

**TOWN OF BEDFORD
TOWN COUNCIL MEETING MINUTES
November 14, 2018
BEDFORD MEETING ROOM
10 MEETINGHOUSE ROAD**

ROLL CALL: A meeting of the Bedford Town Council was held on Wednesday, November 14, 2018 at the Bedford Meeting Room, 10 Meetinghouse Rd. Present were Bill Duschatko (Chairman), Melissa Stevens (Vice Chair), and Councilors Phil Greazzo, Dave Gilbert, Kelleigh Murphy, Chris Bandazian, and Catherine Rombeau. Also present was Town Manager Rick Sawyer.

Chairman Duschatko opened the meeting at 7:02pm.

1. PLEDGE OF ALLEGIANCE – Led by Councilor Bandazian.

2. PUBLIC COMMENTS –

Peter Sullivan, 41 Magazine Street, mentioned solar power at the Transfer Station on the agenda and wanted to know if there was going to be discussion about any other plans for the Transfer Station.

Councilor Murphy stated that any comments he had about the Transfer Station could be made now, but if he had comments about the solar power that he should hold them until they get to it on the agenda.

Mr. Sullivan stated that he lives in close proximity to the Transfer Station and has some land that includes part of Riddle Brook and the prime wetlands area there. He hopes they would keep that in mind with any plans going forward at the Transfer Station. He would hate to see any impact on the wetlands and the wildlife there. As far as any renovations to the Transfer Station, he wanted to know what impact on the view there might be from the trails on Legacy Park. He mentioned the Town constantly changing and adding new developments and outgrowing the Transfer Station. He mentioned an alternative would be to renovate the Transfer Station and make it larger or maybe look at potentially switching from the Transfer Station to municipal trash services. He appreciated the time and the hard work that the Town Council does on these topics.

Councilor Murphy stated that one of the most critical things they did in the past year was inspect for stickers to make sure that the people that were disposing of trash at the Transfer Station were residents and not from adjoining towns and contractors trying to dispose of materials. Jeff Foote, Public Works Director, has been very focused on how to reduce costs associated with the Transfer Station and maximize its usage, so that it doesn't become too much of a burden on the community. The Council has discussed in the past municipal trash pick-up, but there is a good percentage of the Town that is paying for private trash pick-up, so she's not sure that's something that is necessarily getting traction at this time. She's not sure that the Transfer Station is looking at an

expansion or just upgrades and technological reforms. They are sensitive to the location and the fact that there are neighbors that are so close to that area. Mr. Sawyer stated that part of the proposed 2019 budget includes doing a realignment of the entry road into the Transfer Station, which would have them cut down some trees. They will take a look at it and how to minimize any of those tree removals and potential view impacts that might change with that work.

Councilor Murphy thanked Mr. Sullivan for coming and to encourage anyone in his neighborhood that has concerns about those issues to come to a Town Council meeting and comment as they would encourage anybody in Town that has concerns about long-range development or environmentalism or any other aspect of Town governance.

Mr. Sullivan thought it would be nice to be mindful of the huge giant trees when they are cutting trees down.

3. Meeting with Recreation Manager – Postponed

4. NEW BUSINESS

a. Award of Audit RFP

Theresa Young, Finance Director, stated that the Town Charter requires that every five years the Town sends out an RFP whereby the Town Council selects a Certified Public Accountant to conduct the financial audit and this is the 5th year. An RFP was sent out and there were three responses: Melanson Heath (current), Plodzik & Sanderson, and Vachon Clukay & Company. They are all well respected firms and well qualified. She explained that changes and staffing warrant the Town Council to maybe consider a different alternative than what she would have originally recommended. She explained that there was going to be a change in leadership in the Finance office and the auditors will be coming in after the first of the year. She thought it would be in the Town's best interest that even though Melanson Heath is the highest of the three that the Town remain with them, because they are very familiar with the Town and have staff that have been working with the Town for a couple of years. Councilor Murphy wanted to know if there was no change in personnel, would Ms. Young's recommendation have been Vachon Clukay and Ms. Young responded yes.

Chairman Duschatko wanted to know if they had a problem this year with Melanson's staff, that they didn't have experienced people on the account and had to bring in the partners. Ms. Young explained that they had staff shortages, so the folks that had been doing the audit moved on to better job opportunities, so Melanson had newer staff and the partner did come in and work on the audit.

Councilor Stevens mentioned the staff report, which states that it would be more efficient and likely cost the same as contracting with a new auditor. She assumed that Ms. Young was equating the cost to be extra time that staff would have to spend with the new auditor and getting them up to speed. Ms. Young stated that was correct. A

new auditor responses include that they rely on the fact that management is in place and there is no significant changes and they should progress through the audit as usual. She thought a change in staff and leadership especially was probably not the best year to have a change in auditor as well. They base their cost on what is in place at the time and it's possible that if they had to do more work or it took longer for various reasons that the Vachon Clukay costs could be more and their RFP states that. Councilor Murphy would like to see the specific language and would move to table until they did.

Ms. Young stated that the Council could also interview them if they wanted to. Councilor Murphy thought audits were fairly standard and she would go with Vachon and Clukay if she could get some reassurance that their price would stay where they came in at. Councilor Stevens would also be interested to find out what other towns they work with. Mr. Sawyer stated that it's all in the proposals and they can get the Council the full proposals so they can review them and take it up at their next meeting. Chairman Duschatko would like the Council to get a copy of the responses.

MOTION by Councilor Murphy that the Bedford Town Council table this discussion to the next meeting. Seconded by Councilor Stevens. Vote taken – Motion Passed – 7-0.

Mr. Sawyer wanted to know if he should schedule interviews. Councilor Murphy thought the Chair could ask the Council to weigh in to the Chair only as to whether or not they want an interview scheduled and then get them set up in advance of the next meeting.

b. Schedule a public hearing to consider Ordinance 2018-06 amending Chapter 262-6, Speed Limits, to reduce the speed limit the entire length of Sebbins Pond Drive from 30 MPH to 25 MPH

Chief Bryfonski stated that they received correspondence from residents on Sebbins Pond that were concerned about the speed of vehicles. The DPW director indicated that he was going to try and widen the road to make it safer, but they were unable to do that for engineering purposes. The Highway Safety Committee looked at the housing density, the nature of the road and use of the road, particularly in the summer time with walkers and bicyclists. With the improvements to the road, which typically does increase speed, and the other factors, the Highway Safety Committee recommends that the speed limit be reduced on Sebbins Pond Drive for its entire length to 25 MPH.

Councilor Stevens stated that they hear a lot in Town about how speed is a problem, so she's curious why they wouldn't do it in other places in Town. Councilor Murphy stated that it depends on the unique situation. Because of the nature of curvature, wideness of road, location, neighborhood inlets and outlets, all kinds of factors that go into setting the speed limit, the potential solutions need to be taken on a case by case basis for each street in Town. Chief Bryfonski added that it's largely an engineering decision based on data. They also look at the nature of the use of the road.

MOTION by Councilor Rombeau that the Bedford Town Council schedule a public hearing for Wednesday, December 12, 2018 at 7:00 PM to consider Ordinance 2018-06 amending Chapter 262-6, Speed Limits, to limit the maximum speed on Sebbins Pond Dr. to 25 MPH. Seconded by Councilor Murphy. Vote taken – Motion Passed – 7-0.

c. Authorization to issue RFP for photovoltaic systems on Town owned land

Mr. Sawyer mentioned that back in 2014 the Energy Commission tried to get solar somewhere on Town property, but they weren't able to make that work for a number of reasons. The Commission has been working on this and have recommended that the Town come up with an RFP to see what options are out there for renting certain Town parcels, especially the Transfer Station. Councilor Bandazian has drafted the RFP.

Councilor Bandazian stated that solar would be at the capped landfill at the Transfer Station. He explained that because of the net metering cap, only a portion of the capped landfill could be used for solar. One of the problems is the lack of 3-phase power. If the Town Council moves forward, they would have a collateral benefit of making 3-phase power available to the Highway Garage. It's a significant cost and they initially looked at a Power Purchase Agreement (PPA). They have looked at various lease/purchase arrangements, but the payback is too risky. The PPA doesn't generate enough savings to be worthwhile. The last thing they looked at was renting out land that the Town can't use for any purpose. Energy Commission Chair Jeff Kerr put the inquiry out there and there was a business that was interested in pursuing a lease with the Town. The Energy Commission wants to put an RFP out there soliciting bidders on the capped landfill as a primary site and Station Road is a secondary site, and anywhere else that someone is interested. There is no commitment at this time; it's simply running an RFP, setting some dates and seeing if there is interest and in generating some revenue for the Town. His goal would be to know what that is by the time the Council moves the budget to the Budgetary Town Meeting, so they can factor that into tax impact.

MOTION by Councilor Bandazian that the Bedford Town Council authorize the Town Manager to issue a RFP for photovoltaic solutions on Town owned land. Seconded by Councilor Stevens. Vote taken – Motion Passed – 7-0.

5. Other New Business – None.

6. OLD BUSINESS

a. Telecommunications Subcommittee recommendation for facilities on Town property

Chairman Duschatko read the following memo with the recommendation from the Telecommunications Subcommittee.

Memorandum

*To: Town Council
From Bill Duschatko, Chairman*

In regards to the question on how to proceed with requests to use Town owned land for wireless telecommunication facilities, the subcommittee made the following recommendation at their meeting of September 20, 2018:

The Committee recommends that proposals for wireless telecommunication facilities on Town owned land be considered on a case by case basis following a public hearing where abutters to the project have been notified.

The intent of this recommendation was to allow the acceptance of applications for the construction of cell towers on Town owned property, with a public hearing, prior to the approval lease terms. Since Zoning and Planning procedures regarding cell tower construction require a lease or land purchase agreement to be in place, this requirement would occur prior to other required Zoning and Planning hearings.

Mr. Sawyer explained that this was only the recommendation on what to do on Town owned land. It's not the full report of the Committee on any other matters dealing with potential Zoning amendments or other changes in policy or procedures.

Chairman Duschatko stated that this was their primary purpose. The secondary purpose was to look at changes and those changes are based on some changes of the FCC rulings and acts that just came in September. They have an appeal process towards the end of December, so they decided it was premature to get into anything substantial on that until they have a better understanding from D.C.

Councilor Stevens wanted to know if the Telecommunications Subcommittee reviewed the new version of the memo after it was rewritten from what was read at the October 24th meeting. Chairman Duschatko responded no.

Councilor Stevens wanted to know if the Subcommittee reviewed the rewording of the recommendation. Chairman Duschatko stated that they didn't. It went back through to Rick, Dawn and himself and went through the minutes and cleared it up.

Councilor Bandazian wanted to know if the Council followed the recommendation would they be anticipating a public hearing before there is interest in a location. Mr. Sawyer stated that it would be up to the Council whether to adopt it as their policy or not. Councilor Bandazian stated that if they were to do it, they would expect that there is interest in a location and wanted to clarify that the outcome would be a public hearing on that location. Mr. Sawyer stated that was correct. The Council would hold a public hearing before anything else were to take place. Chairman Duschatko thought if they had two or three applications they would take them in order.

Councilor Murphy wanted to know if there was a Federal Law that prohibits considering abutter objections in determining whether to grant or deny. Mr. Sawyer stated that it would be a decision whether the Council wants to allow construction on Town land or not. It has nothing to do with the FCC regulations in any way. Councilor Murphy stated

that there was a regulation once they get to zoning. She wanted to know if a lawyer for a cell phone company could argue that by teeing up a public hearing prior to sending it to zoning or planning, it would be doing exactly that in stacking up negative public opinion to influence a potential vote at a quasi-judicial committee level. Chairman Duschatko stated that the subcommittee discussed it and thought that it was a possibility, but thought in this case but because of the nature of the ownership that the abutters would be given the right to have input. Councilor Murphy stated that she wouldn't vote to adopt it as an official policy, because she didn't feel she would be doing her job as a Councilor if she left the Town exposed to potential legal liability. Mr. Sawyer stated that they could get the Town attorney's recommendation. The attorney on the Telecommunications Subcommittee who represents a number of carriers said that this had nothing to do with the FCC requirements whatsoever. It's purely an owner trying to make a decision about how to use the property and it comes before they put on that overlay of any Federal, State or local requirements.

Councilor Gilbert was confused, because it says, 'case by case' and that's how they do it anyway, so it's kind of redundant. He wanted to know if the recommendation is saying that the Town Council would make a determination whether they send it off to Planning and Zoning. Chairman Duschatko stated no. They could agree or disagree as to whether they would lease a portion of the property to the applicant and what the terms would be, because they have to have those terms and a lease in place or an agreement to lease before they could make a formal application under the current regulations. Councilor Gilbert wanted to know if they just want to have a public hearing so people could voice their opinions. Chairman Duschatko stated that's what it accomplishes. Councilor Gilbert stated that it's going to forward to Zoning or Planning no matter what. The response was no. Councilor Bandazian stated that the Council could say they choose not to lease the property. Councilor Gilbert stated that they are injecting that decision point into the process. Chairman Duschatko explained that this all occurred, because in past history the Town Managers had acted upon their own discretion to lease property and enter into lease agreement. Councilor Murphy didn't think it should affect this proposed policy, because it only applies to Town owned property. Mr. Sawyer stated that it happened on Town owned property. He stated that the Telecommunications Subcommittee discussed other ideas, but what they settled on was that the Town Council was the right body to make the decisions, do it on a case by case basis, and they should only do it if they've had input from abutters after they've been notified in the same manner they would for a Planning and Zoning case, using the same definition, and they would hold a public hearing. Councilor Murphy clarified that under the current practice they are considered on a case by case basis by the Town Council in a publicly noticed meeting where people can come and give comment. Councilor Bandazian stated that the leasing part is not. It has not been decided on a case by case basis. Mr. Sawyer stated that any proposal for a tower whether the Town is building it or leasing it to someone else would only be brought forward after a public hearing with abutters notified. Councilor Murphy, to be 100% clear, wanted to know if adopting the policy would create a mechanism whereby the Town Council would only be allowed to accept the application after a public hearing. Councilor Bandazian added if accepting the application means authorizing entering into lease that would form the basis of an

application before ZBA and Planning Board. Councilor Murphy read, 'The intent of this recommendation was to allow the acceptance of applications with a public hearing' and wanted to know if that meant they can't the application until there has been a public hearing. Councilor Bandazian stated yes, the land use board can't accept an application from an entity that has no interest in the land. Either it has to be the owner or the developer. Mr. Sawyer stated that this had nothing to do with the Zoning and Planning aspects of an application. It would be an application to the Council for a lease request. Councilor Murphy stated that based on the language, the Town Council could not accept an application for a lease or a purchase for a cell phone tower construction without first having a public hearing. Mr. Sawyer believed that was exactly what it says. If someone comes forward with a proposal, the Town Council won't act on it until they have held a public hearing. Councilor Murphy wanted to know the actual text of the Federal law that prohibits considering abutter testimony. Councilor Stevens thought that was only for Planning and Zoning. In this case, the policy is saying that before the Council will accept the application, they will allow for the abutters to have a say and make a decision based on the public hearing. That's her interpretation. Councilor Murphy understood, but wanted to read them both together.

Peter Sullivan, 41 Magazine Street, appreciated the work the Telecommunications Subcommittee has done. He thought it was fantastic that the general public is given one more opportunity to weigh in on any plans that the Town might be entertaining. He saw it as the Town being a good neighbor and the considerate thing to do.

Councilor Murphy quoted 47 US Code 332, subsection 7(b) 4, 'No State or local government or instrumentality thereof may regulate the placement, construction, modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions due to the extent that such facilities comply with the Commission's regulations concerning such admissions.' It didn't appear to conflict with the proposed policy, so she doesn't have an issue with it.

MOTION by Councilor Murphy that the Bedford Town Council adopt the recommendation of the Telecommunications Subcommittee. Seconded by Councilor Stevens.

Councilor Greazzo wanted to know if it was necessary to create a policy. It was noted that the moratorium had expired and the Council did not extend it. Councilor Bandazian explained that the reason to have a policy is in the absence of a policy it was done unilaterally without the Council's knowledge. This would be a safeguard for the Council and the abutters.

Vote taken – Motion Passed – 6-0-1 (Rombeau recused herself from the vote).

b. PFAS Update

Mr. Sawyer stated that work continues on the Back River Road project. The contractor is at about 90% complete. Back River Road and Smith Road received base pavement and will receive its wearing course next year. They are continuing to work on Green Meadow Road for as long as the weather will allow. He didn't have any update that work had started on South River Road and he's concerned that it won't start given the weather that's moving in. The first 30 homes were connected and have water running about a week ago and will have a total of 50 homes by the end of the week.

c. Town Council Retreat Updates

Chairman Duschatko mentioned that the proposals for the Document Management RFP have been received. The committee will review them.

d. Other Old Business – None.

7. APPROVAL OF MINUTES

a. Public Session – October 24, 2018

MOTION by Councilor Bandazian that the Bedford Town Council approve the minutes of the October 24, 2018 Public Session. Seconded by Councilor Stevens. Vote taken – Motion Passed – 7-0.

b. Non-Public Session – October 24, 2018

MOTION by Councilor Bandazian that the Bedford Town Council approve the minutes of the October 24, 2018 Non-Public Session. Seconded by Councilor Murphy. Vote taken – Motion Passed – 7-0.

8. TOWN MANAGER REPORT

- 1) At the 2018 New Hampshire Association of Broadcasters "Granite Mikes Awards" WBNH was honored with five awards including 1st place for play-by-play, and best LP-FM montage. Congratulations to Station Manager Harry Kozlowski, Loren Foxx, Andrew Hansen, and the entire WBNH team for this recognition of their hard work.
- 2) We had 11,055 ballots cast which represents 61.8% of our 17,890 registered voters at the November 6, 2018 general election. The Supervisors of the Checklist registered 555 new people at the polls. Over 1,800 absentee ballots were requested and 1,612 were returned. The large number of absentee ballots represents a lot of extra work for our Town Clerk and her team in the weeks leading up to the election. I truly want to thank the Town Clerk, Deputy Town Clerk, and Supervisors of the Checklist for all of the long hours they put into this and every election. The parking and traffic issues experienced in the morning hours of the election will be reviewed with the Moderator, Town Clerk, Police Department, and DPW to see what improvements can be made in the future. I appreciate all the efforts that were made on Election Day to make changes on the fly to improve conditions.

- 3) The Bedford Winter Parking Ban began on November 1st, which requires no parking on public roads between midnight and 8 AM.
- 4) November 19th – December 17th Santa's Mailbox will be available in the lobby of the Town Office Building, 24 North Amherst Road for Express Mail to the North Pole. Santa's helpers have asked that you be sure to print your name and address clearly on your letter.
- 5) The Tax Rate has been set at \$20.40 up from \$18.91 (+\$1.49 or 7.9%). The Town portion is up to \$4.54 from \$4.13. Tax bills have been mailed with a December 3rd due date.
- 6) November 17th – Friends of the Library Annual Pie Sale 10:00 AM to Noon. Proceeds go to support the Library's Technology Fund.
- 7) November 17th – Bedford Boomers Lionel Model Railroad Exhibit at the Library 10:00 AM to 3:00 PM, again on the 18th from 1:00 to 5:00 PM in celebration of National Model Railroad Month.
- 8) November 22-23 – Thanksgiving Holiday, Town Office, Library, Transfer Station closed. The Library closes at 5 PM on the 21st.
- 9) On National Drug Take Back Day – Saturday, October 27th, Bedford diverted 300 pounds of unused medications from falling into the wrong hands and our environment.
- 10) I want to thank Planning Director Rebecca Hebert, her entire planning team, the Think Tank members, and members of the public who participated in the Master Plan Update Planapalooza events that took place over the first 5 days of November. The information and conversations were all really helpful to completing a plan that I believe the whole community will be proud of. I also want to thank the Bedford Village Inn and Noah's Event Center for the donation of their facilities to this effort.

9. COUNCILOR COMMENTS AND COMMITTEE UPDATES

Councilor Stevens wished luck to the Bedford Bulldogs Cheer who will be cheering in the regional competition on Saturday in Manchester. For the first time, the Bedford U10 Football team will be competing in the regionals in Nashua on Sunday. She wished everyone a Happy Thanksgiving. Have fun with your family and friends, drive safe and enjoy the holiday and don't speed.

Councilor Gilbert stated that the Bedford Men's Club will be selling Christmas trees in the Bedford Village Shoppes parking lot starting Saturday, November 24th and will sell until they sell out, December 22nd at the latest.

Councilor Murphy mentioned that the Men's Club does a lot more than the community is aware of. Not only do they fund scholarships and donate to local organizations, but they also help less fortunate people out behind the scenes and don't want to be recognized for it publicly and don't want credit for it. All of the money from the Christmas tree sales goes to fund community endeavors. She hopes everyone has a happy and safe Thanksgiving.

Chairman Duschatko stated that on Saturday, the 24th, is National Small Business Purchasing Saturday. So start looking at your local shops and if you can, make some of your Christmas purchases at their places. He wished everyone a happy and safe Thanksgiving and drive carefully in the upcoming weather and in the future in the winter.

10. NON-PUBLIC – RSA 91-A:3 (if necessary)

11. ADJOURNMENT

MOTION by Councilor Gilbert to adjourn. Seconded by Councilor Murphy. Vote taken – Motion Passed – 7-0.

The public meeting ended at 8:05 PM.

Respectfully submitted,

Dawn Boufford