

ASHFIELD SELECT BOARD MEETING

JUNE 13, 2012

Present: Select Board members - Doug Field, Chair; Poullette Leukhardt; Ron Coler
Administrative Assistant - Mary Fitz-Gibbon

The meeting was called to order at 7:01pm by Chair, Doug Field.

Appointments:

Fire Department: present – Del Haskins, Fire Chief

Grant application - Haskins reported that he is preparing a grant application in hopes of obtaining funding for a mini-pumper truck. If received, the grant would require a 5% match from the Town. After discussion, **a motion was made by Coler, seconded by Leukhardt, and unanimously voted to support a grant application for a mini-pumper in an amount not to exceed \$225,000.** It was agreed at the meeting that Poullette Leukhardt would contact Congressman Neal's office regarding support for the grant.

Sign – The Firefighters Association would like to donate a new sign for the department. There was some discussion about the Town's bylaw regarding signs. **A motion was made by Coler, seconded by Leukhardt, and unanimously voted, to turn the matter over to the Planning Board and Historic Commission.**

Donation: Field announced a donation from The New York Community Trust, at the suggestion of Olaf Thorp, of \$250.00 for the planting of a tree in the Town Common in memory of John Snow and Holly Smith Pedloskey.

New Business:

Select Board Ambiance - Coler began the discussion by asking his fellow Board members if they felt tension. He said he was feeling tension and he doesn't function well with tension. Field responded, "Sometimes there is ." Leukhardt was glad the question had been asked and denied an accusation of having circumvented the Open Meeting Law. Comments were made about possible unintentional violation of Open Meeting Law by members. Following a Board meeting involving a BOH issue, Coler had felt the need to explain himself to a BOH member, which he did. Leukhardt called it inappropriate – "back-door dealing." She said she has been attending BOH meetings for some time, not as a liaison or a Select Board member. Coler said he is concerned about people bringing issues to the Select Board that rightfully should be brought before other boards. He pointed out that other boards had as much or more authority to act in their areas. At this point Field called a halt to the discussion, saying all of the Board members had problems which needed to be worked on.

Standard Operating Procedures - Field brought up the matter of having standard ways for Board members to handle issues. He said the Town of Granby has a set of standard operating procedures; the Town of Ashfield does not. He will provide a copy of Granby's procedures for fellow Board members to look over. He thinks some standard procedures would be helpful.

Coler made a motion, " In the interest of providing proper oversight, and fiscal accountability, I request that the Select Board direct and authorize the Executive Administrator to work with the Town Clerk in establishing administrative operating procedures and processing forms to better manage the following: public records requests and open meeting complaints. Upon doing so, they would review such with the Board for final approval." Leukhardt was hesitant to second, as she needed more

information. Dave DeHerdt spoke up to say that there can be discussion prior to seconding of a motion where more information is needed. Coler proceeded to explain this request as process management, saying that he saw a need to know the amounts and types of requests for information that are being made, how they're being processed, and the time and cost for this to happen. It's also a way to easily follow-up on the progress being used to address requests. As a business person, he would want to be able to do this. It's also public information. He further felt there was some misunderstanding about the law among the various boards - how to respond to requests i.e. what the Public Information Act really requires. Following the explanation, Leukhardt seconded the motion. The motion passed.

Franklin County Cooperative Inspection Program (FCCIP) –Leukhardt produced a large collection of materials including original requests, blueprints, forms, and documentation with complete, comprehensive itemized lists for all materials which she had obtained from the Building Inspector's office. She said these were copies of plans and records of the Ashfield House which the Town should have copies of, but did not. Fitz-Gibbon asked if the original requests for information came from the Board. Leukhardt said she had requested them in her name as a Select Board member. Field said that these records should go into the records office, where they could be viewed during office hours.

Coler questioned why she was doing this. Leukhardt's response was that she wanted to know why it had not been possible to obtain a Certificate of Inspection for the Ashfield House for eleven months. Coler was concerned that Leukhardt might be perceived as acting as agent for the Ashfield House, which, he thought, would be a conflict of interest. In support of his position, he proceeded to read a section of MGL chapter 268A, section 17 which states in part, "... the conflict of interest law prohibits a public official from acting as an agent for anyone other than the municipality for which he or she serves in connection with any matter in which the municipality is a party..." Coler said what she had done was neat (collecting the documents), but, "Why is a member of the Select Board doing this?"

Leukhardt's response was that there was a lot he didn't know and that she had been requesting copies for a long time. She said there wouldn't be a record of this in the Select Board minutes. There have been issues going on over there for a long time. And time and time again when there has been a need to look at these documents no one in Town seemed to have them. She said the Town has hired the building inspectors and is entitled to these records.

Dave DeHerdt, saying he had promised himself he'd keep his mouth shut, commented that for there to be a conflict of Interest someone has to benefit financially. Coler seemed to be accusing Leukhardt of a conflict, but didn't say what that conflict was. DeHerdt called what was going on finger-pointing. He suggested if a legal opinion was in order, written questions should be submitted. He thought Coler's suggestion that the Board establish procedures, was a good one.

Field commented that the Board has been in contact with Town Counsel. He had just consulted Counsel about the legality of asking people to sign-in at meetings. Counsel said it was ok.

DeHerdt, a former Selectman, said he understood the tension on the Board; he had experienced it. If Coler felt the need to talk to persons following the meeting, he should do so; however, he should first obtain consent from the other Board members. That way everyone would know he was going to do it. Coler said he is open and honest; he knows he will make mistakes.

Old Business:

FCCIP (Franklin County Cooperative Inspection Program) - Field said he had followed up on a request by Joann Ostrowski to talk to Paul Tacy about becoming the Town's building inspector. Tacy, who is a building inspector, does not do plumbing, gas, or electrical inspections. At a previous meeting Jim Hawkins, the current building Inspector, presented the FRCOG 's revised three (3) year contract under which Ashfield's assessment is \$6,500/yr with a termination clause. Under the new program, once a pool of \$90,000 had been collected in surplus revenues (over and above the program's operational costs), the overage will be distributed back to member towns. Field feels the Town should stay with the FRCOG inspector program for the time being.

In reviewing the new proposed contract, Coler noticed that the \$6,500 fee was for each of the first two years only. He also said he had been asking around and has learned that the major area of concern seems to be with the on-line application process. It seems to be a bigger issue for older folks. He asked Jim Hawkins if he would be amenable to do workshops a few times a year. Coler said he supports this contract as it limits the Town's liability and if some one member of the FCCIP quits, there's still an agency behind it.

Questions were asked about when notice of what the third year assessment would be known to the town. It appears that notice of that assessment will be provided by March of the second year, which only leaves a 90 day notice period, not the required year's notice. Leukhardt suggested serving notice at the end of the first year that the Town might leave the program and then withdraw the notice if the terms turn out to be acceptable. Another suggestion offered was to ask that the notice period be reduced to 90 days.

There seemed to be some conflicting wording about the term of the contract; is it a three (3) year agreement or a one (1) year agreement that will automatically extend an additional three (3) years? Coler said that with the Board's permission he will call Jim Hawkins to inquire whether there's a typo and "gently" ask about consideration of a 90 day termination provision for those years where no fee is stated.

Dave DeHerdt said that as Town Counsel also works for FRCOG it would be best not to use her for this matter. Leukhardt saying that she liked Dave's idea said she would contact the law firm of Kopelman & Paige to inquire about the possibility of obtaining legal services, the concern being that Donna MacNicol represents both the FRCOG and the Town. Coler said that it would be good to get an estimate of the time and money involved. Fitz-Gibbon suggested that she would contact the firm instead in order to be aware of the terms of the consultation and control the costs. Leukhardt requested that any opinion be in writing.

Hampshire County Group Insurance Trust: The Board read a note from the Town's Treasurer/Collector requesting signatures from the Board indicating that the Town is not going to participate in the Hampshire County Group Insurance Trust. Fitz-Gibbon explained that under the Health Care Reform Act (MGL Chapter 32B) Ashfield, being a small town with a population under a certain number, was exempt. **A motion was made by Coler, seconded by Leukhardt, and voted, to sign the document.**

Liaison Positions: Field introduced the discussion stating that in some other towns Select Board members do not serve as liaisons to other departments within their towns. Leukhardt thought maintaining close contact with some departments was important, especially those that have Town employees: Highway, Police, Fire, and Town Office. It was agreed that this was a good practice. Field would continue with Highway, Leukhardt with Fire and Police, and Coler with Town Hall office.

Additionally, Coler will draft a letter to the remaining boards and committees asking to be kept abreast of their activities and concerns. Fitz-Gibbon noted that boards and committees are in the habit of requesting time with the Board when needed.

Coming Events:

Town Clerk is setting up an Open Meeting Training session in July. There is one that will be held in Huntington in June that several people have signed up to attend.

Field announced that on June 18th at 3:00pm there will be a Senior Volunteer Celebration at the Senior Center. Anyone interested is invited to attend.

National Night-out: On August 17th the Police Department will host "We Need You" on the Town Common. Officer Wilder, who was present, described the activities planned for the event. The purpose of this national event is to develop positive relations between the police and the Town.

Complaint of possible Open Meeting Violation: At last week's meeting a notice of complaint was delivered in front of the Board. As it appeared to a member of the Board to have been improperly filed, the Board took no action at that time. The suggestion was made that since it appeared to involve actions not done publicly, a simple way to resolve the issue would be to discuss them openly at this meeting, since the intent of the notice was to get the issue before the public. Leukhardt wanted an opinion from Kopelman & Paige (K&P); Coler was not in favor of seeking legal advice from K&P; Field said he would run it by Town Council. [The nature of the violation was not revealed.]

Ashfield House documents: Deb Nicholson had a letter which she requested be put with the rest of the Ashfield House documents. [She did not state what the contents of the letter were.] There appears to be a problem involving smoke detectors. When Field said he wanted to be informed when maintenance people arrived, Coler spoke of concern that the Select Board was jumping in where it shouldn't. Field defended the Board's involvement stating that the Fire Chief has asked for assistance. A question was asked about the Town's position when the agency hired to do inspections fails to do them.

Open meeting Regulations: Leukhardt noted that the Town of Arlington was cited with an Open Meeting violation for failure to include a list of documents acted upon with the minutes of a meeting. Note was made that only items deliberated on were required to be included.

Library: Coler said the lift at the library is finally working. He also learned that there is now mandatory inspection permitting which needs to be budgeted for going forward.

Ag Commission: Coler learned from attendance at an Ag Commission that there is a proposal for a piggery in Town. He heard concerns both for and against this. Permitting would be done through the Board of Health.

Next meeting will be posted for June 19th, to discuss the Open Meeting issue, and a regular meeting posted for June 20th.

Fitz-Gibbon reminded that a meeting to discuss three old and outstanding lawsuits is set for June 28th. It will be an executive session.

Summer Meeting Schedule: July 11, 25; August 8, 22; September 5.

Public Comment: DeHerdt raised the matter of reviewing warrants publicly. He said for a time when he was on the Board this was done. He thought this might be something to consider under Open Meeting requirements.

A motion was made, seconded, and voted to adjourn at 10:09 pm.

DOCUMENT LIST FOR JUNE 13, 2012 SELECT BOARD MEETING

Town Hall Standard Operating Procedures Proposal - Ron Coler

Letter from New York Community Trust, NY, NY #108389 - dated 5/24/2012

Hampshire County Group Insurance Trust letter – dated 4/9/2012

FCCIP Ashfield House LLC materials “Documentation List” prepared by Poullette Leukhardt – 9 pages

FCCIP Ashfield House LLC materials book prepared by Poullette Leukhardt

FCCIP Ashfield House blueprints

FRCOG Building Inspection Program (FCCIP) FY13 Contract