

MINUTES
SELECT BOARD
TOWN OF PETERBOROUGH
Tuesday, February 18, 2020 – 5:00 PM
1 Grove Street, Peterborough, New Hampshire

Present: Tyler Ward, Karen Hatcher, Bill Taylor

Also Present: Nicole MacStay, Alison Kreutz

Chair Ward opened the meeting at 5:00 PM. *Note: the Joint Select Board/Budget Committee portion of the meeting, originally scheduled to begin at 6:00 PM, was postponed due to lack of a quorum.*

Chair Ward announced that Dario Carrara had submitted his resignation from the Planning and Zoning Boards, as he will be moving from Peterborough. There will be openings on both boards as a result.

Public Hearing on Pole and Conduit Licenses

Chair Ward opened the Public Hearing on a Petition to universally amend the pole and conduit licenses that the Select Board or its agent has issued for poles and conduits in the public rights-of-way to require payment of properly assessed property taxes and notify the Town of additional attachers on the poles and conduits, as required by the New Hampshire law. The Select Board received the Petition on October 4, 2019 from Nicole MacStay. Chair Ward said he would not read the whole Petition out loud, because it is lengthy, but there are copies available to view. He invited Nicole MacStay to explain why the licenses and Agreements need to be amended.

Ms. MacStay explained that the amendments proposed are in the public good because they would change the licenses and agreements to comply with the requirements of New Hampshire law by referencing the statutory scheme which authorizes the Town to tax entities with poles and conduits in the public rights-of-way and others using the rights-of-way. Additionally, the amendments would require the license holders and those with such agreements to notify the Town of additional attachers on the poles and conduits and other users of the rights-of-way who have perhaps avoided taxation until now. Properly assessing property taxes against all entities using the public rights-of-way is required under the law and is in the public good.

The law of New Hampshire is clear at this time that licenses such as those held by License/Agreement Holders (Eversource and Consolidated Communications) are required by law to include a section requiring the licensee to pay properly assessed real and personal property taxes. Specifically, she pointed the Board to the cases of N.E. Tel. Tel. Co. v. City of Rochester, 144 N.H. 118 (1999) (“Rochester I”), Verizon New England, Inc. v. City of Rochester, 151 N.H. 263 (2004) (“Rochester II”), N.E. Tel. Tel. Co. v. City of Rochester, 156 N.H. 624 (2007) (“Rochester III”).

Additionally, RSA 72:23, I(b) currently requires that all leases or other agreements for the use or occupation of real property owned by the Town “shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date” and further requires all leases or other agreements to provide that the lessee has an obligation to pay real and personal property taxes on structures or improvements added by the lessee.”

The law also requires that if the lessee or person using or occupying the property fails to pay the duly assessed real and personal property taxes on the due date, the tax collector must notify the Town, and the Town must terminate the lease or agreement. RSA 72:23, I(c).

The Petition to the Select Board is to universally amend the licenses and other agreements it has issued for conduits or poles or water or gas pipes in the public right-of-way to include these requirements and the requirement for the licensee to notify the Town of additional attachers on the pole or conduit to confirm to the law.

Chair Ward asked about Comcast and Ms. MacStay explained they are not an attacher – they lease them from Consolidated or Eversource.

Ms. Hatcher asked if there were other attachers. Ms. MacStay answered that there were a lot, including the Town of Peterborough.

Chair Ward invited any members of the audience to speak to the issue.

Mr. Ron MacIntire asked about the amount of revenue the Town receives in property taxes related to the poles. Ms. MacStay said they receive about \$7,000 from Consolidated, and a substantially larger amount from Eversource.

Senator Jeanne Dietsch asked what specifically changed about the law. Ms. MacStay answered that there wasn't significant change, but the case law had further refined the language.

Senator Dietsch asked if the attachers now have to pay the tax, and Ms. MacStay confirmed: "Yes, like any commercial entity." The Courts have decided that they are required to pay property taxes and any such business taxes from owned property.

Senator Dietsch asked if they would pay on each attachment on each pole, and Ms. MacStay said she wasn't sure how the revenue taxes work, because the State collects them directly.

Senator Dietsch asked for confirmation that Town revenues wouldn't increase. Ms. MacStay confirmed.

Senator Jeanne Dietsch asked, "if you want to collect from Consolidated, and they need to know who is attached to their poles to collect from them, why do you need to know who is attached to their poles?" Ms. MacStay answered that it's been outlined in case law: The Public has the right to know who's operating in the Public Right of Way.

Mr. Bill Kennedy asked how reassessment was done. Ms. MacStay said it's done through regular assessment.

There was a discussion about the uses for the assessment information to benefit the Town in other projects.

Senator Dietsch said that since the Chesterfield incident, Consolidated's attitude has changed significantly regarding maps of their coverage areas.

Chair Ward asked if anyone else wished to speak on the matter. None did, so Chair Ward closed the hearing and asked if there was a motion to grant the Petition to Amend Pole Licenses.

Motion: Ms. Hatcher made a motion to grant the Petition to Amend Pole Licenses.

Vote: Mr. Taylor seconded. All in favor. Motion carried.

Lisa Rogers and Gloria Morrison (President of Food Pantry), Review of 2019 Hunger and Homelessness Awareness Week

Ms. Rodgers thanked the Select Board for providing the space for the Community Supper. There was a good turnout of about 100 people, and everything was done *gratis*. The Girl Scouts and National Honor Society from ConVal helped with set-up and clean up. Advertising was provided for free from George Sterling. Ms. Rogers said would like to make it an annual event, to be sponsored by MATS and the Food Pantry. They proposed the Saturday before Thanksgiving "to kick-off holiday season."

Ms. Hatcher asked about the impact of the event overall. Ms. Morrison said new people registered at the Food Pantry, and there were a lot of donations that came in. "It was a really nice collaboration." The movie night was not very well attended, and there was some bad weather, but "awareness was definitely raised," especially at the high school.

Ms. Rogers said Ben Putnam made ceramic bowls as thank you gift to those who were involved. MATS received more donations from usual, and the event certainly brought attention to MATS' existence. Other vendors are already showing interest in next year's event. Ms. Rogers said it could possibly be a vehicle for the Task Force, as Affordable Housing is such an issue, and needs to be addressed, or there will be more of a homeless problem.

Ms. Hatcher said the Task Force's purpose is to engage the greater community, and "the kinds of projects that can spin out of that can be myriad." She said they are staying focused on the work they're set to do, but other ideas and projects are bubbling, and people are encouraged to go out and take action.

Ms. MacStay asked if there was a regional group working on this, or if the efforts are Peterborough-centric. Ms. Rogers said it was Peterborough-centric, and she hopes towns catching on and are focusing on their respective towns: "Responsibility taken at the Town level may be more effective at making a direct difference."

Ms. MacStay said it's a broad issue, and locals employers have employees that are struggling to live here. "This is a bigger issue than just a town, and will require collaboration on a broader level to make significant change."

Ms. Rogers said she hoped we, as a town, can build on our strengths and address the solution as a town while also collaborating with surrounding communities.

Mr. Taylor said sometimes when multiple towns are included in new projects it can be difficult to get everyone in the same place at the same time, but if communities see action in a neighboring town, it can inspire them to get involved themselves.

Ms. Morrison said there are 13 towns involved in the Food Pantry, some of which have pantries in their own towns. Communication between town food pantries can help ensure resources aren't wasted.

Ms. Hatcher said that the work that is being done in the Task Force is intended to be a model, and in Antrim they just started new Community Services Committee focused on community well-being, beyond just what Human Services offer: "It's hopeful; people are paying attention."

Ms. Rogers said the event saw lots of press attention. Ms. MacStay agreed, and said there was a lot of talk about it, and it would be great to see it happening in other communities.

Ms. Hatcher said the Selectmen's Advisory Committee to the School Board has a monthly meeting, with one Select Board member from each school district town attending. She said there's an opportunity to present to that group, and "if there's a way to position it to show how it affects kids in their communities, that would be a good place to disburse that information."

Appointment of Jeff Brown to Greater Downtown TIF Advisory Board

Mr. Kennedy said Jeff Brown is an entrepreneur and has been working at businesses around Peterborough for years, and he'll be a great addition to the Downtown TIF.

Motion: Ms. Hatcher made a motion to appoint Jeff Brown to the Greater Downtown TIF Advisory Board
Vote: Mr. Taylor seconded. All in favor. Motion carried.

Eversource Request for Letter of Support for Hazard Tree Removal Program

Chair Ward said Eversource has asked the Select Board to sign a letter of support regarding the Hazard Tree Removal Program.

Mr. Kennedy said "what about the bru-ah-ha on Old Dublin Road, are we setting ourselves up for that again?" Ms. MacStay explained that, when it comes to scenic roads, Eversource is required to go through the Planning Board, and they have been good about that over the last few years. Mr. Taylor added that they also approach property owners for permission and he noticed that there's been a lot less outages on his road: "It's

pretty impressive.” Ms. MacStay said Eversource, to their credit, has done a really great job since the ice storm, and are generally very responsive. “They’ve been good partners.”

Motion: Ms. Hatcher made a motion to authorize Chair Ward to sign the Letter of Support for Hazard Tree Removal Program

Vote: Mr. Taylor seconded. All in favor. Motion carried.

Update on the NHDOT Public Meeting Regarding Routes 101 & 202 held on February 11, 2020

The NHDOT scheduled a public meeting to hear and respond to concerns that residents have raised about Route 101 and the ice problems in front of All Saints Church on Route 202/Concord Street. Mr. Taylor noted it was very well attended. Mr. Bartlett said the State will do an additional traffic analysis on the problem area of 101, and there will be a meeting in March to further address drainage issues at the Church. He explained that the issue is complicated by the 24-foot roadway classification: Even though Concord Street is a State road, the State will only take maintain a width of 24 feet (or, from white line to white line) – they won’t address issues that occur outside that boundary. He said Peterborough is not alone in this – it’s also an issue in other towns like Wolfeboro and Rye. Mr. Bartlett will be meeting with Commissioner Bill Cass to resolve the Town’s concerns about the 24-foot road designation: “It’s a perennial issue.”

Chair Ward had heard that several people were upset that it was set on Primary day.

Ms. MacStay said it was a public meeting (vs. a hearing) and was scheduled depending Commissioner Cass’s availability. NHDOT was trying to be responsive, especially regarding Route 202 icing issue.

Mr. Taylor asked if the portion of Route 101 to be evaluated starts at blinking light (at the intersection of Route 123 & 101) and goes down to first intersection. Ms. MacStay confirmed. Mr. Taylor said the original petition was to reduce the limit starting at the top of Temple Mountain, which “didn’t fly.”

There was a discussion about the potential to have the light blink only if a car was in the intersection.

Ms. MacStay said sight lines are still a problem and need to be improved, but that can only be done with the approval and cooperation of abutters.

Mr. Kennedy asked if there was discussion of speed monitoring signs, or if it was the town’s responsibility.

Ms. MacStay said it was the State’s responsibility.

Ms. Hatcher noted there are many of older drivers and younger, inexperienced drivers at that intersection, depending on the time of day.

There was a discussion about why speeding was an issue on that particular stretch, and the need to make drivers more aware of traffic turning and entering.

Review and Approval of the Minutes of the January 28th 2020 Joint Select Board Budget Committee Meeting

Motion: Ms. Hatcher made a motion to Approve the Minutes of the January 28th, 2020 Joint Select Board Budget Committee Meeting

Vote: Mr. Ward seconded. All in favor. Motion carried.

Discussion about Letter from DRA Regarding Equalization

Chair Ward said the letter from the DRA for Tax Year 2019, was “very interesting.” *Note: The letter explained that the DRA had determined the median ratio for properties in Peterborough to be 92.1% and the overall equalization assessment was 92.4%.*

Ms. MacStay said the tax rate may go down as assessments go up, but equalization ratio indicates we’re undervaluing compared to sales. There is a proposed statistical update in the fall to be completed before the tax bill goes out.

Ms. Hatcher said the housing market is so tight because there’s “just no supply...It’s a seller’s market, and until we add more stock, it’s going to keep happening.”

Bill Taylor said another revaluation seems premature as the Town-wide revaluation was just done in 2018.

The discussion turned the budget and tax rate. Ms. Hatcher noted that there was not a lot of stuff on the warrant, which is good. Ms. MacStay agreed and said the budget responsible.

Mr. Taylor said he felt there was still room in the Budget. Ms. MacStay said Ms. Smith has been very thorough, and had recently found some savings which would be reviewed when everyone was in the same room. She added it would be hard to reduce the Budget further without effecting service.

Chair Ward made a motion to adjourn the meeting at 6:04 PM. Ms. Hatcher seconded. All in favor. Motion carried.

Respectfully Submitted,
Alison Kreutz, Department Assistant

PETERBOROUGH
SELECT BOARD:



Tyler Ward



Karen Hatcher



Bill Taylor

ACTION ITEM PENDING LIST

- 1.