

TOWN OF TEMPLE, NEW HAMPSHIRE

SELECT BOARD

MINUTES OF PUBLIC MEETING

Tuesday April 26, 2022

Town Hall

6:30 PM

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

Other Attendees: John Kieley, Christine Robidoux, Cam Lockwood, Peggy Cournoyer, Tedd Petro, Richard Benotti, Connie Kieley, Gail Cromwell, Alec MacMartin, Ivy Bibler, and Peter Allen.

Guests: Town Attorney Laura Spector-Morgan and Marsh Attorney Jonathan Sistare.

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

Chairman Comment: *Ezell noted we will be starting with public comment regarding the Marsh litigation first and went on to introduce Temple's town Attorney Laura Spector-Morgan, and Marsh attorney Jonathan Sistare.*

Public Comment re: Marsh case:

- *John Kieley commented that the abutters were not expecting lawyers to be present tonight or that the meeting would be anything more than a regular select board meeting. Had they known, more of them would have attended. Kieley then went on to read a prepared statement (see attached).*
- *Cromwell noted that the Marsh property is right on the border of the towns historic district and that she agrees with Kieley that we should go to court on August 8th.*
- *Bibler asked the select board what negative consequences would there be if they do not sign the agreement. Attorney Spector-Morgan replied stating that the court could order that the agreement be signed anyway and they could order that the town cover the Marshes legal fees.*
- *Connie Kieley commented that compared to what it could cost the town and taxpayers to clean up after contamination, paying the legal fees would be much less.*
- *John Kieley added that he knows of 3 lawyers that have worked with Judge Temple and the consensus is that he is reasonable, thorough, and cares a lot and would likely not support the agreement. Therefore, Kieley asked why not wait to sign the agreement for a few weeks until after the abutter's motion to intervene is heard by the court on May 18th. Peter Allen also wondered why should the select board sign the agreement when the town received bad advice from our Attorney at the time. Attorney Spector-Morgan reminded everyone what the laws are and added that it is her job to advise the select board accordingly.*
- *Robidoux added that this agreement overrides Temple's zoning ordinance and she worries this will set a precedent. Robidoux also commented that if we had a code enforcement officer, it would have solved this. Ezell noted they have been actively looking but have been unable to find anyone.*
- *Ezell added that they are not pleased with the agreement but having consulted with counsel, they will be signing the agreement tonight. The board went into a brief recess at 7:12 to consult with counsel and returned at 7:15. Caisse made the motion that after consulting with counsel, and allowing the Marshes and abutters time to attempt to reach an agreement regarding the abutters concerns, which*

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efforts have been largely unsuccessful, I move that we approve the proposed final order, conditioned upon the court denying the abutters motion to intervene. Willard seconded the motion, all were in favor, motion passed.

Other Public Comment:

- *Alec MacMartin noted he has been in touch with the Fire Marshall and asked if based on the new information, will the cease and desist order be enforced at the Stepping Stones event center. He added that 2 more weddings have been booked and he feels the ZBA process is going nowhere. Caisse noted he will get our Attorney up to speed with the case and seek their advice.*

Old Business:

- **Code Enforcement Officer:** *Ezell commented he is still looking noting that Greenville cannot find one either.*
- **Parking/Zoning/Fee structure follow up:** *No update*
- **Background checks:** *Caisse asked Lockwood if there is now a Library chair that he can confer with. Lockwood noted that Connie Rinaldo is the new chair. Caisse noted he will attend the next Library meeting and try to get this resolved.*

New Business:

- **Select Board Committee Roles –** *Willard moved that Bill Ezell remain as the select board chair. Caisse seconded the motion, all were in favor, motion passed. The board discussed committee Ex-Officio roles and decided to keep them all the same except for Ezell who will now be the Recycling committee representative replacing Caisse.*
- **CAC Committee update:** *Robidoux provided the following updates:*
 - * *East West A/V will be here on May 3rd at 10am for a planning meeting.*
 - * *They are still waiting for word from Plan NH on acceptance of our Charrette Application.*
 - * *Broadband installs are for the most part going very smoothly. There is still no resolution on the TDS pole rights issue. They are hoping to have answers by the end of the week. Robidoux also mentioned there is a lot of confusion in the aqua zone. Fidium is giving conflicting information to residents. The committee is escalating all issues to CCI. Robidoux reported that the contact information has been given to Fidium for the installs at the town buildings and noted someone from Fidium should be contacting them soon.*
- **Approve appointment of Lynessa Huntley – Deputy Town Treasurer 3 yrs:** *Ezell noted that Lynessa must complete the new hire paperwork before starting work. Willard made a motion to approve the appointment of Lynessa Huntley as Deputy Treasurer for a 3 year term once all paperwork is completed.*

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Caisse seconded the motion, all were in favor, motion passed. Caisse noted she will be paid a \$300 stipend in December.

- **Appoint Connie Kieley – Town Hall Committee – 3Yr term:** *Ezell noted that the board received a letter from the town hall committee recommending that Kieley be appointed back to the town hall committee for a 3 year term. Ezell made a motion to appoint Connie Kieley to the town hall committee for a 3 year term. There was no second to that motion. Tedd Petro spoke up saying he was confused and added that this appointment has nothing to do with things that may have happened in the past adding that the select board has an obligation to do what is best for the building. Benotti and Lockwood also advocated for Kieley noting the TTHC committee needs her help and the select board took an oath to do what is best for the town. Willard noted that there have been many harsh things said to him by this applicant, however, he motioned to appoint Connie Kieley to the Town Hall Committee for a term of 1 year. Ezell seconded the motion, motion passed by majority vote.*
- **Reappoint Richard Benotti – Town Hall Committee – 1 or 3 yr. term:** *Benotti commented he only wants a 1 year term. Willard moved to reappoint Richard Benotti to the Town Hall Committee for a 1 year term. Caisse seconded, all were in favor, motion passed.*
- **Appoint Russell Wilson to the Con Com Commission 3 yr. term:** *– Caisse motioned to appoint Russell Wilson to the Conservation Commission for a 3 year term. Willard seconded, all were in favor, motion passed.*
- **Discuss Town Hall reopening for Private rentals:** *Caisse motioned to reopen the town hall for private rentals. Ezell seconded the motion, all were in favor, motion passed. John Kieley added that the EMD should be involved in this decision. Ezell will reach out to Bill McDonnell for input.*
- **Discuss Memorial Day and July 4th Plans:** *Ezell stated that the temple band and the recreation committee were asking about this year's plans. Willard noted he has helped organizing the parade in the past and will work with Paul Quinn and the temple band again this year. Ezell noted the band has penciled in Sunday June 5th for Temple's Memorial Day parade.*
- **Review NE Forestry Foundation charitable organization denial:** *The board reviewed Avitar's recommendation for denial. Willard made a motion to approve the denial of the application. Caisse seconded the motion, all were in favor, motion passed.*
- **Review & Approve Tax Yield & Warrant - Peavy:** *The board reviewed and approved.*
- **Review & Approve Elderly Exemption application – Sheldon:** *Caisse motioned to approve the application as recommended by Avitar. Ezell seconded, all were in favor, motion passed.*
- **Review & Approve MS 535:** *The board reviewed and approved the MS 535. Ezell updated the audience that the amendment to article 4 paving at town meeting, was rejected by the DRA who noted the amendment changed the purpose from an expenditure to a trust. Ezell noted he has spoken to our town attorney who will see if we can get this approved.*

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- **Approve Select Board Meeting Minutes April 20, 2022:** *Caisse motioned to accept the minutes from April 20, 2022 as written. Willard seconded, all in favor, motion passed.*
- **Approve Select Board Meeting Minutes April 12, 2022:** *Caisse motioned to accept the minutes from April 12, 2022 as amended. Ezell seconded, all in favor, motion passed.*

Other Business: - *Willard reported that Peggy Cournoyer has a friend who would be glad to paint the flag pole for free if the board is ok with that. Caisse motioned that as long as this person has liability insurance, he approves and we will supply the paint. Ezell seconded the motion, all were in favor, motion passed. Willard also reported that George Baxter from PA wants to pay to have all the monuments on the common power washed and cleaned including the states stones and the black plaques on the monument. Willard added that Mr. Baxter would like to make this donation in honor of Ezra Bailey Whitman who has been a client of the Lucas foundation for 27 years and is now in a rehabilitation center in Jaffrey. Caisse said we can contact the person who worked on the fixing and cleaning of our gravestones in the past for a quote. The monuments need other work to be sound at this time.*

Committee Updates: - *None*

Meeting Adjourned: 8:20 PM. *Motion by Caisse, second by Willard, all were in favor, motion passed.*

Next Select Board Meeting: *The next select board meeting will be held on Tuesday May 10, 2022 at 6:30 PM at the town Hall. Meeting minutes respectfully submitted by Carole Singelais*

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ATTACHMENT

April 26, 2022

Temple Select Board Meeting

Marsh Junkyard

Comments by John Kieley

At the April 20, 2022 SB meeting I gave a brief history of the Marsh junkyard from 2014 to the present.

Since that meeting, three significant things have happened:

- Sistare has not been open to any of the abutters' suggested changes to the agreement
- The February 22, 2022 version of the agreement has been modified to make it even more detrimental to the Town.
- The Court has scheduled a hearing on our Motion to Intervene

Before taking any action that would put residents' health at risk and commit the Town to a fifty-year enforcement and financial nightmare, the Select Board needs to consider:

1. The Board has NO AUTHORITY to override Temple's Zoning Ordinance or the two ZBA decisions denying the junkyard.
 - This is not a Select Board enforcement action. It's a circumvention of Temple Zoning.
 - The Zoning Ordinance was voted by residents. There is no override clause for Select Board.
 - The ZBA process is set by the State. There is no override clause for Select Board.
 - To override our Zoning creates a very bad precedent and guarantees years of litigation and expense to the Town
 - The Court has a process for dealing with cases like this. Why aren't you following that process?
2. The current agreement is a "sweet deal" for Marsh but provides no protection for Temple residents or taxpayers. A few examples:
 - Doesn't comply with State RSA's designed to protect environment and public health
 - Doesn't even allow inspections for leaks or contamination of soils or streams on property
 - No protection of abutters' wells or the aquifer that abuts the property on three sides. This aquifer serves many towns.
 - Temple taxpayers foot all the bills for monitoring, violation management and even contamination mitigation. It's telling that Sistare has refused to include a surety bond to fund cleanup.
 - No "teeth" to compel the owners to follow any agreement. This is obviously particularly important recognizing the history of violations and even the current violations of the agreement you're being pressured to sign.

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3. Don't dig this hole any deeper

- Bad legal advice a year ago started a chain of events that have now put the Town in long term jeopardy from both public health and financial perspectives
 - Continuing to follow that path, particularly since Sistare is not willing to negotiate anything, is contrary to "the best interest of the Town"
 - "Just say no" to this very bad agreement and tell Sistare to put August 8th at 8:00 AM at the Superior Court on his calendar.
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