

## FINAL MINUTES

### BOARD OF SELECTMEN MEETING

### MINUTES

February 28, 2011

#### 1. Call Meeting to Order

Chairwoman Julie Gilman convened the Board at 6:50 pm in the Wheelwright Room of the Town Office Building to interview a resident, Madeleine Hamel, for a position on the EDC. Ms. Gilman then reconvened the Board at 7:00 pm in the Nowak Room of the Town Office Building. Other members of the Board present were: Mr. Matt Quandt, Mr. William Campbell, Mr. Don Clement and Town Manager Russ Dean. Mr. Robert Aldrich was absent due to illness.

Ms. Gilman announced that the first order of business would be the dedication of the 2010 Town Annual Report. It is with great pride and pleasure that the 2010 Annual Report for the Town of Exeter is dedicated to Harry B. Thayer III. Harry is a fixture in Town who has been involved in many different aspects of the community and has volunteered countless hours in service to Exeter for the past 45 years. He is particularly known for his 45 years on the Fire Department. He retired from being Deputy Chief in 2008. Ms. Gilman presented a plaque to Mr. Thayer. Mr. Thayer accepted with thanks and said that this was a complete surprise to him.

#### 2. Public Comment

Mr. Brian Griset of Cullen Way asked if the revenues that Riverwoods pays to Comcast are included in the gross revenue base used to calculate the franchise fee for the Town. Riverwoods has a separate franchise agreement with Comcast. Mr. Dean said that he hasn't seen the contract that Riverwoods has with Comcast. He is working on getting an answer from Comcast on this.

Mr. Griset referenced a recent article to the local newspaper regarding 91a requests. He said that the article stated that the number of 91a requests had recently gone up and it costs the Town hundreds of hours in labor to deal with these requests. It also stated that Exeter's volume of 91a requests is about 10 times that of other surrounding towns. Mr. Griset feels that what was left out of the article was a reason for the large number of 91a requests. Mr. Griset likes to examine financial documents in greater detail than is generally discussed at public meetings and this is one of the reasons that he submits 91a requests. He also said that there have been issues with meeting minutes being available in a timely manner as per the Selectmen's policy. Mr. Griset also expressed concern with the wording of warrant article number 31 regarding the addition of fire loops for public safety in the Jady Hill area.

Mr. Frank Ferraro asked if he is correct in his understanding that no state revolving funds are being applied for with regard to the Jady Hill project warrant article. Mr. Dean said confirmed that to be the current situation. Mr. Ferraro then confirmed that the intention is to apply for money from the State Revolving Fund for the 6.3 million Gilman Park warrant article. Mr. Dean confirmed that the application is in for 30% forgiveness for the Gilman Park article and they are high on the priority list. Mr. Ferraro asked what would happen if the warrant article passes and they don't get the funds from the SRF. Would the Town still proceed with the project and bond the whole 6.3 million or would they not go ahead with the project? Ms. Gilman said that if this situation arises it would be a Board decision at a later date.

#### 3. Minutes & Proclamations

##### a. Regular Session Minutes of February 14, 2011

Mr. Campbell pointed out one grammatical change to be made on page 7.

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**Mr. Campbell moved to approve the Regular Session Minutes of February 14, 2011 as amended. Mr. Quandt seconded. Vote: Unanimous**

### **b. Non Public Session Minutes of February 14, 2011**

**Mr. Campbell moved to approve the Non Public Session Minutes of February 14, 2011 as presented. Mr. Clement seconded. Vote: Unanimous**

### **c. Special Session Minutes of February 22, 2011**

**Mr. Campbell moved to approve the Special Session Minutes of February 22, 2011 as presented. Mr. Clement seconded. Vote: Unanimous**

### **d. Non Public Session Minutes of February 22, 2011**

**Mr. Campbell moved to approve the Non Public Session Minutes of February 22, 2011 as presented. Mr. Clement seconded. Vote: Unanimous**

**4. Appointments – None**

**5. Departments Reports - None**

**6. Discussion/Action Items**

#### **a. New Business**

##### **i. Sewer Ordinance Review**

Ms. Gilman announced that tonight they would be taking their first look at a proposed new sewer ordinance. It has many more pages of definitions and much is targeted at industrial users. She asked Mr. Michael Jeffers, the DPW Water & Sewer Managing Engineer, to highlight some of the changes for everyone.

Mr. Jeffers said that the sewer ordinance has gone from 17 pages to 54 pages. The old regulations were obsolete and have been re-done with the assistance of Teton Environmental. The new ordinance is compliant with all state and federal guidelines and their mandatory elements. It has just been put on the website today so the general public can review it. The process of approving the new ordinance will require 2 public hearings.

Mr. Campbell noted that Section 1505.1 gives the Director the ability to allow reasonable variances with the approval of the Town Manager. He questioned who the Director would be. Mr. Jeffers said that these decisions are generally made collectively and so the term Director is somewhat open to interpretation. It could be the DPW or the Board.

Mr. Clement said that these were quite extensive and asked how it all got put together. Mr. Jeffers said that this has been in motion for a long time now and re-writing these regulations started in 2010 before he was hired. Teton Environmental did a lot of the work on this. They have been consultants to the Town for a number of years now and this was budgeted for. Teton Environmental is well-known for their work in industrial pretreatment programs and does a lot of this type of consulting.

Mr. Clement asked for confirmation that Section 1503.1 clearly defines that the property owner is responsible for the connection from his/her building to the connection in the street. Mr. Jeffers confirmed this to be the case. Mr. Jeffers said that this section goes further in that it gives the Town the authority to fix leaks in cases that are deemed to be a health menace if the property owner fails or refuses to do so. The Town may then collect from the owner the costs and expenses incurred.

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Mr. Clement felt that the language of Section 1507.3c regarding types of prohibited effluent was much better than previous regulations. It was much clearer and left less open to interpretation. Mr. Clement was focused on 2 key issues: the responsibility of the property owner for private sewer lines and certain types of effluent. Ms. Gilman pointed out that these regulations have not been fundamentally changed.

Mr. Dean reminded everyone that this proposed new sewer ordinance is on the website. He encouraged the general public to review it and give their feedback to the Town Manager's office. They are looking at a 3 week comment period. He will bring feedback to the Board after the comment period is over.

Mr. Gerry Hamel asked if the new ordinances contain any provisions that say who would be responsible if other utility contractors make changes to the sewer lines unbeknownst to the property owner. He owns a property on Front Street and discovered that a contractor put an elbow in the sewer line during gas line replacement. This causes a huge problem and has not been corrected. It occurred prior to his purchase of the property. Mr. Jeffers said that there are supposed to be inspections. Someone should have checked and approved this before the trench was closed. Ms. Gilman said that these types of issues would be dealt with on a case by case basis.

There will be a 3 week comment period on this proposed new sewer ordinance. Mr. Dean said that they always have 2 public hearings even though they are only required to have one. Mr. Quandt suggested that a work session with Mike Jeffers on these proposed new sewer ordinances at a future date might be a good idea.

### **ii. RPC Grant Application: Water/Sewer 2-Town Study**

Mr. Cliff Sinnott, Director of the Rockingham Planning Commission, was present to provide an update on the proposed grant application to the New Hampshire Coastal Program to study a joint approach to water and sewer issues by Exeter and Stratham. This is a technical assistance grant program that helps communities take on various studies. It is a direct outgrowth from the joint Exeter and Stratham meeting held on October 7, 2010. Funding would allow them to carry out both a technical and a feasibility study to try to answer the question of whether or not it would be more cost effective for the two towns to work together to solve some of these issues. The total project cost would be \$ 70,000. Of this, \$ 65,000 would pay for one or more consultants to take on the technical and legal inquiries and \$ 5,000 would be retained by RPC to administer the grant. The amount of Coastal Program Funds being requested is \$ 30,000. Exeter would need to provide \$ 20,000 in matching funds and Stratham would also provide \$ 20,000.

Ms. Gilman said that what most people are probably interested in is what happens to user rates. Mr. Quandt asked if this will require a warrant article. Mr. Dean said that Exeter was contemplating using operating funds split 50/50 between water and sewer.

Mr. Campbell thought that the study was a great idea but was reluctant to spend the money on it after the tough budget season discussions they just went through. He would love to have someone look at it, but questioned the cost at this time. Ms. Gilman asked what gets cut out of the current budget if they choose to spend the \$ 20,000 on this study. Mr. Dean said that the current budget has \$ 55,000 set aside for consulting in the sewer fund and about \$ 15,000 in the water fund. These are for various consulting needs that arise during the course of the year and so the \$ 20,000 cost could be taken from these budget lines.

Mr. Campbell questioned why this was not brought up during budget discussions and put in the budget

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for 2011. Mr. Sinnott said that the process of putting the application together involved meetings in December and January and the application was put in on February 4<sup>th</sup>. He did not think that they had enough information during budget discussions to have put a number in at that time.

Mr. Clement said that he knows there is much pressure from the EPA and the Conservation Law Foundation about the whole nitrogen issue in the Great Bay. There is going to be at some point in time a final definition of nitrogen load that will probably require Exeter to make expensive upgrades to its wastewater treatment plant. This study could provide some answers and it might behoove the town to get it done. There may be something that Stratham could bring to the table which would help Exeter to meet these requirements.

Ms. Gilman said that the comment she hears most often from the public is that Exeter has enough to do on its own first before considering working with Stratham. This study is geared toward answering many of the questions that the public had at the October meeting. Mr. Sinnott said that the timing of the capital investment is definitely one of the issues and it would be important to figure out if the two towns could get their schedules synched in order to work together. This is potentially a model for other municipalities.

Mr. Frank Ferraro said that he agrees with Mr. Campbell. It is disheartening to hear that there is so much money sitting in the budget that we could just pick out \$ 20,000 and put it toward a study. The concern about future treatment requirements is well placed, but if the first phase of any joint working agreement is to take care of the Stratham gateway issue there isn't going to be enough money in that to pay for the kind of treatment that Exeter is going to need to solve its own problems. Mr. Clement said that no one knows that but the study will tell them.

Mr. Frank Ferraro asked if Exeter would have initiated discussion with Stratham on this if Stratham had not approached Exeter first. If Stratham is initiating this, then why isn't Stratham paying for all of it or at least the bulk of it? Mr. Clement said that regardless of whether Stratham is in the picture or not, the Town of Exeter is looking at a potential 18 million dollar upgrade to its wastewater treatment plant. Does this study provide an opportunity to reduce the cost to Exeter rate payers? The potential benefit to Exeter is that the Town of Stratham does not have a wastewater treatment system. Stratham is limited in its options and there could be a benefit to the Town of Exeter. Mr. Ferraro is not opposed to doing the study and having discussions with Stratham. He just feels that they should pay a larger portion of the study costs.

Mr. Ferraro also pointed out that a significant portion of Exeter does not have town water and sewer. He feels that we should be thinking about extending water and sewer service within our own town before we start talking about extending it outside of town. Ms. Gilman said that it may be the case that working with Stratham provides a financial benefit that helps offset some of the cost for Exeter to do some of these other things.

Mr. Clement asked if someone can contact Stratham and find out how they are funding their \$ 20,000 portion. He also asked to know exactly what line item in the 2011 budget would be used for Exeter's \$ 20,000 portion. Mr. Dean will get this information. The Board will defer making a decision on this until a later date.

### **iii. Historical Society Lease**

Ms. Gilman said that the Historical Society lease has been revised. The rent is \$ 100 per month and the

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maintenance language has been modified. There is no representative present tonight from the Historical Society. Mr. Dean said that it is a 3 year lease. He advised that the going average market rate for commercial space is about \$ 12.00 per square foot. There was discussion about how much to delineate or define minor maintenance and cleaning responsibilities.

**Mr. Campbell moved that the wording of section 1 (b) be as stated except to take the words “to include” and replace them with “such as” and take out the word “temporary”. There was no second. Motion fails.**

**Mr. Quandt moved to remove from section 1 (b) the wording “ to include: interior painting, temporary roof and gutter repairs, plaster ceiling repairs, utility repairs, lighting, exterior door, steps, handrail, locks, snow removal, and window repairs.” Mr. Clement seconded. Vote: 2-1 Mr. Campbell opposed. Motion carries.**

### **iv. Comcast Update**

Mr. Dean had an update for the Board on the franchise fee implementation issues that they have been wrestling with for the past several weeks. He has an MOU ready for the Board’s signature that would reduce the franchise fee to 2.5% of gross annual revenue for the remainder of the year. This would smooth out the total franchise fee paid by subscribers over this period to 3%.

Ms. Gilman requested an explanation of what is included in the gross annual revenue base that the franchise fee is calculated on. Mr. Dean said that the gross annual revenue figure used would include subscriber based revenue only. It would not include income from sources such as ad sales and home shopping network sales.

Mr. Dean said that there is a new issue with Comcast regarding a franchise fee payment that the Town just received for 2010. It represents collections from January 1, 2010 through October 25, 2010 at 1% and from October 26, 2010 to December 31<sup>st</sup>, 2010 at 3%. Comcast did not begin billing subscribers at the higher rate of 3.66% until January of 2011. The initial amount was \$ 68,289.74 but Comcast has taken a mystery deduction of \$31,250 resulting in a check amount to the Town of \$ 37,039.74. Mr. Dean is working on getting an explanation from Comcast on this.

Ms. Gilman asked when the 2.5% franchise fee change would take effect. Mr. Dean said that it would be as soon as possible following the Board’s signature of the MOU. Ms. Gilman asked when the 6 cents charge will come off of the bills. Mr. Dean said that Comcast has told him that it will be removed in April and that they can only make this type of change at a certain time each year. The total estimated funds due back to the Town is about \$ 9,000. Ms. Gilman asked what happens to the \$ 9,000. Mr. Dean said that it comes back to the Town or there is an option to have it refunded to subscribers.

**Mr. Campbell moved that the Board sign the Memorandum of Understanding with Comcast. Mr. Quandt seconded. Vote: Unanimous**

Mr. Alan Bailey asked what the cost is to Comcast for the franchise fee. He feels that the franchise fee should be considered a type of sales tax. Mr. Clement said that there is no benefit to Comcast from the franchise fee. There is a perception in their mind that they actually lose something because subscribers have the perception that rates are even higher since they pay the money into Comcast. Mr. Bailey asked how much money the Town expects to receive from Comcast this year and Mr. Dean said the number is \$ 144,000.

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### **b. Old Business**

#### **i. Authorize Household Hazardous Waste 2011 Application**

Mr. Dean said that the Town actually applies for the funds now for the Household Hazardous Waste Collection Day that is done in October. The Rockingham Planning Commission is the applying authority but Exeter is the lead applicant. The costs of the collection are apportioned between the towns of Exeter, Stratham, Newfields, Epping and East Kingston. Exeter's match this year would be \$ 7,908.

**Mr. Campbell moved that the Board authorize the Town Manager to sign the appropriate documents and application to have Household Hazardous Waste Collection Day 2011. Mr. Quandt seconded. Vote: Unanimous**

Mr. Clement asked if RPC could come back and provide some numbers on the participation from the other towns in Hazardous Waste Collection Day. He would like a breakdown by town. Mr. Dean said that the total cost for this is \$ 20,998. The total grant being requested is \$ 3,807. The remainder of the cost is broken up on this grant application between the participating towns.

#### **ii. Seacoast Media Group Advertising Rates Offer**

Mr. Campbell advised that the Town has received a response letter from Seacoast Media Group with revised advertising rates.

**Mr. Campbell moved to go back to publishing all legal notices and advertising in the Exeter Newsletter at the rates proposed by Seacoast Media Group. Mr. Quandt seconded. Vote: Unanimous**

Mr. Dean said that they have reviewed the offer and are OK with it. It will likely have to be renegotiated in 12 months.

### **7. Regular Business**

#### **a. Bid Openings – None.**

#### **b. A/P and Payroll Manifests**

##### **a. Accounts Payable and Payroll Manifests**

**Mr. Clement moved to approve an accounts payable warrant for checks dated 02/25/2011 in the amount of \$ 17,483.88. Mr. Campbell seconded. Vote: Unanimous**

**Mr. Clement moved to approve an accounts payable warrant for checks dated 02/18/2011 in the amount of \$ 1,725.56. This is because a check was voided and reissued. Mr. Campbell seconded. Vote: Unanimous**

**Mr. Clement moved to approve a payroll warrant for week ending 02/20/2011 for checks dated 2/23/2011 for \$ 154,186.02. Mr. Campbell seconded. Vote: Unanimous**

Mr. Clement advised that there is a warrant for collection of land use change taxes to be signed. This warrant would direct the Town Manager who is also the Collector of Taxes to collect \$ 7,119.20 with interest at 18% for property at 44 Hampton Road under the Fogg Rollins Trust. According to an Attorney Notice sent to the Town Assessor in 2004 this parcel of land actually belongs to the Town of

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Stratham. No additional explanation has been provided. The Board deferred decision on this for a week so that Mr. Dean can speak to the Town Assessor and get more background explanation.

### **c. Budget Updates**

Ms. Gilman asked for the status on the snow removal budget. Mr. Dean said that they are 93% spent for this fiscal year as of this morning. The good news is that they are seeing the expected savings on salt. The crews have done a great job. Ms. Gilman met with the Train Committee earlier today and they are very appreciative of DPW's efforts to clear the snow at the train station.

Ms. Gilman requested a current revenue report. Mr. Dean will get one for her tomorrow.

Mr. Clement commented that the roads are very rough this year and there are a lot of potholes. Winter seems to be taking a heavy toll on the roads and likely they will need a lot of repairs.

Mr. Campbell asked if the Town still has the \$ 35,000 in the snow removal reserve fund. Mr. Dean said yes.

### **d. Tax Abatements & Exemptions – None.**

### **e. Water/Sewer Abatements - None**

### **f. Permits**

1. Request from the American Independence Museum to use the Town Hall and stage on July 15, 2011 for a concert
2. Request from the American Independence Museum to use the Town Hall and stage on May 14, 2011 for an antiques appraisal day
3. Request from the Exeter Area Chamber of Commerce to use the Town Hall and stage on October 15, 2011 for a Fall Festival

**Mr. Campbell moved to approve all 3 permits as presented. Mr. Clement seconded. Vote: Unanimous**

### **g. Town Manager's report**

Mr. Dean said that the 2010 Annual Town Reports are in and will be available to the public beginning tomorrow. His office is looking at community space issues. They are gathering information and will bring their findings to the Board sometime soon.

### **h. Legislative Update**

Ms. Gilman met with the Train Committee today and there is concern about a proposed bill that would abolish the N.H. rail transit authority. They feel that rail is being overshadowed by roads and other methods of transportation. Mr. Campbell said that the pole tax exemption bill has passed the Senate and is going to the House. Mr. Quandt said that the argument is that the telephone companies are already taxed and so the pole tax is a type of double taxation. He said that the bill has legs this year and it passed the Senate very quickly. Mr. Dean said that the lost revenue to the Town if this passes would be around \$ 20,000.

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**Mr. Campbell moved that the Board send a communication opposing the pole tax exemption bill to our local representatives. Mr. Clement seconded. Vote: Unanimous**

**Mr. Campbell moved that the Board send a communication opposing the bill that would abolish the N.H. rail transit authority to the Speaker of the House and our local representatives. Mr. Clement seconded. Vote: Unanimous**

Mr. Quandt advised that he has been unable to find out the details of the passage of the bill requiring Property Landlord Designated Respondent Affidavits that the Town Clerk mentioned at the Board of Selectmen's meeting 2 weeks ago. The State Clerk's office is doing legislative research on this. The hearing on the LSR930 auto dealer registration bill has been delayed until March 11<sup>th</sup>. There has been much active discussion on it.

### **i. Selectmen's Committee Reports**

Mr. Quandt had nothing to report.

Mr. Campbell had nothing to report.

Mr. Clement said that there is a Heritage meeting on Wednesday. The River Study Committee met last week. They are renegotiating the 2 bids they have to try to get more scope for less money.

Ms. Gilman said that the Economic Development Commission met and elected officers. They discussed the next steps for their organization and are moving forward. The Train Committee met this evening right before this Board of Selectmen meeting.

### **j. Correspondence**

1. Letter from Jane Kent Rockwell endorsing the project at the baggage building. Her father shipped handkerchiefs there every other week during WWII.

2. Notice from the Planning Board regarding a property located next to the existing McDonald's Restaurant that is proposed to be subdivided.

3. Letter from Marbet Wolfson regarding the Sportsmen's Club noise attenuation discussion at the February 14<sup>th</sup> Board of Selectmen's meeting. It was thankful for the discussion and noted some additional observations.

4. Correspondence between Mr. Brian Griset and Mr. Dean regarding 91a requests attempting to further delineate what he needs

5. Thank you letter from Women Singing Out for the use of the Town Hall on February 12<sup>th</sup>

6. Email response from Andy Swanson to Alan Bailey regarding his 91a request for EXTV playtimes information

7. Question from Jean Shiner about the Accessible Voting System. Mr. Dean said that this is something that we all want to look into and see if there is anything that can be done. The timeframe did not allow for anything to be done this year, but hopefully something can be done before next year. There is a cost to it of \$ 110 per page.

8. Notice from NH Retirement System about bills coming up in the legislature pertaining to NH Retirement

9. Email communication from Laura Sinclair regarding projection of article changes / accommodations for hearing impaired individuals at Deliberative Session

10. Letter from Town Assessor John DeVittori regarding the Town's five year assessment review with DRA



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### **8. Review Board Calendar**

The next regular Board of Selectmen meeting will be Monday, March 7th at 7:00 pm.

### **9. Adjournment**

**Mr. Campbell moved to adjourn at 9:06 pm. Mr. Quandt seconded. Vote: Unanimous.**

Respectfully submitted,

Jennifer Mancinelli  
Recording Secretary