

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

Tuesday June 28, 2022

Town Hall

6:30 PM

Select Board members present: George Willard, Bill Ezell, and Ken Caisse

Other Attendees: Peggy Cournoyer, Ivy Bibler, Connie Kieley, Bill McDonnell, Gail Cromwell, Nicole Concordia, Paul & Heidi Jordan, and Julie McAdoo.

Meeting called to order by Ezell at 6:30 PM.

Chairman Comment: *None*

Public Comment:

- *Ivy Bibler mentioned there has been a lot of movement and noise at the March property lately. Bibler added it is so loud she does not want to go outside. Ezell noted they can send a letter to them and if they do not comply, without a code enforcement officer, the select board cannot do much except take them to court. Ezell noted there is a new ZBA complaint form that if approved tonight, Bibler can complete and submit it to the board.*
- *Paul Jordan provided an update on the Wilton-Lyndeborough-Temple Volunteer Ambulance and Rescue court case. Jordan noted he has not heard back from attorney Dresher and noted there is still some money in two accounts. Caisse updated the audience that this case is to dissolve the agreement between the towns so they can liquidate the building and distribute the money to the 3 towns. Ezell noted we need to track down the rest of the assets including Wilton's lack of rent payment for the past 4-5 years for the building they do not own.*

Old Business:

- **Marsh Litigation Update:** *No Update*
- **Code Enforcement Officer:** *Ezell updated that both he and Caisse attended a 4 hour seminar and they are working on this. Caisse added they have about 6 months of work to do before they can do any enforcing. He noted there needs to be procedures, fines put in place, forms, training, and they need to make sure they have adopted all of the required RSA's.*
- **Parking/Zoning/Fee structure follow up:** *No update, still waiting for the Charrette recommendations.*
- **Background checks:** *Caisse commented he has contacted the insurance company and needs to continue discussions with the Library. Caisse hopes to get the library on board with the town by maintaining all of the background check records at the town office.*

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

- **Flag pole painting:** *Caisse reported he is still looking into replacing the flag pole. They need to ensure that the stones are not disturbed.*
- **Monument cleaning:** *We are waiting to hear back from a vendor from Milford who is taking a look at the monuments and will provide a quote.*
- **Lot Line Adjustment 2B 75-4 (Fisk):** *Ezell updated that the attorney is working on the deed to make the adjustments.*
- **Letter of Agreement – Rec Dept:** *No update*
- **FEMA database update:** *McDonnell noted he has received a working map from 2019 that is accepting comments. McDonnell noted this process can take 2 to 3 years then another 2-3 years to adopt and put into the FEMA maps. Ezell noted Robidoux spoke with the SWRPC who said we cannot use these maps now but they can take the new data and turn it into a usable map if we want to apply for the FEMA flood insurance before the real maps are ready.*
- **New Flag Policy:** *Ezell commented that according to legal (see attached document), we are not obligated to put up random flags from anyone who asks. Concordia offered her opinion stating that a private resident asked to put up a flag and the board said yes, therefore, if you deny the next resident the same answer, this could be considered discrimination. Concordia suggested creating a content neutral policy to protect the town. Ezell will speak with legal for clarification and the board agreed to have Concordia be involved in that conversation.*
- **Zoning Complaint Form:** *Willard moved to approve the new Zoning complaint form that Ezell drafted. Caisse seconded, all were in favor, motion passed. Caisse noted we cannot act on an anonymous complaint, the form has to be fully filled out and signed.*

New Business:

- **CAC Committee update:** *Robidoux provided the following written updates to the board:*
 - * **Broadband Update** – *No additional update*
 - * **A/V update** – *East West is waiting on a few pieces including the speakers. They are hoping to have everything by July 15th.*
 - * **Plan NH Charrette** – *The CAC is working on promotional materials and project planning. The town has also received a check from NHHFA for the Charrette in the amount of \$5000.00. This should be held until we receive an invoice. Robidoux is working with the budget committee for recommendations on how to track this in the budget.*
 - * **Septic update** – *Torphy has been sent an email for an update on additional invoices, tank pumping recommendation and maintenance schedule.*
 - * **Welcome Booklet** – *The 250th Anniversary Fund voted to award the CAC \$405.00 for printing and materials for the Welcome Booklet. 10 copies will be printed.*
- **250th Anniversary Fund Award Decision:** *McAdoo stated the 250th Anniversary committee met and reviewed an application from the CAC committee to cover the printing expenses for the “Welcome to*

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

Temple" information booklet. McAdoo indicated the cost for 10 printed copies is \$404.90 and that the committee voted and approved the project award in the amount of \$405.00. McAdoo asked how the account would be funded. The board replied the 250th committee should write a check which will go into the general fund then they would need to write a transfer letter to the treasurer to transfer the funds into the public promotions account.

- **Village Green Plan for the Town Common:** Cromwell updated that the committee is working on a vision for the town common. She reported that there are 2 trees that are aging and in 10 to 15 years will need to be removed. Their plan is to add new trees now that will grow and eventually replace the dying trees. Cromwell also reported that another tree is dying and she reported that they are buying a tree for the cemetery. All of this is in the Village greens budget noted Cromwell. Ezell said this sounds nice and thanked her.

- **TTHAC Update:**

* Kieley noted the committee has recommended 2 new members Tim Fiske and Mackenzie St. Cyr. Ezell moved to appoint Tim Fiske to the TTHAC committee for a term ending in 2025. Willard seconded the motion, all were in favor, motion passed. Ezell moved to appoint Mackenzie St. Cyr to the TTHAC committee for a term ending in 2025. Caisse seconded the motion, all were in favor, motion passed.

*Kieley also updated that the front of the town hall building paint job has been completed and she has been given a quote for the right side of the building to be done at a later date.

*Kieley also noted they received 2 quotes for the roof replacement and have agreed that Patriot roofing is the better choice. Kieley needs to coordinate and receive approval from LCHIP as well. The board discussed using ARPA funds and the public agreed. Willard noted that if need be, we can pay for the roof from the general fund as an emergency expenditure, then replenish it when the ARPA funds are received. Ezell moved to approve the TTHAC's recommendation to proceed with the Patriot roofing quote for the replacement of the town hall roof, including any related repairs. Willard seconded the motion, all were in favor, motion passed.

* Caisse also noted that fencing and repairs at the ballfield and playground were previously considered as projects to use some of the ARPA funds but seem to have fallen off the radar. Ezell moved to allow Caisse to obtain quotes and a scope of work for repairs at the ballfield and playground area. Willard seconded the motion, all were in favor, motion passed. Other projects such as septic were on the list, Ezell noted we need to prioritize the list of remaining projects.

* Kieley reported that someone will be coming out to fix the shades which has been estimated to cost between \$75-200.

- **Recreation Commission – Additional Car events:** Caisse reported that the rec committee would like to add 5 additional car events at the common. The board decided that 2 would be appropriate, one on July 25th and the other on August 22nd, as long as the rec department can come up with a plan for parking, road closure and bathroom facilities.

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

- **Review and Approve sale amount for Town land lot 75-2:** *Ezell reported that our realtor has provided some comps and we need to decide how much we should list the property for. Caisse noted he felt we should start at \$120K. The board agreed and Caisse moved to notify the realtor to list the property at \$120K. Ezell seconded the motion, all were in favor, motion passed.*
- **Approve 2 Occupancy permits - Ellis:** *Caisse moved to approve the permits, Ezell seconded, all were in favor, motion passed.*
- **Approve Occupancy permit – O’Malley:** *Caisse moved to approve the permit, Ezell seconded, all were in favor, motion passed.*
- **Approve Occupancy permit – Collette:** *Ezell moved to approve the permit, Willard seconded, all were in favor, motion passed.*
- **Approve Occupancy permit – Hebert:** *Caisse moved to approve the permit, Willard seconded, all were in favor, motion passed.*
- **Review & Approve Building permit application - Brown:** *The board signed the application.*
- **Approve Select Board Meeting Minutes June 14, 2022:** *Caisse moved to accept the minutes from June 14, 2022 as amended. Willard seconded, all in favor, motion passed.*

Other Business: -

- *The town received a \$6800 donation check from The Jeta Grove Foundation as an expression of their appreciation for town services. Ezell moved to accept the donation of \$6800 from Jeta Grove. Caisse seconded the motion, all were in favor, motion passed.*

Committee Updates: - No Updates

Meeting Adjourned: 7:58 PM. *Motion by Ezell, second by Willard, all were in favor, motion passed.*

Next Select Board Meeting: *The next select board meeting will be held on Tuesday July 12, 2022 at 6:30 PM at the town Hall. Meeting minutes respectfully submitted by Carole Singelais*

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

From: Christopher Drescher
Sent: Tuesday, June 28, 2022 4:02 PM
To: 'Ken Caisse'; 'Ken Caisse'; 'George Willard'; 'Bill Ezell'
Subject: Government Speech

All,

You recently place a Ukraine flag to show your support those fine people being slaughtered by our renewed national adversary – Russia.

Ken called and expressed he received some ‘advice’ that now you put up one flag you now have to put up ANY flag.

First Amendment law is messy to say the least but, in my opinion, you **do not** have to put up every flag for every cause.

This is an area of law wrought with famous cases and if you think every case has been ligated – think again – it is forever evolving.

The doctrine essentially holds that the government is not infringing the free speech rights if it declines to use *viewpoint neutrality* in its own speech.

In *Pleasant Grove City v. Summum*, the Court held that permanent monuments displayed on public property, even when provided by private parties, generally represent government speech. In so concluding, the Court relied not only on the fact that a government, in selecting monuments for display in a park, generally exercises effective control and has final approval authority over the monument, but also on (1) the government’s long history of us[ing] monuments to speak for the public; and (2) the public’s common understanding as to monuments and their role in conveying a message from the government.

If [the government] were engaging in [its] own expressive conduct, then the Free Speech Clause has no application. The Free Speech Clause restricts government regulation of *private* speech; it does not regulate government speech. ***A government entity has the right to “speak for itself.” Pleasant Grove City v. Summum***

Using the same *Pleasant Grove City* analysis, in *Walker v. Texas Division, Sons of Confederate Veterans*, the Court concluded that the State of Texas, in approving privately crafted designs for specialty license plates, could reject designs the state

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

found offensive (*the license plates were to have a confederate flag*) without running afoul of the Free Speech Clause. Specifically, the *Walker* Court held that license plate designs amounted to government speech because (1) states historically used license plates to convey government messages; (2) the public closely identifies license plate designs with the state; and (3) the State of Texas maintained effective control over the messages conveyed on its specialty license plates.

Most recently (*as in last month*), the Court held in *Shurtleff v. City of Boston* that the City's refusal to raise a religious flag as part of a program wherein private organizations filed requests to fly their flags for a period of time *did violate* the First Amendment as it was viewpoint discrimination. The ACLU and ACLU of Massachusetts successfully argued that Boston's denial of religious organizations request to display its flag violated the group's free-speech rights because the City made its third flagpole a public forum for temporary flag displays by private parties. Having done so, it may not deny private speakers access to the forum based on their viewpoints, including religious viewpoints.

Here, you three voted to display a Ukraine flag as part of 'government speech.' You, the government, chose to do that and the venue is not something normally open for the public to express its viewpoints.

I think you are on solid and defensible ground that you are not obligated to start displaying any cause that wants to be heard.

-Chris

Christopher Drescher, Esq.

Cronin Bisson & Zalinsky P.C.

722 Chestnut Street

Manchester, NH 03104

Tel: (603) 624-4333

Fax: (603) 623-5626

www.cbzlaw.com

STATEMENT OF CONFIDENTIALITY

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by attorney-client privilege. If you are not the intended recipient or the person responsible for delivering the e-mail for the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, please immediately notify Cronin, Bisson & Zalinsky, P.C. by telephone at 603-624-4333.

TOWN OF TEMPLE, NEW HAMPSHIRE
SELECT BOARD
MINUTES OF PUBLIC MEETING