

TOWN OF WILTON

SELECT BOARD MEETING

TOWN HALL COURTROOM

DATE: Monday, October 15, 2018
TIME: 6: 25 pm (began after the Public Hearing ended)
PLACE: Wilton Town Hall
PRESENT: Chairwoman Kellie-Sue Boissonnault, Selectman Kermit R. Williams,
Selectman Matt Fish, Town Administrator Paul C. Branscombe,
Administrative Assistant Janice Pack

NEW BUSINESS - Tom Quinn Jr. of New Spartan Properties joined the Board to talk about the fact that they are wrapping up a series of properties and one of the last things they need to do is put on the finish pavement. In discussion with Jim Lavacchia, there arose a question of whether or not this was a Town road. He feels that it is, and that the Town has been maintaining the road since 2016, and he is confused as to why there is any question about that.

Selectman Fish said he was on the Planning Board when this was approved, and that the issue of a town accepting public roads was quite contentious. He said that the Town Engineer would go through and supervise each and every part of the construction of the road, and this hasn't been done with this road. Mr. Quinn said that the former road agent Steve Elliott had written a letter signing off on the road. Mr. Quinn said that they had agreed to pay for additional engineering if necessary but that Mr. Elliott had not deemed that necessary.

Selectman Fish said that there is a process that was not followed. Selectman Williams said that anything that was required previously was in the Planning Board's purview, but if anything was laid out, that should've been followed. He said that it is the Select Board's responsibility to accept a road, not the Planning Board's. Selectman Fish wants to be sure that Steve Elliott had been there, supervising and inspecting each sequence.

Selectman Williams said that in this case, it appears that the road was accepted 5 years ago, and we cannot add requirements to acceptance at this point. Bill Keefe did read a letter from Steve Elliott which stated the road was built to spec as required. Selectman Fish asked if Mr. Quinn had the Planning Board minutes stating that Mr. Elliott was designated to be the Town's agent.

Jim Lavacchia said that the letter Pam Atwood had signed noting the minutes of the meeting was unusual; he has never seen an acceptance before completion. He said he had raised the question as to why we were putting down final pavement on a road that hadn't been accepted. When he was told that it was a Town road, he was surprised as the development has not been completed. He asked to see the Planning Board notes, and apparently, they cannot be found. He read from RSA 674:40-a which follows:

“Delegation of Authority to Accept Dedicated Streets. –

I. Notwithstanding RSA 674:40, a municipality with the town meeting form of government, which

has conferred upon a planning board platting jurisdiction in accordance with RSA 674:35, may, by majority vote at an annual or special meeting, under an article in the warrant inserted by the local governing body, or by petition, delegate to the local governing body the authority to accept dedicated streets. Such a delegation may be rescinded by the municipality in the same manner.

II. If such a delegation is made, the local governing body may vote to accept any dedicated street only if the street corresponds in its location and lines with a street shown on a subdivision plat or site plan approved by the planning board, or on the official map, or on a street plat made and adopted by the board. A street which has not received such prior planning board approval shall not be accepted without a vote of the local legislative body pursuant to RSA 674:40, III.

III. The local governing body shall hold a public hearing on the proposed acceptance prior to taking action."

Jim was not sure that this procedure had been followed. Selectman Williams said whether he agrees with that or not, in his opinion it doesn't matter as the acceptance happened 5 years ago, by people who are no longer on this Board. Jim just wants to be sure that we are following the procedures set by the RSAs. Chairwoman Boissonnault said if they were not followed back in 2013 and/or 2016 it was something that should be looked into. If procedure wasn't followed then, then was it a legal action which was taken? Selectman Williams said he doesn't believe that this Board could reverse the decision of another Board.

Attorney Keefe said that there is a signed plan set; Mr. Quinn gave the set to Selectman Fish for review. Attorney Keefe reiterated that Steve Elliott said that the road was built to spec back in 2013. Selectman Williams repeated his assertion that the only way to reverse a decision made by a previous Board was to go to court and he feels that all is required is that a street is in a particular location. Selectman Fish said that he has a construction detail for a common drive, not a construction sequence.

Selectman Williams asked what we were here arguing about. Jim Lavacchia said that in his opinion we should not be putting a top coat on this road until after the last home is built.

Selectman Fish said that when a cluster subdivision is approved, it is clear on the plans that it is built to spec; he does not find anything regarding a Class V road, simply a common drive. He referred all to page 7 of 10 of the plan set. Mr. Quinn said that in going through some of the paperwork they have on this project, there was a question as to whether or not people could access a walking trail and there was an answer that "Yes, they can access it from the Public Way". Mr. Quinn showed page 5 of 10 which showed the Typical Road Section and the Common Drive Section. He feels that this clarified the idea that it was a Class V Road.

Selectman Williams asked if Selectman Fish believed that the street was where it was purported to be, and Selectman Fish said he believed it was. Selectman Williams said that he then feels it was properly accepted.

Attorney Keefe shared copies of the deeds showing that the road is officially owned by the Town of Wilton. Selectman Fish said that he was disappointed in decisions made by previous Boards. He is here to represent the taxpayers; this is about the process and making sure it was done correctly. Selectman Williams asked what Selectman Fish suggested then. He said that we would

end up in court. The previous Board made a decision and we cannot undo the decision they made at this point. He believes that we would lose in court, and that any decision made by a Select Board is one that goes forward.

Selectman Williams suggested we ask Town Counsel for an opinion. Attorney Keefe shared a copy of the Section 17 from the Town Meeting of 1995 showing the language regarding acceptance. Mr. Quinn hoped that we could have an answer from Town Counsel within 2 weeks; Mr. Branscombe said "Absolutely".

PUBLIC COMMENT

Selectman Fish commented as a citizen that these are very significant roads and we need to pay careful attention as we are talking about hundreds of thousands of dollars if anything went wrong. He would like to see greater detail paid to things that this Board would accept going forward. Selectman Williams agreed that this Board needs to know what they're doing and make sure that money is spent wisely.

Jim Lavacchia noted that to repave about 2600' of road cost just under \$75,000. The top coat was another \$40,000. It's a huge amount.

DJ Garcia questioned if this Board would be comfortable with Jim's testimony certifying any road he looked at.

Chairwoman Boissonnault announced that last Monday night's meeting was cancelled due to the holiday, but she and Selectman Williams did attend a Select Board meeting in the Town of Mont Vernon to discuss the MACC Base Agreement.

SHORELINE EXEMPTION – Mr. Branscombe showed the Board the letter from Sara Spittel asking why the application had not been filed. Selectman Williams said that the Board had asked the Circuit Rider to write the application for the Shoreline Protection Act. Selectman Williams gave more details on that law which requires anyone who wants to do any modifications to get a permit from DES beforehand. The State created an exemption for urbanized areas. He said the Town has been talking about this for awhile. He said they have looked at it, but taken no action. He doesn't feel there was any urgency to it. He wants to be sure that they have properly structured what should be exempted, and suggested that everyone have a copy of it to read through. He thought Counsel should review that as well as it is a very significant decision for a Town to make.

ADUs and IMPACT FEES – The Land Use Secretary and Building Inspector asked the question as to whether or not the Town required impact fees on ADU's. Selectman Fish said that under innovative land use controls Towns can develop impact fees, assessing each new house a particular fee to defray the incremental impact on our capital departments for the Town. He detailed what an ADU (Accessory Dwelling Unit) was. The Planning Board's perspective was that an ADU did increase the density and load on services for the Town, but it is the Select Board's decision to make.

Selectman Williams said that in 2011 at Town Meeting the Town voted to assess impact fees. In Section 25.3 it does say that the Town is authorized to assess impact fees. He said that in 2015 the

Town hired a consultant who did an analysis and determined what the impact was on the Fire Department, School and Roads.

Selectman Williams said he believes the decision lies with the Planning Board. Chairwoman Boissonnault reiterated that Selectman Williams thought that it was NOT the decision of the Select Board but instead it was the decision of the Planning Board. Selectman Williams read from the 2017 Town Report where impact fees were discussed and a clarification was made. He said he would send this question back to the Planning Board. Chairwoman Boissonnault noted that the Planning Board had asked for the Select Board's opinion. Selectman Fish said he feels that an ADU should be assessed an impact fee and he would leave it up to the Planning Board to determine the fee. Selectman Williams said that ADU's are unique and the most common one would be the in-law apartment. Since in-laws would tend to be elderly, they would not have an impact on schools, though they may have in impact on fire. In his particular circumstance, he would not think that would merit an impact fee. Selectman Fish said that we needed to treat every dwelling unit the same; all impact fees are the same no matter the size of the dwelling or number of bedrooms.

Selectman Fish said his opinion is to give the Planning Board the sole discretion on what they want to charge. He will bring that up on Wednesday at the Planning Board meeting.

DOWNTOWN ORDINANCE - The next Agenda item referred to a motion made by Selectman Williams recorded in the Minutes of January 2, 2018 to add \$7000 as a one-time expense for Planning Board use to develop a new set of zoning laws for a commercial downtown district. This was unanimously approved, but the money was apparently never set aside. Selectman Williams said that the money has been spent, however, and will need to come from this year's budget.

The plan was to set up a sub-committee to look at the Downtown Ordinance and a proposal was received from NRPC to provide staff services to do this. The Select Board agreed that we should provide resources to do that, too, and some of the hours would come from Michele Decoteau. The money was intended to be carried over from the 2017 budget. The contract was signed. Selectman Williams said he doesn't think it makes a lot of difference if we take the money out of the 2018 budget; it was intended to be encumbered but the contract was not signed in 2017 so the money will come from this year's budget.

TOWN ADMINISTRATOR UPDATES

Mr. Branscombe called on Chief Cutler who said that the Wilton Fire Department Relief Association has agreed to buy a \$7500 skid unit, and asked the Town to accept this. Chairwoman Boissonnault asked if using the money from the Relief Association adhered to the guidelines where the money could be spent; and Chief Cutler said that this met the criteria. **Selectman Williams moved that we accept the contribution from the Relief Association on behalf of the Fire Department. Selectman Fish seconded. All were in favor; motion passed.**

Mr. Branscombe called on Jim Lavacchia to talk about the contract with H.L. Turner Group to address the items in the letter from the State regarding the deficiencies in the New Reservoir Dam. The first part of the contract has been completed, and we have received an invoice from H. L. Turner Group for approximately \$4,000. Jim wanted to know what line item this would come

from. It is his opinion that it should be paid for by the Water Commission as the dam was originally constructed for the water supply. The only reason it is still considered a high water hazard is because it is still considered a water supply. He showed a letter addressed to Mike Bergeron showing that the legal dam owner was the Water Commission.

Selectman Williams said that the Select Board cannot tell the Water Commission that they need to pay for something. The reservoir is no longer anything that benefits rate payers. He feels the money needs to come from the fund previously established.

Chairwoman Boissonnault said that with the dam filed the way it is, it should be under the purview of the Water Commission. She noted that Selectman Williams as a Selectman has a conflicting interest as a Water Commissioner as well. Selectman Williams said again that this Board cannot tell the Water Commission to pay a bill. He said that the Water Commission did not contract with H. L. Turner; the Town did. Jim said that the letters of deficiencies go back to 1981 and the dam was clearly under the Water Commission's jurisdiction then. Selectman Williams said that the land that the dam is on belongs to the Town of Wilton. The Water Commission cannot own land. Chairwoman Boissonnault asked if the Water Commission will act to correct the way the dam is filed so it can get off the water supply list. Jim said we are working to get the rating lowered right now. It was decided to take the money to pay this invoice out of the funds that had been put aside at Town Meeting.

The revised Inter-Municipal Agreement for Ambulance Services was distributed for review and Mr. Branscombe reminded all that the signing would be next Monday night.

The second Recycling Committee Meeting was held this morning, and the Inter-Municipal Agreement is being worked on. Selectman Williams said there had been ongoing rumors about Greenville planning to withdraw, but their Town Administrator was present today and confirmed they will be planning to stay on for at least another year; so we are moving forward toward signing this agreement too.

Civic Live Training has continued. We have another snag in that RMON said they cannot issue a wiltonnh.gov email address to coincide with our website. Selectman Williams thinks we need to have a physical email service in Town Hall. Mr. Branscombe said there is a possibility that the Town of Lyndeboro might also want to look into a agreement for IT services going forward. Jane Farrell said that we did pay for the domain management, and shared some paperwork with Mr. Branscombe.

Mr. Branscombe shared the letter from Joe Torre with the Select Board wherein Mr. Torre asked the Board what steps should be taken to recover funds which he feels the Library owes the Town. Selectman Fish said that the request goes back to the complaint of co-mingling funds for many years, and the finding that the funds needed to be absolutely separated. The Town has no say in how money that is appropriated to the Library is spent; however, it is clear that money from the Town that is unspent is supposed to be returned to the Town.

Selectman Williams said that is an advisory opinion. Selectman Fish said that it was agreed that was how it would work. Mr. Torre has identified an amount of \$9,697.86 that was unspent and should be returned to the Town. Selectman Williams said the amount that was requested was

reduced by that amount in 2017. The Library has agreed going forward to keep the monies separate, and to return any unspent funds to the Town. Selectman Fish mentioned that Wilton is number 2 or 3 in the state in terms of the amount per capita of funds spent for the Library. Selectman Williams said that the amount of money allocated to the Library for its operation is a requirement; a Town must support its Public Library. Selectman Williams said it was his recollection that this Board agreed that the Library would move forward with a reduced allocation for 2018, which was done, and that in the future they would make sure that they had separate allocation for Town Funds and Trust Funds. He suggested we need to look at the minutes from Town Meeting where that was discussed.

SELECT BOARD ITEMS – Selectman Fish asked Jim Cutler about Hawthorne Drive. He wanted to know if there was any update on the fire ponds. The 3rd or 4th house is now being built. The fire pond apparently only has water in it when it rains. He sent a letter to the real estate guy who had a plan to fix it but so far, this has not been done. Jim Cutler said that he could not stop Certificates of Occupancy from being issued. He proposed that they put a cistern in and fill it but they don't want to do this because of the cost. He will follow up on this. Selectman Williams said it is within the Town's right to refuse to issue a Certificate of Occupancy unless this is done.

Jim C. initiated a conversation about Microsoft 365 and their email accounts, saying that his company paid \$20 per person per month for the complete suite and \$4 for each email account..

Selectman Fish said that when he was looking through the Town's regulations, he found that Wilton has a Town Road Adoption Form that was adopted about a month after Richfield Way was accepted as a Town road.

He said that he visited Old County Farm Road Bridge last week and noted that the old ratings were still present; Jim L. will take those out of there.

PUBLIC COMMENTS

Deb Mortvedt thanked the Board for the ADU explanation. She asked if the impact fee was only for new construction, just a one-time fee, and if it included Air BnB's.

Selectman Fish wanted to ask Todd Haywood to come to the DRA Gravel meeting on the 29th. He also asked Mr. Branscombe for a copy of the contract between Quinn and the Town of Wilton

NON PUBLIC SESSION UNDER RSA 91-A:3,II(a)

At 8:54 PM a motion was made by Chairwoman Boissonnault to go into non-public session. This was seconded by Selectman Fish. All were in favor; motion passed. Public session was reconvened at 9:19 PM. **A motion was made by Chairwoman Boissonnault to seal the minutes. This was seconded by Selectman Williams. All were in favor; motion passed.**

NON PUBLIC SESSION UNDER RSA 91-A:3,II(l)

At 9:20 PM a motion was made by Chairwoman Boissonnault to go into non-public session. This was seconded by Selectman Williams. All were in favor; motion passed. Public session was reconvened at 9:43 PM. **A motion was made by Selectman Fish to seal the minutes. This was seconded by Selectman Williams. All were in favor; motion passed.**

SELECT BOARD APPROVALS AND SIGNATURES


The Select Board approved the Payroll and Accounts Payables manifest, and the Draft Minutes from the Public Hearing and Select Board Meeting of October 1, 2018.

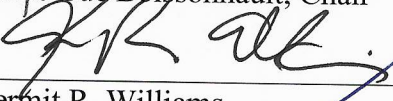
Having no further business to attend to, **Selectman Williams motioned to adjourn. This was seconded by Selectman Fish. All were in favor; motion passed.**

The meeting was adjourned at 10:06 PM.

Respectfully Submitted:

Janice Pack, Administrative Assistant


Kelle-Sue Boissonnault, Chair


Kermit R. Williams


Matthew S. Fish