

SELECTMEN'S MEETING– December 4, 2023

Present: Margo Connors, Richard Bielefield, Chris Ellms
Jennifer Gaudette

Guests: Nick De Mayo, Kenneth & Donna Leavitt, Ed Hansalik, Hugh Hawkins, Steve Monsein, Jennifer Monsein, Vanessa Tarr, Molly McLean, Jean McLean, Jordan Applewhite, Chella England, Jason Tors, Claire & Fred Von Karls, Lissa Boissonneault, Doug & Irene Amsbary

Correspondence was read and acted upon.

There will be two hearings for Community Power with Franconia and Bethlehem at the Profile School Library on December 7th and 14th at 6:00pm. The town will also hold a community power hearing on Monday December 18th at 6:00pm at the Crapo Building. The board will include community power information with the tax bill mailing.

NICK DE MAYO requested the board to start with the Pledge of Allegiance in honor of our service men and woman who are representing our country every day. The request was denied.

MR. BIELEFIELD made a motion to approve the minutes of November 27, 2023, seconded by MR. ELLMS. The motion passed unanimously.

MR. BIELEFIELD made a motion to approve the non-public minutes of November 27, 2023, seconded by MR. ELLMS. The motion passed unanimously.

Margo Connors explained that last week the board discussed in non-public session the legal opinion from the Town Attorney and made the following motion.

MARGO CONNORS moved for the Board to rescind the resolution it adopted at the October 16th, 2023 meeting regarding its general nondiscrimination policy and replace it with the following resolution:

“The Sugar Hill Select Board recognizes and will follow NHRSA 354A the Law Against Discrimination which prevents discrimination in employment, places of public accommodation and housing because of age, sex, gender, gender identity, race, creed, color, marital status, familial status, physical or mental disability or national origin. The Select Board is committed to promoting a secure, welcome, and safe environment for all. The Select Board is committed to modeling respectful dialogue.”

CHRIS ELLMS seconded the motion as moved. The board voted unanimously to pass the motion.

MARGO CONNORS shared with the board some of the legal advice received from town counsel.

“The Selectmen only have the power that they are given by statute and whatever other powers are necessarily implied in those statutes. There isn't any statute that gives selectmen authority to prohibit businesses or churches or private organizations in town from discriminating against anyone, so to the extent this resolution attempts to do that, it is not enforceable. The Selectmen generally don't have any legal control over the way other elected officials conduct town business, so it wouldn't have any legal effect on the way people like the Town Clerk or the Library Trustees conduct their business.

The board can adopt a policy about the way ***they*** behave, and they can certainly express their policy positions through a resolution. As the “employers” of Town staff, they can adopt a policy that governs the way the Town does business, including personnel policies regarding their expectations about the way employees will treat the public. To the extent the Selectmen are in charge of Town events such as Old

Home Day, or a parade or a festival or something like that, they can make policy decisions about inclusion and that sort of thing.”

Members of the audience were allowed to address the board for a short time of public comment.

KENNETH LEAVITT asked what governs the Select Boards ability to pass policy/resolutions. What is the protocol and are they available for public inspection.

MOLLY MCLEAN asked what is wrong with the equality resolution.

NICK DE MAYO wanted all to address the chairperson with comments. Did not feel that happens at Town Meeting with the Moderator. He was advised to contact the Town Moderator with his concerns. Mr. DeMayo also wanted to know about his request to have the Pledge of Allegiance mandated by the Select Board to all boards and committees of the town. Mr. Ellms felt the pledge at the select board meetings would be for future discussion.

MARGO CONNORS shared some of the legal advice received from town counsel regarding mandating the Pledge of Allegiance.

- This is not legally required for any Town board, committee, commission, etc.
- Any of the Towns’ boards, etc. can choose to recite the Pledge at its own meeting if it chooses to do so. However, there is no mechanism for citizens to require that any or all boards do it. They can ask, and boards can decide for themselves.
- Every board adopts its own rules of procedure; the Board of Selectmen has no authority to require that any other board include the Pledge. The Selectmen cannot require any of the following to recite the Pledge: Cemetery Trustees, Trustees of Trust Funds, Library Trustees, Conservation Commission, Planning Board, ZBA, or any other town board.

JORDAN APPLEWHITE stated her participation on town committees and felt that local government is important to all regardless of race or political leanings and would be happy to meet and talk with those in the room.

ED HANSALIK felt that with the town’s current view disparities all American’s saying the pledge has unifying value.

MARGO CONNORS discussed the town attorney’s response on a question regarding the town donating to health agencies and a portion follows:

- Generally, we look at whether (a) the Town’s citizens (or some portion of them) are in need of this service, and (b) whether the organization can be said to have taken on some obligation to provide it to some of them. This is often not going to be memorialized in a written agreement, but will be more in the nature of an understanding based upon the organization’s mission, history, and performance. It is not unusual to see in a town’s annual report a report from organizations that received funding in the prior year detailing how many citizens of the town were helped during that year (how many residents received Meals on Wheels, how many meals served, how many of the Town’s citizens were served at the clinic, etc.). This helps the voters decide whether it makes sense to continue providing those funds and at what level, and helps the Selectmen or budget committee determine whether they will put these appropriations into the proposed budget (or recommend them if they are petitioned onto the warrant).

Procedure for how the board has handled request for assistance from Health Agencies etc., was discussed. Not all groups are put in the warrant. The board will put a new request as a separate warrant article and once approved by the town meeting body it is added to list for future years. Several members of the audience noted that they were not allowed to speak at town meeting to discuss certain groups on the list.

NICK DE MAYO questioned if the Boys & Girls Club receive monies from Grafton County which the town pays taxes to.

The board had sent a draft of Select Board policies and procedures to town counsel and MARGO CONNORS shared some feedback from Town Counsel.

- Unlike land use boards (Planning Board, Zoning Board of Adjustment, Heritage Commission, Historic District Commission, Agricultural Commission), which are required to adopt rules of procedure under RSA 676:1, Selectboards actually have no such requirement. It is useful to have a common-sense set of rules, of course, but it isn't required by law.
- There is NO legal requirement for the Board of Selectmen to hold a public hearing, or to accept any public comment at all, before they adopt or amend rules of procedure governing their meetings. RSA 41:8 is the only statute which specifically talks about the Selectmen's business, and all it provides is that they act by majority vote ("a majority of selectmen shall be competent in all cases"). The Board can choose to have a hearing before adopting rules if it wants to, and can choose to accept public comment on their rules, but has no obligation to do that legally.
- There are statutes which discuss things a Selectboard may address in rules of procedure if they want to (but there is no requirement to do it), such as RSA 91-A:2 (which has a provision granting any public body the option to allow remote attendance by members in cases where they cannot physically attend).
- Please note that as a general rule, unless there is a statute specifically requiring the Selectmen to hold a hearing before doing something, the public has no legal right to speak at a Selectmen's meeting. The Selectmen can choose to permit public comment, and if they do, they must apply that equally to all people. Comment can be allowed on a particular topic, or more generally on any topic which is on that meeting's agenda, or even more broadly on any topic. The board may not discriminate on the basis of viewpoint, but it can limit the topics that can be discussed. I'm happy to provide more detailed information on this topic if you need it.

The board is going to shorten and provide an updated agenda and basic rules for meetings.

ED HANSALIK felt policy & procedures are a good exercise in uniformity for the town.

FRED VON KARLS spoke to the pledge request noting his past work with Veterans and that all veterans need help and that by reciting the pledge we are not directly helping them.

Public session was closed and the board continued with correspondence.

Septic Plans: Map 206, Lot 12.1 Approval for Operation Olerio 438 Route 18.

Jennifer reported that Vertex Towers has previously leased property from municipalities and that their attorney would be contacting the town with additional information.

CHRIS ELLMS advised the board that the Sugar Hill Conservation Commission received a letter inquiring about the Town Forest property and the company inquiring was asked to send further information.

Discussion on the one of the issues slowing the Crane Hill Bridge project is the Faxon's Hawthorne plan that needs to be relocated. Margo has spoken with landscaper Dorothy Corey and she will write up something to be sent to Hoyle and Tanner the engineers on the project.

The board discussed the agenda and meeting policy and will work on a draft.

MARGO CONNORS shared with the board a NY Times article about a town in Colorado that was facing discourse and community division and how they came together with assistance and realized all sides valued community and ended with one strong community.

KEN LEAVITT asked about the mechanism to do a policy/resolution and present request to be considered by the Select Board.

NICK DE MAYO asked about the procedure for a warrant article and number of signatures required. Jennifer will provide the timeline.

The Zoning Board hearing on November 28th for Ryan Coulter for a variance as the building proposed does not meet setbacks was continued by the ZBA to Tuesday December 5th @ 5:30.

The board discussed the date for the annual budget hearing and will confirm school dates prior to setting. Short discussion on the school tax rates and the procedure to set same. Jennifer will follow up with DRA, SAU, and DOE for some clarification.

With no more business before the Board, MR. BIELEFIELD made a motion to adjourn, seconded by MR. ELLMS, the meeting was adjourned at 6:30 PM. The next regular scheduled meeting is Monday December 11, 2023, at the Carolina Crapo Building @ 5:00PM.

Respectfully submitted:

Jennifer Gaudette,
Administrative Assistant