeter departments reminding them they should be putting together the materials they wish to have put on the website. The vendor will put together some guidelines for the departments to follow, but each individual department will be responsible for the actual material. These guidelines will help the departments understand the format in which the materials need to be submitted.

j. Correspondence

A financial monitoring report from the State of NH Department of Health and Human Services, including a summary of the compliance findings and recommendations.

A memo from Mark Leighton of Phillips Exeter Academy Facilities Department, regarding a small excavation to relocate the gas lines that feed the emergency generator in the Academy Building.

Mr. Clement moves to approve the request to excavate on Front Street with some recommendations. Ms. Gilman Seconds. Vote: Unanimous

A letter from Caroline Amport, MPP signifying her resignation as Vice Chairman of the Exeter Economic Development Commission.

A newspaper article relating to the Marlborough Select Board violating the right to know ordinances.

A letter from Sheila Roberge, regarding the amount of litter on the sides of Route 101.

Mr. Dean advises The Board that this letter could be sent to either the State of NH or the Exeter DPW.

8. Review Board Calendar

The Board will meet again on Monday, March 5, 2012 at 7pm.

9. Non Public Session

Mr. Ferraro moves to go to a non-public session under the 91A-2A. Mr. Clement Seconds. Vote: Clement yes, Gilman yes, Quandt yes, Ferraro yes.

10. Adjournment

The Board emerged from non public session and adjourned for the evening at 9:20 p.m..

Respectfully submitted,
Jennifer Kimball
Recording Secretary