

TOWN OF GROTON
SELECT BOARD MEETING
April 6, 2021

In Attendance: John Rescigno, Tony Albert, Ron Madan and Sara Smith (Administrative Assistant)

Audience Members Present

John called the meeting to order at 7:00pm.

PUBLIC HEARING RSA 74:10- REGARDING ONE'S LIABILITY TO BE TAXED

John motioned to open the public hearing regarding RSA 74:10 at 7:06pm, Ron 2nd, so voted.

John explained that RSA 74:10 indicates, that Towns who use the inventory form, must hold a public hearing to discuss one's liability to be taxed, but there are no guidelines on discussion other than this. John asked if anyone had any questions or concerns regarding this. John reminded everyone that the inventories are due April 15th.

Hearing no comments or questions, John motioned to close the public hearing at 7:07pm, Tony 2nd, so voted.

MINUTE APPROVAL

**John motioned to approve the Work Session Meeting minutes of March 16, 2021 as written, Ron 2nd, so voted.
John motioned to approve the Select Board Meeting minutes of March 16, 2021 as written, Ron 2nd, so voted.**

NEW BUSINESS:

Building Permit- Map 10 Lot 4

The Owner dropped off the building permit for his newly owned property on Stage Coach Road for a 3-bedroom home. He did include the Release form along with the PUC approval and the DES approval. **John motioned to table the building permit for Map 10 Lot 4 to have Planning Board review to see if it is a steep slope involved, Tony 2nd, so voted.**

PA-29 Tax Credit for Service-Connected Total Disability

The Town received an application for the Tax Credit for Service-Connected Total Disability. The Town received the letter which states that the records of the Department of Veterans Affairs verifies that the resident was rated permanent and totally disabled. There were no questions. **John motioned to approve the Tax Credit for Service-Connected Total Disability, Tony 2nd, so voted.**

Class VI Road Letters- Old Rumney Road and Nedeau Lane

Residents sent a letter to the Select Board with their plans for road maintenance for Old Rumney Road and Nedeau Lane and will continue to maintain the road along with removing rocks, ditching, rolling the road and filling holes and areas that may wash out due to rain, etc. **John motioned to approve both the Class VI Road improvements request for Old Rumney Road and Nedeau Lane, Ron 2nd, so voted.**

Extension of intent to cut- permit 20-193-09-T

The owners of 141 River Road submitted a letter requesting an extension for the intent to cut. The cutting is done and they should be able to submit the report of cut in time but due to the road bans they are not able to take the logs out until the ban is removed, which still could be done before the reports are due in May. **John motioned to approve the extension, Tony 2nd, so voted.**

Report of cut/yield certificate- Map 2 Lot 18 and Map 10 Lot 23

The deadline to receive report of cuts is May 15, 2021. The report of cut is for Map 2 Lot 18 and Map 10 Lot 23 on North Groton Road and Old Rumney Road for a cut of about 200 acres. The amount of the tax is \$1,776.06. **John motioned to sign the yield certificate for Map 2 Lot 18 and Map 10 Lot 23, Tony 2nd, so voted.**

Intent to cut- Map 2 Lot 18 and Map 10 Lot 23

The Town received an Intent to Cut for Map 2 Lot 18 and Map 10 Lot 23 for a 219-acre cut. There are no taxes owed on the property so a bond was not required and all information on the intent is correct. **John motioned to sign the Intent to Cut for Map 2 Lot 18 and Map 10 Lot 23, Tony 2nd, so voted.**

Disposal Agreement- 64 North Fletcher Road

George Fletcher submitted a disposal agreement for his property at 64 North Fletcher Road. **John motioned to approve the disposal agreement for 64 North Fletcher Road, Ron 2nd, so voted.**

Pemi Baker Solid Waste District Letter of Commitment

The Pemi-Baker Solid Waste District (PBSWD) is seeking letters of commitment from member communities, solid waste partners and regional stakeholders towards their application to the New Hampshire Department of Environmental Services (NHDES) for a Household Hazardous Waste Collection Reimbursement Grant in 2021. Letters of commitment lend weight to the District's chances of being awarded funds to lower the cost of collections for member communities and residents, reflected in annual dues. Sara used their template and drafted a letter of commitment. **John motioned to sign the PBSWD letter of commitment, Tony 2nd, so voted.**

Casella Support Letter

Thomas Cue from Casella sent an email to the Select Board for support. HB 177 is a bill drafted by opponents to specifically stop the siting of a world class, environmentally compliant, landfill in Dalton NH. The bill was defeated in committee due, in no small part, to the support we received from our business partners, communities, businesses and citizens who understand that NH needs to handle its own waste. They attached a letter that, if signed, shows our support. The Select Board read and reviewed the letter.

Miles asked why we would be concerned with this if it is not in Grafton County. It was thought that Dalton was in Grafton County but Sara looked it up and it is in Coos county. Miles also asked if we use Casella still and it was confirmed that we do.

John explained that the letter states that we oppose this bill for the following reasons. It appears to be an attack on a single project and would set a dangerous precedent of state legislators deciding winners and losers in business. The proposed setback is only from state parks. Why not federal parks, local parks, conservation areas, or similar uses. The setback only applies to privately-owned landfills, not state-owned or municipal-owned facilities. NH solid waste regulations are already designed to safeguard its residents, natural resources and water sources. HB 177 is a blatant attempt to use legislation to bypass proper regulatory and technical evaluations and enact spot zoning while taking away local control.

The Select Board feel that they would like to sign this letter. **John motioned to sign the Casella Support Letter, Tony 2nd, so voted.**

HB 111 Letters

Sara drafted letters to our representatives to state our concerns about HB 111. **HB 111** is, with minimal changes, a model bill drafted by an out-of-state libertarian organization. The bill purports to eliminate "qualified immunity," which applies in a very narrow class of lawsuits—those filed under federal law for violations of a person's rights under the United States Constitution.

However, the bill does so much more than that. It eliminates any “defense or immunity” in any lawsuit against a municipal (or state) official or employee, whether brought under federal or state law. It expressly states that it will be no defense in such cases that the official or employee acted in good faith, or that the official or employee reasonably believed that his or her conduct was lawful. In essence, it imposes strict liability on local officials and employees for any injury that results from their conduct, no matter how reasonable the conduct was. That liability is, in turn, imputed to the municipality. In any case in which the plaintiff prevails, the municipality would be liable for all attorney fees and litigation costs.

Thus, a municipality will be liable for damages, attorney fees, and costs if (1) a police officer, relying on solid information from a usually reliable source, arrests the wrong person; or (2) a police officer arrests someone for violating a state statute, and the supreme court subsequently rules that the statute is unconstitutional; or (3) a building inspector, relying on a good-faith interpretation of the building code, denies a building permit, and his decision is reversed by a court; or (4) a town manager in good faith denies an assembly permit, believing it will be unduly disruptive, and a court rules that the denial violated the applicants’ First Amendment rights. The list could go on forever.

The bill implicitly repeals RSA 31:104, which protects local board members and other officials from liability for damages for decisions made in good faith and within the scope of their authority. It expressly supersedes RSA 507-B, which shields municipalities from tort liability in some circumstances and provides damage limitations in cases where immunity does not apply. It states that the individual official will not be financially liable (the municipality will be instead), but oddly allows the municipality to fire the individual. It raises the question of why anyone would ever be willing to work for a municipality.

Providing most municipal services—from public safety to community movie nights and hiking trails—is voluntary. This legislation would leave some municipalities wondering whether it is worth the liability risk—and cost to its citizens—to provide services such as police and fire protection at all.

This makes **HB 111** one of the most concerning and alarming bills we have ever seen. Local officials and employees in all municipalities are extremely concerned about this and the Groton Select Board has significant concerns regarding this bill. The Town of Groton did adopt an indemnification policy in the past to protect the employees but it seems this bill will eliminate the municipal immunities which causes great concern for everyone who work for a municipality. We are concerned about what this will do as far as finding people to work for the Town and for those that are already working for the Town we are concerned if they will want to stay working for the Town. The other concerns are obviously if this were to pass and something were to happen in Town, what this would mean for the Town and its employees.

We are asking as our representative that you take our concerns into consideration and **vote to kill HB 111**. **John motioned to sign the HB 111 letters, Tony 2nd, so voted.**

Bubba added that this is for everyone, Police, Fire, Employees and those that volunteer for the Planning Board and other Boards. There is a concern that people will not want to do this because of this and we have a hard time finding volunteers as it is.

Chief Bagan added that there are concerns for the Police Departments as well for pulling people over, making arrests, etc.

Junkyard Properties

The Select Board reviewed the Junkyard List to decide which properties should be visited again this year.

Below are the properties referred to by their case numbers:

#1: Keep as yearly check

#2: Keep as yearly check
#3: Keep on the inactive list
#4: Keep on the inactive list
#5 & #6: Keep on the inactive list
#7: Keep as yearly check
#8: Keep as yearly check and the owner should be applying for his junkyard license
#9: Keep on the inactive list
#10: Keep as yearly check and the owner should be applying for his junkyard license
#11: Keep as yearly check and the owner should be applying for his junkyard license
#12: Keep as yearly check and the owner should be applying for his junkyard license
#13: Put back on yearly check list
#14-23: Keep on the inactive list; it was agreed to remove #14 and #22 as they are duplicates of #24. It was also discussed to remove #16 as it is a new owner and there have not been any issues.
#24: Keep as yearly check
#25: Keep on the inactive list
#26: added on this year

A resident asked about 1214 North Groton Road as it had been cleaned up but trash is accumulating again. It was explained that it was cleaned up by the Town but we will have to work with attorneys about another clean up or other options. The hard part is that we have to go after the owner and not the renter and the owner is unable to be reached anymore. The owner also has their hands tied due to COVID restrictions

Ken Knowlton has retired but MRI had said they would have someone else available to help the Town. The Select Board would like MRI to come out the first week in June. Sara will reach out to MRI.

DEPARTMENT ITEMS:

Highway Department

Bubba stated that they are just cleaning up after winter but it may not be over yet. History shows that we have gotten snow for another 4-5 weeks.

COMMITTEE UPDATES:

Conservation Commission Clean Up

The Conservation Commission will be hosting a road clean-up on Saturday, April 17, 2021 beginning at 10:00am and usually finish by 12:00pm. The rain date is the next day, Sunday April 18, 2021. Everyone is welcome to meet at the Town House and take part in the cleanup.

Tony said if the road ban isn't lifted by then they may have to reschedule due to the dump being filled.

QUESTIONS AND COMMENTS:

Cemetery

Dave Leone said that Slim asked him about digging graves for the cemetery. He said he cannot do this but it brought up a cemetery question. Someone has done work within 20 feet of Bailey Hill Cemetery and they are not supposed to. Dave asked if it is the cemetery trustees or the Town that would look into it. John said it would be the cemetery trustees. Dave said municipality can ask for waiver but no one else can. Sara will email Jim Gaffey about this.

Building questions

Dave Leone asked about the drawings for the new Public Works Building. He asked about the backfill line. If that is the backfill line, and this is where the building is placed, he feels it cannot be placed there. Bubba said this is preliminary, the building will actually set in a corner. Bubba explained it to Dave that this is not all set in stone.

Dave said also with the backfill line and the space with roof line he would be worried about snow removal. Bubba said again this is preliminary and they had that concern with the snow coming off the roof. Tony mentioned we didn't want to spend more money on more plans not knowing if it will pass but we do have these concerns and will make sure there is room and that these are addressed if the building passes and we move forward. Dave said his concern is the amount of snow that would be built up and if it will affect the building. Tony said we have talked about this and will be able to get up there for snow removal but needed just enough to put thru for grant thru. This all can change once we all put out for bid.

Warrant Articles

Cynthia asked where can a resident find a list of warrant articles. The Select Board explained in the town report on the blue pages.

Class VI Road question

Virginia asked if weight restriction extends to a class VI road. Bubba said he doesn't post class VI roads but they would have to. In order to get to any Class VI road, you are taking a State or Town road that is posted so if you made it that far then you broke the law by traveling a state or town road that is posted.

Stage Coach Road Concern

James Hadley said that Stage Coach Rd is having this issue because the new owner is driving heavy equipment on the road or his contractor is. He is also doing a lot of excavating. Bubba said that it is a private road so the Town doesn't have control over it what happens on the road. James had called Sara earlier and asked for the new owner's phone number and stated some concerns about the Private Road. Sara explained that the Town doesn't get involved with Private Roads it is a civil issue and also said that she doesn't have permission to give out the new owner's phone number. James had asked Sara to give the new owner his number and ask that he call him which Sara did. James said he hasn't called him yet. James said he is stuck with the issues from this and he feels the town should give some support. The Select Board, Bubba and Chief Bagan said that there is nothing the town can do since it is a Private Road so it is a civil matter that they have to deal with. They had an issue in the past with logger. John mentioned as landowners on the road they can work together and bring them to court.

Bubba said that he lives on a Private Road so he feels for him but the Town cannot get involved. Dave also lives on a private road and said he even went and had the road surveyed in the past due to recommendations from the court but they did away with that as well.

James said that where he wants to build is in the landslide and the previous owner dug into the ledge and they got DES involved. The State made them put dirt back up there but it has slouched down. James said if the Select Board gives him a permit and something happens, he feels the town will be held liable. The Select Board explained that anyone on a private road signs a notice, agreement and release of municipal liability and responsibility per RSA 674:41. The Select Board agreed that they will table to building permit to allow the Planning Board to look into the concerns.

Chief Bagan asked when the equipment happened, it has been this week. He said he would talk to the owner after the meeting.

John mentioned it is a private road and the Town cannot get involved so it is a civil matter. The Select Board will have the Planning Board look at the permit.

Dave asked if the Town would address the excavation concern since if over 1,000 cubic yards is being excavated you would need an intent to excavate. Sara will contact our excavation contact at DRA to look into it to see if an excavation permit is needed.

Tony said that as a resident they can also reach out to the State as well and put in a complaint.

Having no other business to conduct, John motioned to adjourn at 8:06pm, Tony 2nd, so voted.

Respectfully Submitted,

Sara Smith
Administrative Assistant