

**Town of Chesterfield
Board of Selectmen
MINUTES
January 29, 2014**

CALL TO ORDER

Chairman Jon McKeon called the meeting to order at 6:12 p.m. Others in attendance were Board members Elaine Levlocke, Jim Larkin and Town Administrator Rick Carrier.

FOR SIGNATURE

- Manifest 5
- Selectmen Minutes – January 22, 2014

APPOINTMENTS

- **6:30 p.m. Parks & Recreation Commission**

Present: Deb Bokum, Joanne Condosta, Tracy Fairbanks, John Melvin

Condosta recommended Dewey Auger to serve as a member of the Parks & Recreation Commission. The board welcomes Auger and will have the necessary paperwork at next week's meeting for Auger to serve.

An evaluation and estimate of costs for repairing Wares Grove cottage was received by Bell Engineering. McKeon stated that the report indicated roof and floor structure would need to be replaced. The Parks & Recreation Committee has asked that the cottage be made safe to be inhabited. McKeon stated that the concerns in the report need to be taken care of and get the cottage up to code.

Larkin presented plans for a module replacement that was close to the size and style of the present building at an estimated cost of \$75,500 for a module complete set, with a four week time frame for delivery. Larkin also had an estimate of approximately \$17,000 to demolish and excavate the current cottage.

Melvin stated that a warrant article could be presented to make the cottage operational. He also felt that the engineering estimate was too high and a replacement module would be too costly for this year. McKeon noted that the town meeting voters will be asked to change the capital reserve fund and to an expendable trust fund. McKeon stated that the cottage has been an offset to salary for the director's position in the range of \$14,000-\$15,000 per year. Melvin asked if using the old town offices for living quarters might be considered and McKeon replied, "No."

- **7:30 p.m. Lester Fairbanks**

Fairbanks provided the board with the accident report from the state police involving the town police and police car on Route 9 on January 21. The 2008 police car was deemed a total loss. Fairbanks reported that the electronics and snow tires will be removed from the police car and returned to the Chesterfield Police Department.

Levlocke made a motion to authorize Carrier, to execute under assignment of title back to HealthTrust. The motion was seconded by Larkin and motion carried unanimously.

FOR DISCUSSION

- **Budget Committee Public Hearing Draft Warrant**

The board approved the draft, with the exception of removing the Wares Grove Warranty article. The Master Plan Committee may make an adjustment, as a result of the survey.

- **Laptop \$4,500 Gift – Chakalos Check**

Lester Fairbanks reported that John Chakalos offered the Police Department last December as a donation of up to \$5,000 and he agreed to Fairbanks request for a replacement laptop. Chakalos' daughter, Valerie, sent a check of \$4,587.46 to Fairbanks, made out to Town of Chesterfield, instead of Transcor, to cover the cost of the laptop. If the board decides to deposit the check, Fairbanks requested the warrant article be dropped for a laptop. Carrier stated that this should be considered unanticipated funds and can be expended as unexpended revenue.

Levlocke made a motion to accept the check from the Chakalos family in the amount of \$4,587.46 for the purchase of a laptop for the cruiser with a check from Elaine Manor Limited Partnership, per RSA 31:95-b. The motion was seconded by Larkin and the motion passed unanimously.

The board instructed Fairbanks to wait two weeks to purchase the laptop.

- **Nine A ZBA Decision**

James Corliss spoke with the board last week about the decision of the Zoning Board. McKeon had asked the other board members to look at the Supreme Court decision, that had prevailed in the previous three applications for similar issues. McKeon stated that the concern is not looking at the plans or presentation, as much as it is the Zoning Board allowing something that is contrary to what the public interest is for the Town of Chesterfield, that it is not in the spirit of what the ordinance is. Also, McKeon didn't feel that they did due diligence at looking at the hardship case in that it is satisfied.

McKeon stated that he reviewed the town's vote in 1999. The town voted 2 to 1, when the Spofford Lake District was created. The Spofford Lake District was created to prevent, among other things, the overcrowding of, and undue concentrations of population on and around the lake, knowing that the lake is a unique natural resource to the Town of Chesterfield and they determined that it needed protection. McKeon also stated that in allowing a cluster housing project within the Lake District, it is not in the spirit of the interest of the ordinance as to "prevent overcrowding of Lake". McKeon added that the Supreme Court's finding and comments to a prior issue is that, if we allow that to happen, "...such a result would duly conflict with the intent

of the ordinance in creating the Spofford Lake District, and deprive the town of its ability to further the purpose of the ordinance.” McKeon said that this would mean that the town would not be able to defend the ordinance in any other place.

As far as substantial justice goes, the board believes this decision brings substantial injustice to the remainder of the lake residence and the entire town of Chesterfield, as the town has voted the restriction.

To the hardship, McKeon stated that if you read the statute that what qualifies for hardship is, “an unnecessary hardship will be deemed to exist, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance. McKeon added that there is no reason why it can’t be used in strict compliance with the ordinance that’s in place. The board doesn’t feel that this property qualifies for that hardship.

Levlocke stated that she reviewed the Supreme Court findings and the Zoning Ordinance and feels that this decision needs to be appealed.

Larkin stated that he can’t come to a decision. He added that his research is not complete. He was involved in the previous application.

McKeon asked Larkin if he can state that the property cannot be reasonably used in conformance with the ordinance. Larkin answered, until he completes his research, he can’t.

Barbara Girs reported that she had attended the ZBA meeting where the applicant was asked if they could put up three houses on that land, they replied that they could but if they put up five houses, they could make \$500,000. She added that the difference between breaking even, after paying for the old building being demolished and making \$500,000 and that was the hardship.

Lee Brockmann stated that she was at the meeting of January 13. She felt that it was the owner’s responsibility to make sure that the building was being taken care of, even after the renters had closed down the business and Attorney Saturley had stated that the building had started to deteriorate during the two years that the lease was up. Brockmann stated that she feels the property owner created the hardship.

Kristin McKeon researched the original variance from 1976 and it was granted as presented by Mr. Chakalos. She added that Mr. Chakalos stated that he would be the owner, he will be in charge of personnel management, he will have a cottage on the property and he will be fully involved. Kristin added that, since that time, Mr. Chakalos had 100% access to that building at any time. She stated that she did not vote on this current proposal for a variance.

Bob Brockmann reported that Attorney Saturley stated that the owner could not sell the property. Brockmann stated that the asking price was \$7.3 million. It was assessed for \$3.3 million. Brockmann asked did he really want to sell it. Brockmann added that Chakalos agreed to fix the building within 30 days, after the vandalism was reported.

Steve McGrath, Representative of the Spofford Lake Association, stated that the association stands for preservation of the lake, with 450 members around the lake. He felt that, because the court already states, specifically, that if you give that one up, you give them all up and he doesn’t know if the Zoning Board has that authority to grant this. McGrath added that the

Spofford Lake Association and the Chesterfield Conservation Committee has worked on a project that will be given to the town for the purpose of looking at the natural resources around the lake, including watersheds, land use, etc., which helped them study the water quality of Spofford Lake. The biologists have stated that the undeveloped land was the biggest factor that the lake still remains one of the cleanest lakes in the state and it is because it has been restricted in growth in certain areas of extreme watershed. For the purpose of protecting Spofford Lake, the Association is asking that the board look at the watershed areas that are now feeding into the lake.

Richard Aldrich feels that the Supreme Court has already made a decision and there should be any argument on this decision.

McKeon made a motion to appeal the ZBA decision on granting of the variance for the Nine A LLC located at Route 9A, Spofford (Map 5K Lot B3, Map 5N Lots B1, B2 and B9) the old Spofford Hall) based on the board's opinion that it does not meet four of the five criteria. The property sits within the Spofford Lake District. Levlocke seconded the motion. Roll call requested: Levlocke – Yes, McKeon – Yes, Larkin – Abstained. The motion passed.

- **Town Hall Annex Follow-Up**

Lee Brockmann provided a list of organizations who use the annex and with the activities. She also provided photos of other working kitchens at local churches. McKeon felt that the furnace should be replaced for the entire Town Hall. A wish list was presented by Brockmann.

- **Draft Monthly Email**

The board requested that a separate notice be posted at the area post offices regarding the public meeting.

- **Draft Selectboard Town Report**

The board approved the updated Selectboard Report for the Town Report.

- **Town Report Dedication**

The board approved the updated Town Report Dedication for the Town Report.

- **Cersosimo Reclamation Bond**

McKeon stated that the last revision date of the site plan is needed and can be obtained from the Planning Board. Carrier will rewrite the bond letter for board member signatures next week.

- **Town Meeting Ballot Question**

McKeon stated that the question needs to be on the paper ballot. The explanation is to enable the voter to understand what is being voted on. Levlocke asked individuals to read the question to get feedback on how it was perceived. McKeon stated that if this goes on a warrant and it passes, it provides an option for the board to use it next year. The intent of the article is to encourage participation by holding the business portion of Town Meeting on a different date than Tuesday evening.

- **Old Business & Project List**

Spofford Place: Levlocke met with JB Mack from SWRPC, who suggested that a plan/vision is needed. She felt that the well needs to be decommissioned and the town needs to own the property, formerly Electrosonics. The EPA has released the liens but the state has not. The state will release the liens if the town takes ownership of the property. Levlocke added that Phase I and II brownfields studies have been completed.

Economic Development Committee: McKeon suggested the Economic Development Committee be invited to a meeting for further discussion.

- **Other Business**

Larkin reported that Leon Dunbar has concerns with his modified merit increase. McKeon stated that this issue was from a decision made approximately four years ago. McKeon would like to have Dunbar attend a board meeting to discuss.

Levlocke attended the Budget Committee meeting where the school portion was discussed. The Committee asked that if a decision was made for the Parks & Recreation, that the Budget Committee be notified. Koopmann received a copy of the compensation report and is interested in having that apply to everyone. Carrier reported that the health, dental, short and long term disability and life insurance is a combined line item for the library budget.

Levlocke asked that Carrier write a letter to the Mutual Aid Board of Directors to inquire as to how the billing was derived for the fire departments.

Levlocke reported that the Master Plan Committee met and reviewed the updates. Brad Chesley will be bring the budgetary numbers to the public hearing. The next committee meeting is scheduled for March 25.

Levlocke stated that the Southwest Planning Commission meeting will be held on Tuesday, February 18 at Papagallos. Levlocke will not be available for the school portion of the Public Hearing on Saturday, February 1 at 1:00 p.m. She will be available for the town portion at 3:00 p.m. Larkin will attend the school portion.

Carrier reported that there still are seats available for the declaration of candidacy for officers, which are two budget seats and one library trustee seat that needs to be filled.

- **Nonpublic RSA 91-A:3 II (e)**

Levlocke moved to go into Non-Public RSA 91-A:3 II (a&e). The motion was seconded by McKeon, which carried.

McKeon moved to adjourn from Non-public session and seal the minutes. The motion was seconded by Larkin, which carried.

With no other business to conduct, Levlocke moved to adjourn at 9:12 p.m. The motion was seconded by McKeon, which carried.

Respectfully submitted,
Patricia Grace, Secretary to the Selectboard

Approved by:

Jon P. McKeon, Chairperson

Date

Elaine H. Levlocke

Date

James M. Larkin

Date