

**FRANCONIA BOARD OF SELECTMEN
MEETING MINUTES
Tuesday, January 17, 2017**

A meeting of the Franconia Board of Selectmen was held at 3:00 pm on Monday, January 17, 2017 at the Franconia Town Hall. Regular members in attendance were Bernie Costa, John Lachapelle, Holly Burbank and Herbie Bartlett.

Guests of the Board: Scott Leslie, Paul Schmucker, Rick Gaudette, John Monaghan, Allan Clark.

Other Guests: Russ Cumbee, Peter Grote, Elise Drake, Claudia Lachapelle, Karen Foss, Mary Grote, Dawn Steele, Earle Collins, Ed Bart, Bob Dallas, Charvak Karpe

BOS Minutes for 1/9/2017: A formal reading of the January 9, 2017 minutes was waived and the minutes were approved as amended.

FOR CONSIDERATION OF APPROVAL:

BOS Minutes 1/9/2017- approved by the Board.

Transaction List - 1/19/2017 - approved and signed by the Board.

Deed Waivers - approved and signed by the Board.

Intent to Cut - Roorback Trust (Emily Kelley) M15/L6, 7, 8, 9, 10, 11 - approved and signed by the Board.

APPOINTMENTS:

3:00 - Scott Leslie - Highway Budget - Proposed budget was discussed. He wants to purchase a new culvert thawer/power washer. It costs \$6200. He wants to purchase less gravel and more sand. He will have to upgrade his phone. There is nothing in his budget for wage increases. He recommends that Building and Grounds get a drop spreader for the back of the John Deere. There is nothing to salt and sand the sidewalks with. He has discussed this with Kim.

Bernie makes a motion to go into closed session at 3:15pm, John seconded it with all voting in favor.

3:30 - Paul Schmucker - Mark Taylor - Proposed budget was discussed. There were more calls and more expenses for supplies etc., but the income was greater for these calls. They have another member in school for ALS in Manchester. He was brought on last year. He has done 75% of the calls this year. He is also on the fire department.

If someone wanted to join the Life Squad they can contact Holly, Paul or Mark and fill out an application. They will find the training. School can take two weeks or a four to five month period.

John stated that there should be a policy if the town pays for training. This service has grown significantly from being totally volunteer squad. It should be added to the CIP expenses. Also there should be money set aside for the heart monitor.

4:00 - Rick Gaudette - Fire Department & Forest Budgets was discussed. Rick stated that the proposed budget is pretty much the same as last years. He may have to add another line for the internet. The existing line is with Time Warner Cable. The fire department now is mandating that they report all calls to the State. He feels there is an issue with the division of the percentage of bills being paid between the departments. Right now it is based on the square footage. However, the Police Department is there 20 hours per day. The Fire Department used the facility one night a week for a meeting and then whenever there is a call. The Life Squad is there most of the day as well. We should revisit this and take a scientific look at it. We will have to get the insurance cost for the new fire truck.

Inspections - they are going out on calls for what is mandated. Any one that has a liquor license needs an inspection yearly. We are not supposed to charge for those. We can explore inspection issue. The Fire Marshall states that we cannot charge business owners. Our town attorney says we cannot bill them. We can have Laura update her opinion. Business owners should pay for this. Holly can call other municipalities and ask what they do.

Rick Gaudette is the Fire Warden. The Board discussed the Forest Fire Budget and Fire Department being combined as the Fire Department handles the forest fires. It would be easier if it were all on one budget. There is no turn out gear for the forestry department. They have a light gear. We got a grant for \$1800 for equipment. The state will pay \$900. Fire pay is separate and matched by town and state. They have never really had equipment for the forest division. They found some shovels and whatnot out behind the town garage.

The fire Rescue truck went to the repair shop in Bradford, NH. It may not be repairable. The insurance company may put a new box on it. The insurance company will get together with the repair company to see. Ladder truck was sent out four times this week.

4:30 - 41 Timber Lane Issue (AirBnB)-John Monaghan - stated the SGT Cashin was called to this property as a person from this address wandered over onto Mr. Dallas's property. John reported that there was a fraternity party going on there. There were no cars blocking the roadway and no underage drinking going on. It was pledge weekend. The underage were not drinking as they were slaves for the older guys. The continuing issue will be a zoning issue. This will involve Allan Clark the Building Inspector.

Allan Clark is the building inspector - began by stating that the last time here at a Selectmen's meeting he was told by a business owner that he was incompetent. He wants to know if the Board is Selectmen think he is incompetent. He owns a \$433 million dollar company. He has a \$500 million dollar project in Laconia right now. His company builds 4 to 5 homes a year in the southern part of the state. He is a member of the Northeast Building Association. He attends all meetings and takes all classes offered. He is the Building Inspector for the town of Franconia. He has some experience to bring to the plate. He does not do this job for the money. He has many employees and spending time as a building official costs him money. He enjoys what he does. We may have a zoning issue in regards to the Air BnB. That will have to be addressed. He went to Air BnB to see if he could learn something about the property located at 41 Toad Hill Road. He gathered information on this property. It is important with code enforcement that whatever we do as a town we need to be fair and consistent to locals and people from afar. They had 16 people in four bedrooms and 13 beds. They charge per person and they welcome events to take place at this property. States even if it is 2 or 4 you should be okay with other guests being around. He went into our zoning ordinance and the state fire code. The State building codes are not applicable because there is no construction. If there is a code change you do not have to go back and meet code. With the State fire code you are never grandfathered. You have to meet the current standards no matter when it is built. This property is in Residential A. It is a residential structure, bed and breakfast and guest house. The Zoning Regulations do not define what a guest house is. More than what would be in a bed a breakfast. One building with 8 bedrooms, short term guests, complies with NH room and meals and tax. Room and meals taxes are paid quarterly and this place is only used in November. It has a 3 bedroom septic and that is an issue. It needs to be inspected and reviewed. There is a hot tub that does not meet setbacks 50 feet from center line. This property sold in November and at that time it was a single family use. It now falls under something other than a single family. It is not owner occupied and the owner lives in a Cambridge. It is a change of use making it a bed and breakfast. Any change of use for any allowed used shall require a change in use permit. There could be certain conditions. There are homes on both sides of this property worth a half a million dollars. If it is going to be used as a bed and breakfast or a guest house there should be certain conditions. This is what Allan found in the zoning. He went to the fire code and you need to understand that his relationship with Chief Gaudette for new construction is that he does a comprehensive review that they meet the state codes he passes them on to the chief and they issue to the architect or owner. There is an overlap in regards to new construction. This is an existing home so it falls under the authority of the Fire Chief. They have discussed this. The fire code would apply to lodging or rooming houses. This is defined as a building that provides sleeping accommodations of 16 or more persons and provides cooking. There were 23 people there. Further requirements apply to new buildings and existing or modified buildings. It is a new use. Change of use in an existing use which comes under the criteria of the fire code and meet the requirements as new.

The maximum under the fire code is 16 and each bedroom needs two forms of egress. He hopes that the owner would allow an inspection. Otherwise we will have to go to court. Interior stairwells have to be enclosed, a full fire alarm system in place with pull stations and central monitoring. It needs a full sprinkler system. He doesn't

believe it has this. There are short term items that need to be addressed. He wouldn't be happy if it was next to his house. The town has an obligation to enforce our codes. Longer term look at our zoning in regards to this. There are rentals in our town that are rented out by local rental firms and prequalified. The times have changed because of the internet. Long term we need to update our zoning. We need to make it consistent and address this. Short term there are items that need to be explored and it appears to him that the current use are not allowed under our current zoning and fire code.

Allan has covered it all. We have been on a call with the previous owner and there was nothing we could do about it.

Robert Dallas is an abutter - At 10:45pm someone from 41 Timber Lane was running up the driveway. He appreciated the police coming. They have slept up to 27 people at once in that property. He bought his house because of a quiet street and the moose coming into his yard. Having this type of property next door it changes the atmosphere and diminishes the property values. The covenants states that it shall be residential only and no commercial shall be in there. A commercial property is an investment property that produces rental income. It is prohibited. He retired here for peace and quiet. In NY they passed a law banning the Air BnB's. There are problems in Portsmouth. This may not be in everyone's deeds in town.

Allan Clark has a copy of the deed and it is a private restriction. The town cannot enforce the private restriction. You would have to sue in civil court. The town cannot enforce private restrictions that are placed in an owner's deed.

Earle Collins - The Selectmen should make it known with the Planning Board and have the Board of Selectmen enforce it. How many Air BnB's are registered? There are 39 of them that are registered here in town. The rules should state conditions and be consistent. It is time for the Planning Board to make rules and regulations. They had considered it in the past and had decided not to consider it at that time. The Board of Selectmen should let them know that it has been presented to them.

Lydia Cumbee - Bernie brought it to the Planning Board's attention. The Planning Board will not make changes to the zoning until the following year in regards to Air BNB at the 2018 town meeting. The Board of Selectmen can come up with a temporary ruling for a permit for an air BNB. It's a change of use if the whole building is used for an air BNB or one room could be used for Air BNB.

Bernie's understanding is that we can only enforce what is on the books for Planning Board regulations. We cannot create laws of our own. We don't have to but he would argue that a single family home if you rent a room it is a change of use. We need to identify those that are on Air BnB or rentals and we can send them a nice letter to fill out this permit and because under our zoning a change of use permit needs to be filled out. Board of Selectmen can identify conditions for granting the permit. Have no more than four of whatever number. Our current zoning has that authority. Now it is an issue. We can back track a bit and be consistent and what we can to identify and publicize if you want to rent you can rent the whole house to a single family. Anything beyond a room or a bed and breakfast you will need to file a

permit and submit to the Selectmen for review. Allan will work with the Town Administrator in regards to this.

The zoning says it is issued by the Selectmen. The Chief and I have been discussing on a change of use for anything other than a single family need to get a site plan review by the Planning Board. He feels they have made good strides. A whole different section of zoning with any change of use should have a change of use permit issued by the Board of Selectmen. Chief Monaghan said there are two town ordinances; one for noise which states no loud noise between 10pm and 7am and the winter parking October thru April which states no car parked on the road in our town because the road needs to be plowed and emergency vehicles need to get thru. Is it possible these permits are issued contingent upon a site review by Allan or the Chief. You need to be able to do a physical requirement. AirBnB falls under that category. Look at those same types of concerns for the state fire code. Allan is the Chief of Fire Department in Sugar Hill. In this instance are you recommending a cease and desist. He wants to be able to do an inspection.

Charvak Karpe - He would love for them to come to the house and tell him what he needs to do and give him advise.

The bio from AirBnB shows you are from Cambridge, MA. You were not there when we went there. He works at Cannon Mountain now. Mr. Karpe stated that this is his primary residence. He could be available tomorrow at 10am if they want to inspect. The Chiefs will be there.

Allan would like us to authorize Holly Burbank to start the process of notifying all the places that appear to be under the definition of change of use. Send a letter to apply for a change of use permit. This is happening in Sugar Hill. A rented on line owner didn't know who he was renting to a college group of 25 men and no females. They were drinking and a man fell down a full flight of stairs hit his head and he was DHART'd out and has not fully recovered. We addressed it fairly quickly. Need special exception from Board of Adjustment. Authorize us to proceed with a letter to do our best and identify other than single family homes for single family purposes. The extent of this issue to help the Planning Board to make recommended changes to Planning Board.

Ed Bart - from Timber Lane - has made complaints about renters in his area. VRBO (Vacation Rentals By Owner) He would like the town to regulate this.

Earle Collins found the Air BnB information online.

Fire Marshall indicated it is a statewide issue and is prevalent in vacation areas. No knowledge of state wide effort to curb it. It has been dealt with on a local basis.

It sounds reasonable to Bernie to have Holly send the letter. It will include the Chief's input in regards to conditions. It falls back to the individual towns to require the permits. We have some of the tools to start addressing it. Over the summer the Planning Board will need to look at it and hold a public hearing and eventually will go to the town to vote on it. There are people who rent homes. Should it be long term

or an event? It will be a big issue there is no easy answer but given the time we can address it. Under state laws there is not enough time to make it happen this year. The discussions are important. Helps to send a letter and it is on the agenda to do.

Identify properties, letter of input from the chiefs, BOS reviews and keep them informed in regards to the properties that they find.

C Luke Lore is in violation of building permit. See plans and what they are doing. The ADA bathroom - this doesn't come as a surprise. They do anything they can do to avoid him. She came back and he gave a six page letter and she never got back to him. She made a huge effort to go around Allan to the state plumbing Inspector. She has gone to the state and they push her back to Allan. What they are building does not meet ADA compliance. There were some violations. The plumber said it wasn't ADA compliant. He is worried that the Plumbing inspector was going to pull his license. On Friday they sent an email and he met them and what is there doesn't even come close to compliance and Allan explained what they need to do and gave them a detailed email in regards to what needs to be done and Allan will follow up with a formal letter. They feel they don't need to meet ADA compliance. That is not true. They have done substantial improvements and now are required to have an ADA bathroom. If they built it according to plan it would be done.

You asked them at the time about the bathroom and they didn't want to look at it then. The law states that he cannot issue an occupancy certificate if it does not comply.

Bernie thanked All the Chiefs for what they do.

FOR DISCUSSION:

Septic Design - Lafayette Brook Realty Trust - M18/L27 - Replacement - reviewed. Sansoucy Invoice - November 17 & January 9th. We hadn't signed the contract. That will have to go to town meeting. We will have to do a warrant Article at Town Meeting. Meet with the Northern Pass Committee for the verbiage for the articles.

Donations - John reviewed the summary of requests. There are 12 requests and three new ones. Holly said that we had gotten a few today. Holly will review all and then present to the Board for review.

Tri- Town Rec Agreement - The draft is sitting at the attorney's office. Bernie Waugh who is representing Easton and Sugar Hill had made some recommendations. There is a meeting with them next Monday in Sugar Hill.

Greg Wells - he order new bags and will take 8 weeks to get them because of a hurricane. He has two months worth of bags right now.

Photo copier solution - Holly will research leasing and purchasing. She will report back to the Board.

Town Report - Holly sent an email out to department heads for town report.

Bernie made a motion to go into closed session at 3:15 pm, John seconded it with all voting in favor.

The Select Board entered into non public session according to NH RSA 91- A3, II (e) & (c) at 3:15 pm. The Select Board returned to public session at 3:23 pm.

Bernie made a motion to go into closed session at 5:23pm and John seconded the motion with all voting in favor.

The Select Board entered into non public session according to NH RSA 91- A3, II (e) & (c) at 5:23 pm. The Select Board returned to public session at 5:33 pm.

Lydia Cumbee - Wages, Benefits & Salary - She is submitting the job descriptions for the Highway Department. The Police are reviewing their job descriptions and she will get them back this week. Lydia is giving the draft of organizational chart that follows our recommendations and suggestions. The Police descriptions will be the end of the task. She is giving Holly the flash drive of everything they have done in regards to the Wages and Benefits and Staffing Committees to Holly.

Lydia wanted to know what is the status of our other recommendations in regards to health, insurance and pension? What about the recommended salary increases and structures for Building & Grounds and Parks. Bernie stated that Holly will review. Also she questioned the issue regarding Kim's position being exempt and nonexempt and how it was to be changed immediately. What happens with our recommendations? Last year two employees got erroneous pay increases. What was decided was misunderstood by the department heads. Bernie stated that they had accepted the recommendations from the Committee.

Once a raise is given we cannot take it away from them. They received larger last year. We used your schedule this year. The Committee wants the feedback from the Select Board. We would like to know if it is taking into consideration. John said we are. Dawn Steele - the police descriptions are done and John is reviewing. If you look at the job descriptions they comply with NH standards of training.

The Police descriptions are on flash drive the descriptions on there and are marked as draft.

Non-profits - we need to decide if we want them to petition. The deadline is at the end of this month. John thinks there are several agencies that may have not gotten the form. Holly will organize and present to the Board at next Monday's meeting.

ITEMS TO REVISIT

Items were tabled -
Cisterns and Fire Ponds 03/28/16 -
Tri-Town Recreation Agreement -
FD Generator in Trailer -
Updating Pole License Agreement
F150 vs F550 (Highway)
Purchasing & Bidding Policies

PUBLIC INPUT

Mary Grote - when do you need to decide whether the charities will be voted on? We talked about long standing in the community and it doesn't make sense to put them on a warrant article. We have not made our decision yet. We need another week. When will the two budget hearings be scheduled? One for February 13th for preliminary. The second one will determine if we need it. Advertise the 13th it will be at such and such a date.

Russ Cumbee - A big welcome to Holly. When you are thinking about charitable contributions remember you are taking tax payers money and making donations with it and should be done very carefully.

Claudia Lachappelle - tri town agreement - post agenda.

Lydia Cumbee - she thinks we should have key controls to the town hall. It is not recorded anywhere in regards to key controls. She proposes a key control. She recommends changing locks and to give everyone a new key. We don't know who has the keys.

Dawn Steele - was at the public safety service building and made a comment about items stored in the refrigerator.

The Board adjourned at 6:15 pm.

Respectfully submitted, Herbie Bartlett, Executive Secretary