

TOWN OF BENNINGTON

BOARD OF SELECTMEN

Minutes of the Meeting – November 30, 2016

Selectmen Jeffrey Rose, James Cleary and Steven Osienski were present as well as Administrator Denise French. Also attending the meeting was Bethany Craig. The meeting was called to order at 6:07 p.m.

By invitation, Nevan and MaryLou Cassidy met with the Selectmen to discuss what appears to be a disputed claim at their 25 Acre Street property:

- The Water/Sewer Commissioners have a utility easement recorded at the Hillsborough Country Registry of Deeds which states, among other things, that they have the right to construct, reconstruct, maintain and repair sewer and water lines within the easement area.
- Owner Nevan Cassidy has built a porch over the easement area. Amid confusion between the necessity for a ZBA variance and the conflicted water and sewer easement, the Code Officer did issue a signed Building Permit although the Board of Selectmen had not signed the Permit.
- In an effort to resolve this matter, short of litigation, the Selectmen propose a Licensed Agreement between Nevan Cassidy and the Town of Bennington.
- The Town is willing to grant a License to allow for the porch to occupy the Town's water and sewer easement, subject to the following conditions:
  1. A signed License Agreement, recorded in the Hillsborough Country Registry of Deeds.
  2. The Commissioners may require the removal of the porch, at the owner's expense, whenever the Commissioners deem it necessary to access the water or sewer mains for property formerly owned by Peter Cordatos (who executed the easement which runs with the property in perpetuity).
  3. If the owner does not remove the porch within 30 days from the Commissioners' written notice that access to the water or sewer line is necessary, then the Commissioners may cause the porch to be removed, at the owner's expense, and any costs not paid by the owner within 30 days shall be a lien on the property.
  4. The owner waives any and all claims against the Town arising out of the presence of the porch within the easement area, or the removal of the porch whether based on negligence, willful, wanton or intentional conduct, or on any other basis.
  5. The owner agrees to defend, indemnify and hold harmless the Town, its officers, employees, representatives, agents, and assigns, from all claims, suits, demands, damages, losses, and costs arising out of the presence of the porch within the easement or the removal of the porch.
- The foregoing will be captured in a written agreement, to be signed by the parties and recorded in the Registry of Deeds.
- Nevan Cassidy will underwrite the costs of the Town's attorney in association with creation of these documents and recording them in the Registry of Deeds. It is possible that the Board of Selectmen will contribute funds towards the legal costs associated with resolving this issue.

The Selectmen acted on the following matters:

- Reviewed and approved Payroll Registers for November 24 and December 1, 2016 as well as the Accounts Payable Register for November 22, 2016.

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- Reviewed the Budget Committee’s proposed 2017 Budget. The Selectmen and Budget Committee will jointly review the Budget at their planned December 6<sup>th</sup> meeting. A draft 2017 Default Budget will also be discussed at the meeting. All Department Heads and Committee Chairpersons will be invited to the December 13<sup>th</sup> meeting at which time the proposed 2017 Budget will, for the most part, be finalized.
- Reviewed the proposed 2017 Capital Reserve Fund appropriations.
- Received the *Final Tally of TEII Expenditures and Allocations* which summarized the Town’s portion of payments for the 2016 TEII downtown construction project:
  - Sidewalk Capital Reserve Fund \$ 68,713.02
  - Town Meeting Warrant Article \$ 54,000.00
  - Paving Line-Item \$ 18,000.00
  - Road Rehabilitation Capital Reserve Fund \$ 8,064.98
  - \$148,778.00
- Heard a report of a Balch Farm Road neighborhood concern that the Town is contemplating removal of an island for the purpose of making the upper egress narrower. The Road Agent would like to undertake the project in the future to improve plowing operations; funding is not included in the 2017 budget. The Selectmen plan to discuss the matter with the neighbors if/when the project is seriously considered. Selectman Osienski volunteered to speak with the reporting party.
- Agreed to change the Board’s next two weekly meetings to Tuesday night, rather than the usual Wednesday schedule.
- Reviewed two proposed Zoning Ordinance amendments which will likely be included in the 2017 Town Warrant. The Public Hearing to discuss the proposed amendments is December 12<sup>th</sup>.
- Received information about the *End 68 Hours of Hunger* national campaign which now includes students throughout the Conval School District. The Selectmen enthusiastically support the initiative to provide needy students with nonperishable food during the weekend hours. Proposed funding of \$1,000 will be discussed with the Budget Committee to determine if funding should be included in the Budget or if it would be prudent to seek funding in a Warrant Article.
- Agreed that Transfer Station employees should provide input as to a proposed altered work schedule for the Christmas weekend and New Year’s Day.
- Agreed to engage in a conference call with an out-of-state property owner who has concerns about his condominium complex.

From 7:07 p.m. until 7:28 p.m. the Selectmen met in Nonpublic Session under RSA 91-A:3II(c). Present were Selectmen Rose, Cleary and Osienski as well as Administrator French. The Selectmen instructed the Administrator to seek information from the Town’s insurance carrier.

The meeting adjourned at 7:29 p.m.

Respectfully submitted by,

Denise French  
Administrator