

**Town of Boscawen
Select Board
MEETING MINUTES
Thursday, June 16, 2022, at 6:00 PM**

In Attendance: Lorrie Carey, Paul Dickey, Matthew Burdick, Kearsten O'Brien, Kate Merrill, Katie Phelps, Ron Reed, David Randlett, Attorney Michael Courtney, Paul Nylen, Mary Estee, and Elaine Clow

Roll Call: completed and guests introduced.

Chairwoman Carey opened the public meeting at 6:00 P.M.

Selectman Paul Dickey motioned to approve the Consent Agenda as presented. Seconded by Selectman Matthew Burdick. All in favor. None opposed.

Deputy Planning and Community Development Director Kearsten O'Brien recommended an amendment to the 06.09.22 minutes to include two motions. The first motion was for the approval of an exception to the bereavement policy for an employee. The second motion was to authorize the Town Administrator to sign the Merrimack Valley Youth Baseball letter.

Chairwoman Lorrie Carey motioned to approve the amendment to the 06.09.22 minutes. Seconded by Selectman Paul Dickey. All in favor. None opposed.

Selectman Dickey motioned to approve the Consent Agenda with the amended 06.09.22 minutes. Seconded by Selectman Matthew Burdick. All in favor. None opposed.

No public comment on the agenda.

New Business: Deputy PCD Director O'Brien requested approval of an Intent to Cut for Map 45, Lot 46, Sublot 2, Operation # 22.049.05T. They received the bond needed to move forward.

Chairwoman Carey motioned to approve the Intent to Cut for Map 45, Lot 46, Sublot 2, Operation # 22.049.05T. Seconded by Selectman Burdick. All in favor. None opposed.

Deputy PCD Director O'Brien requested approval on an Intent to Cut for Map 81A, Lots 2, 3, 4 and 5.

Chairwoman Carey motioned to approve the Intent to Cut for Map 81A, Lots 2, 3, 4 and 5, Operation # 22.049.05T. Seconded by Selectman Burdick. All in favor. None opposed.

Deputy PCD Director O'Brien requested approval for an Intent to Excavate for Map 47, Lot 6 Operation #21.049.07E. The owner did not submit a 2021 Intent to Excavate because it was under 1,000 cubic yards, but the Department of Revenue Administration and the Town need it for record keeping.

Selectman Dickey motioned to approve the Intent to Excavate for Map 47, Lot 6, Operation #21.049.07E. Seconded by Selectman Burdick. All in favor. None opposed.

Department Head Updates:

Finance Director Kate Merrill said they have received four bench donations. Those who donated thus far are Paul Dickey, Elektrisola, Franklin Savings Bank and the Marshall, Carey, and Matthews Family. There is a resident interested in purchasing a bench and would like to know if the Select Board would allow the bench to be in front of the Boscawen Historical Society building. Selectman Dickey had no issue with putting a bench at the Boscawen Historical Society. All concurred.

FD Merrill presented a Trustee of the Trust Funds transfer and two ARPA transfers for approval.

Chairwoman Carey motioned to approve the Trustees of the Trust Funds to transfer \$2,100 from the Municipal IT Capital Reserve Fund to the General Fund to reimburse for the following expenditures: Cybertron, Inc.-Invoice 2022051. Seconded by Selectman Burdick. All in favor. None opposed.

Chairwoman Carey motioned to approve the ARPA request to transfer \$2,906.40 from the ARPA Fund to the General Operating Account to reimburse for expenditures previously approved for an additional Police Officer position. Seconded by Selectman Dickey. All in favor. None opposed.

Chairwoman Carey motioned to approve the ARPA request to transfer \$608 from the ARPA Fund to the General Operating Account to reimburse for expenditures previously approved to update HVAC units. Seconded by Selectman Burdick. All in favor. None opposed.

Town Administrator Katie Phelps said there is no update on Commercial St. They are waiting to get the rest of the gears out of the debris so they can move forward with a plan. Chairwoman Carey asked the Selectmen if they agreed on saving the gears and using them for something interpretive. All concurred. Chairwoman Carey received suggestions from the NH State Council of the Arts for possible artists that could assist with making an interpretive piece. TA Phelps scheduled a Brownfields Advisory Meeting on June 27th at 5:30pm. She invited the UConn TAB Intern, Aaron Hinze, Boscawen Historical Society and Nadine Miller from the NH Division of Historical Resources.

TA Phelps sent the Select Board an email regarding Cybertron and the updated server pricing. It was estimated to be \$14,000 but the cost has increased to \$15,500. There are sufficient funds in the Municipal IT Capital Reserve Fund to fund this project with the increase.

Deputy PCD Director O'Brien received four \$10 gift cards from Constantly Pizza, for the Police vs. Fire Softball game to raffle off. Coca-Cola approved their donation for drinks. They need to provide the amounts in which they need water and soda.

Selectman Dickey reported incidents that the Police Department responded to on Thursday, Friday, and Saturday. Juveniles were throwing rocks at mailboxes. They significantly damaged the speed sign that the Town owns. Selectman Dickey doesn't think it is repairable. TA Phelps was waiting for the estimate before speaking to their insurance company. They have a \$1,000 deductible so if the cost comes in under that it won't be reported. TA Phelps stated she was under the impression that the individuals involved will be held liable for the costs. Chairwoman Carey suggested asking Primex for guidance in the situation. All concurred. TA Phelps will follow up with Chief Kevin Wyman.

Appointments: Select Board members and Boscawen Congregation Church (BCC) members reviewed the report from Primex regarding Town Hall. Chairwoman Carey stated there were significant issues and part of the challenge is the vote at Town Meeting doesn't allow the Select Board to spend any money on assessments. They asked legal counsel to provide an assessment on what they can and cannot do at this point with the information provided. They sent legal the vote that was taken and further asked about the Memorandums of Understanding (MOU's). Attorney Michael Courtney said at this point, the Select Board's hands are tied. The Town Meetings vote to not permit a report or an analysis of the condition of the building does not allow the Select Board to expend funds. Additionally, if the Select Board were to spend money to fix the building, it would go against the Town's intent of the vote. They cannot violate RSA 32 and the NH Department of Revenue Association (DRA) would flag any possible expenditures. They cannot open the building because the insurance company wouldn't cover injuries without the issues being fixed. Attorney Courtney said regarding the MOU's, they are agreements between two sides on what they want to see in the future. It is not a legally binding contract. The Town Selectmen cannot lease a building or agree to a long-term agreement with another party if the Town Meeting doesn't approve it. Attorney Courtney said the Town Meeting didn't approve the MOU. He suggested that if residents want to, they should petition at next year's Town Meeting to appropriate funds. Mr. Ron Reed, a member of BCC, stated the actual warrant article was about spending \$10,000 for an assessment. His interpretation of the vote was based off of two opinions.

The first opinion was from a Building Inspector or Life Safety Officer who did not think they needed to spend more money to do the assessment when they had three other resources available on payroll with the Town. The other opinion was from people's view that the property wasn't being used and there was no value so there was no need for an assessment. Mr. Reed clarified the Town Meeting motion was for an assessment. It doesn't state the Select Board cannot spend money to maintain the property. Attorney Courtney said they need to think about how a judge would interpret it if they were to have a challenge. The purpose of the Town Meeting vote was to see how much it would cost to bring the Town Hall up to code. It would be a hard argument to make to a judge for a different purpose especially if the Town already approved not spending money for an assessment. Mr. Reed argued that doing an assessment and maintaining a piece of property are different. He asked if there was a legal statute for a piece of town owned property that must be properly maintained for the safety of individuals in town. Discussion ensued. Chairwoman Carey said at this point the Select Board cannot do anything with there being no engineering study which is crucial for applying for grants and the Town Meeting vote.

Mr. Reed requested to review the Primex findings. He found it interesting that Primex suggested that the MOU be reviewed by legal counsel. Legal Counsel which included Attorney Jim Raymond, helped with writing the MOU's. He also stated insurance was involved as well. For the access and egress, there is one loose railing that needs to be fixed. Mr. Reed said it would be a small expense. The exterior door is supposed to be 36 inches, but it was changed to 32 inches. It can easily be expanded. Mr. Reed questioned how it could be a reason not to reopen. It is still not compliant with ADA accessibility. The person that does emergency lighting at Church has also worked on the emergency lighting in the Town Hall until he was told not to. He recently submitted a quote to replace the bulbs at around \$35/each. The Town has taken action to eradicate the vermin. Mr. Reed asked for consideration on switching the kitchen to electric. If they switch to electric, it cuts out a lot of the fire protection overhead because it is no longer gas. Discussion ensued. Mr. Reed said the Church and Town worked together to put in one Fire Alarm system in 1990. He said it makes sense to have one system in a structure because if there is a fire downstairs, they want people upstairs to know and vice versa. The Town can split the system if they want to. Mr. Reed said it is actively monitored and tested. BCC pays the monitoring fee, and they just need someone to verify it works downstairs. Mr. Reed said the heating system has always been in the Church's basement. It has been fireproofed but needs verification from Chief Tim Kenney. Mr. Reed suggested having the Town put their boiler in the basement, so it is in a fireproof space. The other piece of equipment that was labeled as a furnace is an air blower. It provides the air to the old fashioned pump organ in the Church. Lastly, Mr. Reed agreed that every building should have a sprinkler system. Discussion ensued. Trustee Paul Nylen asked who they would report to if someone was injured at the Church due to the lack of commitment of keeping the underneath (Town Hall) maintained. Attorney Courtney stated there is insurance on the building in which the insurance company stated to keep the underneath closed. Mr. Reed requested to see it in writing. Discussion ensued. Attorney Courtney concluded that he would not advise the Town to make the repairs or open Town Hall at this point. Chairwoman Carey recommended following legal counsel's suggestion on waiting until next year's Town Meeting to see if the Town will vote to do the study.

Chairwoman Carey asked if BCC members know of anyone using the bathroom in Town Hall and leaving them in bad condition. Mr. Reed was unaware but will address the concern to all BCC members. Mr. Reed said the Town has life safety issues that they are not addressing. He said whether the building is open or not, people have to go in there to maintain the furnaces. The town needs a fire alarm and emergency lights. Chairwoman Carey stated the insurance company said the reason they should be segregated is because there shouldn't be a mixture of space between two parties.

The Board met with members of the Boscawen Public Library.

Attorney Courtney stated RSA 202:A:11, II requires the Library Trustees to create a budget every year. The budget must be approved by Town Meeting. In the RSA, it doesn't state that funds not used throughout the year were put in a non-lapsing fund. There are sections in RSA 202:A that state funds from income generating equipment are not passed back to the Town but remain in non-lapsing accounts. If the Library doesn't spend the required threshold, the remaining funds should go back to the town taxpayers. Appropriations lapse if they aren't used after a year. Ms. Elaine Clow, Chairwoman for the Library Trustees was told by the Library

Trustees Association that the Town may request non-lapse in funds. Attorney Courtney was unaware that the unused budget can be a non-lapsing fund. Ms. Mary Estee, Library Trustee, stated in the past 15 years the Town never asked for funds back. It is a significant change for the library because it is unexpected. The last couple years when the building was closed due to Covid, no funds were used, and the library reduced their budget by \$22,000 to cover previous overages. The library is concerned with not knowing where the change is coming from and why it needs to happen. Attorney Courtney said with previous libraries he has represented; the auditors are the ones that raise the issue. He is unaware if the Library's auditor flagged the issue. The law is applicable to all towns. Ms. Estee said every town can have their own MOU. The money is less than \$3,000 a year. Discussion ensued. Attorney Courtney said they are dealing with the NH DRA. They look over all the appropriations and supervise. Attorney Courtney said DRA won't look at Boscawen any differently than any other town. He understands that because of Covid there wasn't a lot of money spent in the budget, but it isn't an exception to the legal principal. Ms. Estee said there are compounding issues as well. She said the audit was just done. She asked if their auditors posed the issue. FD Merrill stated the Town Auditors didn't look at the issue this year but when the issue did arise, the Town asked them about it. The Auditors had already done the audit so they said next year they will be following up to make sure it is resolved. Ms. Estee said another issue compounding it is the schedule in which the Library receives the funds from the town. It should be quarterly. The Boscawen Public Library is receiving their last payment in December which makes it seem like they are over budget. Ms. Estee requested an MOU with a specific quarterly schedule. She also requested a MOU allowing the Library to keep the funds if it is less than \$3,000 so they can continue to carry it over. Chairwoman Carey said previously when the Library received their funds, the Accountant would deduct out of their current year check, whatever their overage was for the previous year. Ms. Estee is unsure about their overages. Attorney Courtney recommended bringing the issues to Town Meeting for a decision on where the funds should go. They would need DRA involved to do a warrant article. RSA 202:A allows them to enter into a payment schedule. Ms. Estee will send a MOU recommendation of a payment schedule to the Select Board. Legal will research and speak with DRA about the Library receiving the non-lapsing funds.

Selectman Burdick motioned to adjourn. Seconded by Selectman Dickey. All in favor. None Opposed.

Next Meeting: Thursday, June 23, 2022, at 6:00 PM.

Respectfully submitted by Hannah Gardner