

TOWN OF MILLVILLE
BOARD OF SELECTMEN
MINUTES OF MEETING
MAY 18, 2015 – 7:00 P.M.

Board Members Present: Chairman Roland Barrett; Vice Chairman Joseph Rapoza; Secretary Jennifer Dean Wing; Members Robert Baker and John Laura

Others Present: Executive Secretary Helen Coffin

Chairman Barrett opens the meeting at 7:00 p.m. with the Pledge of Allegiance.

ANNOUNCEMENTS

The Board wants everyone to know they are invited to the Memorial Day Parade this coming Monday and thank you to all veterans, active and inactive, for their service.

APPROVAL OF MINUTES

May 4, 2015 – 6:30 p.m.

On a motion by Baker and second by Wing, the Board votes unanimously to approve and sign the Minutes of May 4, 2015 at 6:30 p.m. {Laura abstains}

May 4, 2015 – 7:00 p.m.

On a motion by Laura and second by Baker, the Board votes unanimously to approve and sign the Minutes of May 4, 2015 at 7:00 p.m.

May 5, 2015 – 8:00 p.m.

On a motion by Rapoza and second by Laura, the Board votes unanimously to approve and sign the Minutes of May 5, 2015 at 8:00 p.m.

May 11, 2015 – 6:30 p.m.

On a motion by Laura and second by Rapoza, the Board votes unanimously to approve and sign the Minutes of May 11, 2015 at 6:30 p.m. {Baker abstains}

APPROVAL OF WARRANTS

On a motion by Baker and second by Laura, the Board votes unanimously to approve and sign the Warrants as prepared and read.

TOWN BOARDS/OFFICIALS None Scheduled.

RECONSIDERATIONS

Chairman Barrett advises that he has a few reconsiderations he would like to bring forward. Over the past couple of weeks he has reviewed information in connection with the Green Energy grant, including an email from the IRS and information from the grant administrators at the state, and he would like the Board to reconsider the following votes taken on May 4th: (1) approval of an ethics exemption form for an employee; (2) approval of ethics disclosure form for an employee; (3) authorization for Chair to sign a Green Energy voucher; and (4) dissolving the Board's Agreement with the Executive Secretary.

Motion is made by Barrett with a second by Baker, asking that the Board reconsider the vote taken on May 4, 2015 regarding the approval of an exemption form for Trish Benoit-Rudden.

Baker clarifies that these reconsiderations come in light of new information that the Board didn't have that evening. Barrett explains that he specifically asked if a clear go ahead from all state/federal departments had been received on this matter, and the answer received was Yes, but, in fact, this was not the case. He would like the Board to discuss this matter and re-vote. Wing questions if Barrett has documentation for the Board's review. Barrett states that he has the forms he signed and he does not want his name on them with the information he now knows. He has spoken with Town Counsel, Gary Brackett, and has received direction from him on how to proceed with this matter legally. Barrett regrets not asking for this information two weeks ago but he believed in what he was told. For the record, Barrett states that it is not the intent to deny Trish the pay that she has worked for, he just wants to be sure it is processed per state/federal standards. He does not want his name involved in an audit.

Barrett calls for a vote: Motion Passes Unanimously {Rapoza abstains}

The issue he has with the exemption form is that he has nothing from Ethics backing up what is stated in the letter from Trish Benoit-Rudden. He has no doubt that what Trish has stated is accurate but he would like a copy of the Ethics letter for the file. If this is part of an audit, the auditors will want to see the backup documentation received from Ethics. If Ethics states that we are exempt from this law because of the population, he has no problem signing it but he does not have anything in writing stating that everything is in good order. Rapoza advises there is an email from Ethics which speaks to the small town exemption. Barrett states that if a letter can be produced from Ethics stating this is okay and all is good that's fine; however, the Board must remember that although Ethics states one thing is good, if the IRS says No, and this involves a payroll or money issue, then it will be No.

Laura is not comfortable voting for something without all the documents in order.

Rapoza would like to see the IRS statute precluding the issuance of a 1099.

Wing feels all three of the items are related and would like to see all the information comprehensively. She would like to decipher the information in order to make an educated decision. She prefers to table this matter until all documentation is produced so she can see the whole picture.

Baker states that the Board voted without seeing the documentation and it felt uncomfortable.

Laura does not feel comfortable voting on something if there is missing paperwork. He specifically asked Mr. Rapoza three times if all paperwork was in order and he was told, Yes.

Wing recalls that Trish stated that she had spoken with her own accountant regarding how it would affect tax returns and everything seemed to be on the up and up. The Board just needs to make sure that nothing supersedes one another for the sake of the grant and Trish.

Barrett agrees. He wants to get Trish her money and keep the Town out of trouble. He is only doing what he was elected to do and he is not singling out a person or a group.

Wing prefers to see the entire puzzle...she feels the Board is being asked to do the same thing as two weeks ago - voting on something without seeing all the information.

Laura states that this is why Marilyn put the red flag up and told Helen she wouldn't process the voucher.

Barrett states that Marilyn threw the flag on the field and Helen delivered the message. Wing feels the Board should be made aware of the statutes and laws otherwise they are in the dark. Again, she feels these three are all related and she needs to see Marilyn's piece and what her issue was. Rapoza states that there was no specific statute cited and that contractors receive 1099 forms all the time.

Barrett shares hard copies of the email from the IRS. Barrett reads out loud the email from the IRS which provides examples as to why a full-time employee receiving a W-2 cannot also be paid as an outside contractor via a 1099. He further explains that because Trish does the same type of work as Police Clerk, she would need to receive the pay as an employee (via W-2)...she would still get paid but just not by a 1099.

Wing states that the email says it is acceptable but rare, and should be well considered. Barrett comments that it is rare because the job descriptions need to be different. If it is the same type of work, it has to be the same type of pay.

Baker feels that when the Town Accountant raises the flag, then passes it by the IRS to back it up, the Board should do the right thing.

Rapoza indicates that there is also an ethics issue because in order to do it that way they would need to fabricate hours at a rate of pay. How do you go back months? He will not put himself in a position to fabricate hours. Barrett feels the Committee and Trish should have been tracking hours all along.

Barrett refers to an email from the Department of Energy Resources and a copy of the Green Energy grant award. The language clearly states that no hours or obligations should be incurred prior to the effective date which was March 24th. He cautions the Board that if the paperwork isn't submitted accurately and it fails the initial audit at DOER, the Town won't receive its remaining 75% of the grant. Further, this will put a black mark on the Town for future grants. If the state sees that we mishandled the grant, they won't consider us for future grants. When the grant people and IRS are indicating too many gray areas, he cannot put the Town in jeopardy for future grants down the road, or in jeopardy of IRS or DOR audits.

Rapoza questions why this information wasn't shared with him. Barrett states he is reading directly from the grant award and it was shared with the Green Community Committee. The email was sent to

Trish. He reiterates that he is not trying to stop Trish from getting paid. The Town appreciates the work done to get the grant; they did everything right to get the grant, now everything should be done right to distribute the money.

Baker feels that everything should be put together so the Board can make an educated decision. Barrett had hoped this could have happened this afternoon; however, the conference call was cancelled 10 minutes before 4:00.

Rapoza states that the issue with the voucher, in his view, was that it took four days before he learned it wouldn't be accepted...this wouldn't be accepted in a management situation. What could have been done to work through that at that time? They lost four days. When that happened all hell broke loose all over the place.

Laura states that Marilyn told Helen she wasn't going to cut the check because there were too many red flags. He can see where Roland and Helen are coming from with this situation. Barrett states that Helen and Marilyn were only doing their jobs. The work being done on the Green Community grant is awesome and there is more money available to do more. However, when Marilyn saw issues with the voucher she threw a flag on the field and stopped the play. At the last meeting the Board voted on this only because when asked if all documents were in order, they were told they were, but they really weren't. The IRS had concerns and there are emails that say it isn't in order.

Laura feels that with the way this is going, the fact that there is documentation needed, the conference call that didn't happen, it leaves everything still up in the air.

On a motion by Laura and second by Baker, the Board votes unanimously to reconsider all three votes taken on May 4, 2015: the exemption form, the disclosure form, and the voucher for Trish Benoit-Rudden. {Rapoza abstains}

Wing prefers to hold action until the Board is further educated. Laura reminds all that Barrett wants his name removed from the documents. Wing would like to see a meeting scheduled to address the matter sooner rather than later. Barrett indicates that we are waiting to hear back from the state.

On a motion by Laura and second by Baker, the Board votes unanimously to rescind the three votes taken on May 4, 2015 regarding: the exemption form, the disclosure form, and the voucher for Trish Benoit-Rudden. {Rapoza abstains}

Les Davis, 8 Quaker Street. He understands exactly where the Chairman is coming from but he finds it confusing. He suggests that the Board identify the specific documentation that is required. Barrett replies that for the exemption form he needs the letter from Ethics and since the disclosure is tied to the exemption, there is really nothing more needed for that. The voucher is the one that needs documentation from the grant administrators and the IRS indicating exactly how it should be done.

Barrett would also like the Board to reconsider the vote taken to dissolve the Executive Secretary's employment contract. At the May 4th meeting Mr. Rapoza expressed his concerns regarding Town governance and made the motion to dissolve the contract. He doesn't dispute that the Town is at a place where it needs to move forward. Coffin suggested back in February it would be a benefit to the Town to bring on a Town Administrator, and she offered to step down and move to the front desk. The Board spoke with the Finance Committee regarding her proposal and it was uncertain as to how effective it would be with little to no money to throw at it. It was decided to work on it during the year

and address it in next year's budget. There wasn't enough time to make it happen with the limited funding available.

To his surprise, at the last Selectmen's meeting the motion to dissolve the contract was made. He feels Coffin is being penalized for doing her job. Why should the Board dissolve the contract which is basically firing someone? In the proposal, Coffin indicated she would assist with the job description and assist with a smooth transition, along with take a decrease in pay. He can't believe Coffin didn't walk out on May 4th but being the professional and conscientious person she is, she stayed to be sure stuff in Town gets done. He feels this was an irresponsible move by the Board and he would like to open it back up for reconsideration.

Baker reminds all that a performance review was done earlier that evening and she scored above average. Wing states that the high and low scores weren't dropped. Barrett replies that it has never been done that way in Town and there are no scores dropped for other employees. Laura has never done them that way either. Barrett feels the situation was handled wrong. Wing replies that is Barrett's opinion and her interpretation of what happened that night is different. The discussion was had before during budget meetings. The vote had nothing to do with performance or personality...it had to do with the Town moving forward and a fundamental direction of where the Board wants to see the Town going. Baker states it felt personal to him.

Wing indicates that in the Finance Committee Meetings she indicated she would not pay her what she wanted to be a secretary. Barrett explains that would be worked out when the time came but the discussion was that the Board would come up with a job description, hire a new person, move Coffin out to the desk and agree upon pay...that was the proposal. He has morals and couldn't sleep because it was wrong. He would like to see the plan move forward professionally but he has reviewed the meeting tape and it looked vindictive. Baker doesn't feel it should have been done in that manner and it felt wrong. Wing states that change is difficult but it was not spirited that way.

Laura questions if Barrett and Wing were legally sworn in on May 4th. Barrett indicates he was sworn in on May 5th and Wing on May 6th. Wing does not recall and feels that is another issue to address later.

Baker is open for conversation on this matter and would like to see a Plan A and Plan B to have a better understanding on where the Board is going with this plan to move forward.

Barrett advises that the next budget season starts in six months. The Board would need to have a job description and plan ready so the Finance Committee can fund it within the budget, and he wouldn't remove the Executive Secretary before that time. It is still unclear where the money is coming from. The Board needs a plan first...you don't start something without a plan. Once there is a prospect or person for the job then at that point the Board can terminate the contract with the Executive Secretary. The Town doesn't have a lot of money.

Wing believes the contract is structured so the Board could get things done, interviewing and fill spots. It can be done within 90 days and it has been done in the past. The Board would only need to take the vote to do it again.

Barrett would rather have 6 months to work on it, and then give 90 days when a plan is in place. Wing feels this eases Barrett's conscience and he was caught off guard but it doesn't change where the Town

wants to go. Barrett indicates that by dissolving the contract Coffin can leave anytime. Wing states there are other resources the Town could tap into. Barrett believes it should be done professionally.

Laura adds that the Board should follow steps in moving forward. Removing Coffin now leaves the Town wide open and he is not comfortable with the way this is going - there should be a transition period involved.

Wing reminds all that the contract allows Coffin to give a 30-day notice anytime. She questions when the Board would like to give a 90-day notice. Barrett states it should be 90 days from when a plan is in place. Wing feels this is simply to ease his conscience and it can be done if the Board is willing to work at it.

Comments come from resident Tom Houle from the audience alleging that the Chairman is bullying. Chairman Barrett requests Mr. Houle be removed from the meeting by a Police Officer.

Barrett advises the floor is open for public discussion:

Norman Thuot, 25 Ironstone Street. He reviewed the Minutes of the Meeting and he has a copy of the employment contract. He agrees with Barrett wholeheartedly. The Town doesn't have an Executive Secretary right now - she is working without a contract for the Town. Mr. Barrett is correct that she could have walked out and left the Town hanging. Rapoza made the motion and nowhere did the Board give her notice whatsoever ... not a 90-day notice, not any notice. He believes the Board should do what Barrett has stated. The Executive Secretary's contract states that she receives a 90-day notice. The Board did not give her notice, the Board voted to dissolve the contract. In order to make this legal, that motion should have been made to give the Executive Secretary 90 days under terms of the contract, at which time the contract may be terminated. He questions Barrett if he consulted with Town Counsel on this matter. Barrett replies he did speak with Town Counsel and Town Counsel provided the motion. Mr. Thuot adds that he has worked with the Executive Secretary on numerous occasions on projects that have required a great deal of time. She puts in many late hours for the Town and he questions if the Board will find someone to put in those hours and what salary. He agrees that the Board should have a plan and then provide a 90-day notice. He feels the Board is lucky Coffin didn't walk out and the Board needs to start thinking in a more rational manner and come to a conclusion that satisfies the legalities of the contract.

Barrett understood the contract the same way and that is why he questioned the motion.

Wing feels there was enough discussion during the meeting and that the secretary was given the 90-days notice although she understands it wasn't in the form of a motion. Wing questions Mr. Thuot if he read the Minutes of the Meeting prior to this evening, to which he replied that he did not.

On a motion by Barrett and second by Laura the Board votes by majority to reconsider the vote to dissolve the Executive Secretary's contract. {Wing, nay; Rapoza, nay}

Norman Thuot clarifies that the Board just made a motion to reconsider and not a motion to rescind.

Resident Les Davis states that the Board has to make a decision on where it wants to go. The Board could hire another Executive Secretary, a weak Town Administrator, or a strong Town Administrator (one with more authority). Somebody needs to be hired who is not from this community, who is educated and willing to move the town forward. The Town may need to hire a young, inexperienced

Town Administrator who is willing to learn in order to move forward but the Town can't sit stagnant as it has for the past 27 years. It needs someone capable of extended responsibilities. He encourages the Board to lay out a plan, set a date to notify of termination of contract and prepare a job description. As soon as Coffin is put on notice, the Board will have to move because it won't have much time.

Barrett believes this started with the Green Energy voucher issue. It had been agreed on in the Finance Committee meetings to move forward with this during the next fiscal year so we could set money aside and have a plan in place. Then all of a sudden, when the voucher issue arose, frustration arose, Paul Ouellette and Tom Houle started attending the meetings. In a professional world, the Board ranks zero for performance at the last meeting.

Resident Paul Ouellette states from the audience that Baker cannot vote on the motion because he did not vote during the first vote taken.

Motion is made by Barrett and seconded by Laura to reinstate the Executive Secretary's contract until a plan is made, and then discuss a professional dissolution of the contract.

Laura agrees there needs to be a plan and have certain things in place. He cannot work like that and he is not comfortable without a plan in place. Going forward the Board can prepare a job description.

Rapoza would like the Board to set objectives and a timeline right now.

Wing feels 90 days is a workable timeframe. She stands by her vote and doesn't agree with the reasons Barrett thinks the vote was taken. She thinks it can be done...that is her personal opinion.

Baker states he doesn't know enough about the position of Town Administrator. What does a strong Town Administrator get for a salary? Wing has done a little work on this and the pay rate is anywhere between \$60,000 - \$100,000+. Ultimately, it's what this Board decides upon.

Barrett calls for a vote: Motion Fails (2/2). {Wing, nay; Rapoza, nay; Baker abstains}

Resident Les Davis states that what he has seen from May 4th and tonight displeases him. The Board is not working together at all. The Board must think of the Town first, think about what you can do and how to go about doing it. The Board needs to work out how to do something and tonight's vote is indication that the Board is not doing that. There were questions raised about the legality of the vote taken on May 4th as far it concerns the way the contract was terminated or dissolved. Do it the right way...one week or two weeks won't kill somebody. You don't have to be steadfast in your positions...please, for the take of the town, compromise, not for your position or your opinion.

Barrett announces that neither he nor Wing was sworn in on May 4, 2015 and since Baker abstained, the original vote taken was not valid. Therefore, he believes all votes from April 7th to May 4th will need to be rescinded and the votes retaken. Barrett was not informed by the Town Clerk until May 5th that he was in violation. Wing was given different information in previous years for different positions that didn't make her think she had to come down.

Barrett declares discussion on the floor is closed.

Motion by Barrett to rescind and revote all the votes taken from April 7th – May 4th.

Wing would prefer to find out where the Board stands legally on this matter.

On an amended motion by Barrett and second by Laura the Board votes unanimously to consult with Town Counsel on how to go about fixing the votes taken from April 7th – May 4th.

FIRST PUBLIC FORUM

Gerry Finn, 47 Grove Street. Mr. Finn is representing St. Augustine's Parish. They are looking to have asphalt paving done at the entrance to the church along the sidewalk. The winter caused problems with the sidewalk and the contractor needs clarity on where the Town property ends and where the church property begins. The church is attempting to provide easier access to the church. Barrett advises this falls under the authority of the Highway Surveyor. The Board has no objections.

Scott Shea, 71 Central Street. Mr. Shea advises that he saved one of the dogs referred to at the last meeting. He wasn't able to make the meeting but has watched the video. He feels the Board was lied to by the Animal Control Officer, Gary Fagan. He was told by Mr. Fagan that he could claim the dog after 7 days. He went to the kennel to check on the dog and found the kennel to be disgusting and he was disrespected by the owner who was beyond rude. Clark's Kennel in Northbridge was willing to hold the dog for the remainder of the 7 days but the Animal Control Officer advised him that the dog couldn't be moved. He was told he could pick-up the dog on Tuesday morning; however, on Monday evening he was told the kennel had taken care of them because they had health problems. He was told the dogs were unadoptable. The kennel then informed him the dogs were adopted by a private party. He had already purchased dog supplies. The conditions of the kennel were deplorable. He called Clark's in Northbridge and they were told the dogs went to a breed rescue. He has concerns regarding the accountability of the Animal Control Officer. He was told five different stories. There is no credibility to Mr. Fagan's statements. He questions why the Town is still doing business with the kennel and recommends looking elsewhere. He wouldn't bring any strays there. He was also told they were taken to be spayed/neutered...this isn't the Town's responsibility. Further, he recalls the male dog already appeared to be neutered. He requests the Board address three issues: (1) Where are the dogs now? (2) Look into finding another kennel; and (3) Enforce accountability of the Animal Control Officer who has lied.

Laura agrees the Board needs to address the kennel issue as he feels Mr. Shea has legitimate concerns.

EXECUTIVE SECRETARY REPORT

Reminder that Town offices are closed on Monday in observance of Memorial Day.

Reminder that the Board has interviews with two law firms Tuesday evening, 6:00 & 7:00. Baker and Barrett cannot attend.

The Board of Health has voted to support the Central Mass Mosquito Budget for the Town and the Form requires signature of the Chief Executive Officer or his designee.

On a motion Rapoza and second by Laura the Board votes unanimously to authorize the Chairman to sign the Form for the FY16 Mosquito Budget.

OLD BUSINESS

Brown Bear Circle. The Planning Board obtained an estimate from an engineering firm for the

evaluation of the drainage issue previously addressed in a joint meeting between the Boards. The Highway Surveyor was unable to attend this evening. Wing is scheduled to meet with him and will check on this matter. Executive Secretary questions if he is willing to fund the remaining portion of the evaluation from his budget, or if the Board will need to request a Reserve Fund Transfer from the Finance Committee.

NEW BUSINESS

Toll Day Request. A request was submitted by the Friends of the Library for a Toll Day to be held on May 30th. This has not yet been approved by the Chief of Police/Fire or Highway. The Board’s vote should be contingent on this approvals.

On a motion by Rapoza and second by Barrett, the Board votes unanimously to approve the Toll Day Request contingent upon the approvals of Police, Fire and Highway.

MEMBERS FORUM

Selectman Wing. She would like to schedule a meeting to start the process of hiring a Town Administrator. There are things that need to be clarified. The Board decided to schedule this meeting for 6:00 p.m. on June 1st.

Executive Secretary reminds the Board that had her proposal been accepted during budget season, she would have submitted the necessary amendments to the Town’s Personnel Bylaws, Classification and Compensation Plan, to include the restructured positions. This will need to be addressed.

FINAL PUBLIC FORUM None.

NEXT MEETING Monday, June 1, 2015 at 7:00 p.m.

SIGNATURES The Board signs the documents voted on earlier this evening.

ADJOURN

On a motion by Laura and second by Baker, the Board votes unanimously to adjourn at 9:28 p.m.

Respectfully submitted,
Helen M. Coffin

Roland Barrett, Chairman

Joseph Rapoza, Vice Chairman

Jennifer Dean Wing, Secretary

Robert Baker

John Laura