

December 3, 2009
Town of Tamworth
Board of Selectmen Meeting

Members present Tom Abugelis, William Farnum, and John Roberts

Others present Administrative Asst. Cassandra Pearce, Road Agent Bruce Robinson, Police Chief Dan Poirier, Susan Ticehurst, Ruth Timechet, David Haskell, Nancy Russell, Chris Vernon, Jim Bowles, David Bowles, Scott Finman and other members of the public.

Chairman Abugelis opened the meeting at 4:00 p.m. with a review of the agenda.

Department Heads

Highway Dept. Mr. Robinson advised snow has not come to us yet, but the highway department has been working on picking up trees that have come down. Mr. Robinson advised he received two driveway permits for the Turkey Street properties that the Board inquired about a few weeks ago. Further, he advised the map being presented is a little different than what was originally proposed. Mr. Roberts inquired if Mr. Robinson had attended the salt meeting a few weeks ago at Runnell's hall? Mr. Robinson advised he did not attend the meeting but did supply Tamworth's information to them for comparison.

Police Dept. The Board reviewed the stats of November with Chief Poirier and inquired about the animal control budget advising that there is only \$170 left in that budget for the year. Chief Poirier discussed the continuing investigation of burglaries taking place and again praised the Ossipee and Madison police departments for the great job they have done on the investigations.

Chief Poirier presented a resignation of Sergeant Varney. With regrets, *John Roberts moved and William Farnum supported to accept the resignation of Sergeant Varney from the Tamworth Police Department effective 12/31/09. Vote was unanimous. The motion passed.*

The Board requested Chief Poirier move forward with placing an advertisement out to replace Sergeant Varney.

Administrative Matters

1. Appointment request of a Library Trustee – The Board received a request from the Cook Memorial librarian who recommended the Board replace a trustee on the Library Board with an individual from South Tamworth. The Board decided they would like to have the recommendation from the Trustees or receive a copy of the minutes in which this decision was made. Mr. Abugelis will be attending the next meeting and will bring this information to their attention.
2. Driveway application 215 – 017 & 215-018. The Board reviewed the driveway permits presented for map 215 lots 017 & 018. It was unclear to the Board whether the property will be utilized as a residential or commercial property. The Board requested that information be determined for discussion at the next meeting.
3. Forest Fire Wardens – *Mr. Farnum moved and Mr. Roberts supported to accept the listing of reappointments of forest fire wardens as presented for the Town. Vote was unanimous. Motion passed.*
4. Forest Fire Training – The Board signed a year-end training payment to fire wardens.
5. Tamworth Pines Feasibility Study – The Board signed a Community Development Block Grant professional services agreement between the Town of Tamworth and Donna Lane for the Tamworth Pines Feasibility Study. Since Mr. Farnum was denoted as Chairman of the Board at an initial meeting for this study, the Board authorized Mr. Farnum to sign this agreement.

6. Minutes of 11/19 meeting – *Mr. Roberts moved and Mr. Abugelis supported to approve the minutes of the November 19, 2009 meeting. Vote was (2-0-1). Motion passed.*
7. 2011-2013 workers compensation insurance proposal – The Board discussed the proposal received from Primex for worker's compensation coverage with a 5% discount proposed for an updated 2-year contract or a 7.5% for 5-year contract. *Mr. Farnum moved with Mr. Roberts supporting to enter into a 2 year extension contract with Primex. Vote was unanimous.* Mr. Abugelis attested and signed on behalf of the Tamworth Board of Selectmen this resolution: To hereby accept the offer of the NH Public Risk Management Exchange (Primex) to enter into its Workers' Compensation 5% Multi Year Discount Program as of the date of the adoption of this resolution and to be contractually bound to all of the terms and conditions of Primex risk management pool membership during the term of the Workers' Compensation 5% Multi-Year Discount Program. The coverage provided by Primex in each year of membership shall be as then set forth in the Coverage Document of Primex.

Personnel Gun Policy Discussion

Mr. James Bowles first advised this was not a fire department issue, it was however an issue for all Town employees. He discussed his perception of the Town employees being at less of a risk if they were allowed to carry a firearm. He further discussed the possibility of an employee-bringing suit against the Town if the policy was to remain in effect.

Mr. David Bowles advised that in certain places in this country there are people who believe guns kill. He advised guns do not kill, people do.

Mr. Abugelis read the personnel policy regarding the disciplinary action of employees carrying firearms while on town time along with RSA 159:26 and 207:59. He further advised of his belief that every document/regulation that the Board adopts is a working document should be revisited.

Mr. Abugelis advised the difficult issue that is before the Board of this policy having a gray area in determining whether the Board is acting as an employer or as a municipal entity. Application of these laws has not been challenged or tested at the municipal level and remains a gray area and advised he is unwilling to take the chance that the Town would enter into a lawsuit over this policy. Mr. Abugelis indicated he would be voting for the removal of this policy from the Town's personnel policy even though he feels logically and ethically it would be a best management practice for all personnel to not carry weapons on town time. The job of the fire and rescue department employees for Tamworth is not to carry a weapon for protection while in their capacity.

Mr. Roberts indicated he agrees with Mr. Abugelis and has a real concern with the policy that indicates the Board of Selectmen had the right to determine who can carry a firearm.

Mr. Farnum advised that all members of The Tamworth Board of Selectmen believe in the second amendment and the rights provided therein. The provision in the personnel policy prohibiting employees from carrying firearms is with the thought of safety for the employees, the public and reduced liability for the town. After his review of Town Counsel's letter, he advised he had questions as to the right of the town as an employer to have in the town's personnel policy a statement that prohibits an employee from carrying firearm(s) while on the job (other than the police) as there does not appear to have been any litigation to answer this question. Some have expressed that the town

should not control any use of firearms by employees while on the job although he has heard the opposing point of view. Some gun owners that he spoke to said that the decision to restrict firearms is acceptable because the employees make the choice to work for the town. He has also reviewed the web site FireFighterNation.com on the issue of firearms carried by fire and rescue personnel. Mr. Farnum gave examples of safety concerns as presented on that website.

Mr. Farnum reminded everyone that there are places that the federal law prohibits the carrying of firearm(s). These are the post offices, and within 1000 feet of a school; Tamworth has three of each.

Mr. Roberts inquired with Mr. Poirier about the control of a fire scene. Chief Poirier advised the control at a fire scene is that of the Fire Department, not the police department.

Mr. Abugelis moved and Mr. Roberts supported to remove the policy listed as IK which gives disciplinary action authority to the Selectmen if an employee carries a gun on Town time. Vote was: Abugelis, Yes, Roberts, Yes, Farnum, No. Motion passed. Policy will be removed from the Tamworth's personnel policy.

Mr. Farnum moved to add to the safety policy the need for the safety of all town employees and the public at large, the Tamworth Board of Selectmen respectfully request that town employees while on the job, not carry firearms. This motion was not seconded. Motion failed. The Board did however request time to consider this motion and requested it be placed on the December 17, 2009.

Mr. Dave Bowles advised that the fire department personnel have no intention of doing the job of a police officer at a fire scene. He continued by advising the thinking of the fire personnel is more of whose lives they need to save not whether they are carrying a firearm.

The fire department was questioned if they would be removing, the SOP that was created for their department on the gun issue.

Updates from Board of Selectmen

Mr. Roberts advised he would be attending the Conservation Commission meeting scheduled for Monday 12/7.

Mr. Farnum discussed the planning board meeting held on 12/2 in which a subcommittee is being formed.

Mr. Abugelis advised he would be meeting with Superintendent Jay McIntire in early January. Mr. Abugelis is very impressed with Mr. McIntire as a fiscal conservative. The Board discussed the possibility of consolidating workforces for the plowing. Mr. Roberts recommended consideration of a 3 – 5 year contract for plowing. Mr. Abugelis discussed the overhead costs of the SAU office.

Office Copier

Mrs. Pearce advised the expense to purchase the office copier on trial from Conway Office Products is not feasible this year. The Board authorized expending \$75/month on the rental of the machine until the machine is approved for purchase at Town Meeting.

TCNA Information

The Board received an explanation from the TCNA regarding their 2008 audit and with some questions remaining requested members of the TCNA Board attend the meeting of 12/17/09.

Administrative

1. Raffle Permits – The Board reviewed the raffle permit regulation and application as presented by Mrs. Pearce. *Mr. Abugelis moved and Mr. Roberts supported to accept the raffle permit regulation and application as presented. Vote was unanimous. Motion passed.*
2. Draft RFQ for the Chocorua Project Phase II & III – *Mr. Roberts moved and William Farnum supported to approve the draft request for qualifications as presented. Vote was unanimous. Motion passed.* The Board discussed the contact person and overseer of the project for the grant administration. Mr. Farnum recommended administering the project through the Town Office. Mr. Roberts expressed a concern if the office takes this on, and something happens, then what and inquired if the rate of pay would be the same as what the employees are getting at this time? Mrs. Pearce will check with the State DOT office.
3. Chocorua's Bio Retention grant - *Mr. Farnum moved and Mr. Roberts supported to move forward with FST completing this grant and testing for the \$8,500 that remains in the grant funding. Vote was unanimous. Motion passed.*
4. Employee year reviews – The Board discussed the employee reviews scheduled for December 30, 2009 beginning at 9:00 a.m.
5. December 31, 2009 Meeting – The Board cancelled the meeting scheduled for December 31, 2009.
6. Transfer Station signs – Mr. Roberts advised he would be headed toward Epsom in the coming weeks and would pick up the signs for the Transfer Station.
7. Capital Improvements plan – The Board requested a meeting with members of the Capital Improvement Committee to be held on 12/17/09.
8. Health Insurance – The Board discussed the health insurance plans that are available for the employees and wanted more information gathered on self insuring deductibles for employees to get a better price on the actual premiums. Mr. Roberts discussed the Town of Bartlett's program.

Non-public Session

Mr. Roberts moved and Mr. Abugelis supported to enter into a non-public session at 6:42 p.m. per RSA 91-A:3, II a, c, and e. Vote was: Roberts, Yes, Abugelis, Yes, Farnum, Yes. Motion passed.

Mr. Roberts moved and Mr. Abugelis supported to adjourn the non-public session at 7:31 p.m. Vote was unanimous. Motion passed.

The Board discussed a personnel concern regarding wording of the drug and alcohol policy and received updates from Town Attorney on several pending legal cases.

Adjournment

Mr. Abugelis moved and Mr. Roberts supported at 7:31 p.m. to adjourn the meeting. Vote was unanimous. Motion passed. .

Respectfully submitted,
Anne M. Abear

Approved by Board of Selectmen: 12/19/09

Tom Abugelis

John Roberts

William Farnum