

**Town of Auburn
Board of Selectmen
February 24, 2014**

Selectmen Present: Russell Sullivan, James Headd & Paul Raiche

Also Present: Michael Ricker, Primex; Tim Therrien & Mike Dobmier, Parks & Rec. Comm.; Dean Eggert, Wadleigh, Starr & Peters; Michael Dross, Road Agent; Brad & Kim Sargent; Rick Eaton, Audrey Trickett, Scott & Karen Norris, Paula Marzloff, Linda & Kristen Dross, Shawn & Jill Wheeler; John H. & Mary Ann Rolfe, Mickey Rolfe, Scott Rolfe, Dennis & Pauline Vieira, Tom Gonyea, Mike DiPietro, Ryan & Christen Maher, Jim Boisvert, Dennis McCarthy and Ken Robinson, Residents; William Herman, Town Administrator and Kathryn Skoglund, Recording Secretary

Mr. Sullivan called the meeting to order at 7:00 p.m.

Approval of Accounts Payable for Week of February 17th, 2014

Mr. Raiche moved to approve the Accounts Payable Manifest in the amount of \$157,274.24 for the week of February 17th, 2014; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Approval of Payroll for Week of February 24th, 2014

Mr. Headd moved to approve the Payroll Manifest in the amount of \$40,212.73 for the week of February 24th, 2014; Mr. Raiche seconded the motion; all were in favor, the motion passed unanimously.

Consent Agenda – Week of February 24th, 2014

Void & Re-Issue Manifests

Postage for 2014 Voters Guide - \$346.32

Pistol / Revolver License:

One (1) License

Mr. Raiche moved to approve the Consent Agenda for the week of February 24th, 2014; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

New Business

Michael Ricker, Primex – Vehicle & Equipment Parking & Skate Rink Liability

Mr. Sullivan relayed to Mr. Ricker a question regarding what the town's liability is having vehicles/equipment parked at the town garage, what if something happens to the equipment or if there is an oil leak for example. Mr. Sullivan noted that each sub-contractor maintains their own insurance and names the town as additionally insured. Mr. Ricker noted each incident is

different, if it was a matter of a vehicle or equipment being vandalized, the owners insurance would pay the claim, and if the claim was a significant amount they may look to the town to try to recoup the costs, if that happened Primex would cover the town. Mr. Ricker noted that the likelihood of that happening is remote. Mr. Ricker went on that as far as the environmental issue; the reality is that any motor vehicle can leak. Primex pays up to \$10,000 to help clean up, if the costs were more and the incident was the fault of an individual than that Primex may pursue the individual. Mr. Sullivan asked if there were ways to minimize the possibility. Mr. Dross noted that currently the equipment is parked on gravel but suggested that if there is a concern the town could pour a concrete pad. Mr. Ricker noted that the town could inspect the area or hire someone to inspect the area as well if there is concern. Mr. Ricker commented that taking steps to minimize risk is good; legally though he does not see a huge risk. Mr. Vieira commented that he worked for Centurion Insurance and in his career only dealt with one leak. Mr. Vieira felt there was no more liability at the town garage than here at the town hall.

Mr. Therrien asked what the town should post at the skate rink and what the towns liability is, for instance helmets, should we require and how would the town enforce that. Mr. Ricker noted that if the town does not charge then the town is not liable if for instance someone falls and gets injured. If another individual was involved in that fall, the individuals can sue each other. Mr. Ricker commented that the town could post things like play at own risk and please use caution, etc. Mr. Ricker continued that matters of cars and bystanders, he doesn't think immunity laws will protect anyone but Primex would protect the town. Mr. Ricker stated that the vehicle owner or bystander would need to prove the town was negligent. If there was a recurring issue Primex may refuse to pay the claim and suggest the town fix the issue. Mr. Therrien asked if Primex could inspect the lot where cars are parking. Mr. Ricker stated that they could. Discussion ensued regarding the area where people are parking is not meant to be a parking area. Suggestions to gate off the area and put up no parking signs were made. Mr. Vicker stated that the law imposes that the town has a duty to be reasonable and noted that signage is reasonable.

Other Business

The Board reviewed a letter from the Department of Revenue Administration. Mr. Herman briefed the Board that the DRA is charged with monitoring statistical updates and this letter is the final report of their review of the 2013 statistical update. Mr. Herman stated it is a clean report.

The Board reviewed a letter from Public Service of New Hampshire. Mr. Herman briefed the Board that PSNH has paid the 2013 tax bill under protest. PSNH has filed an abatement with not just Auburn but 30/40 communities. 11 communities are currently in appeals with regards to the 2011 tax. Mr. Herman commented that hopefully the judgments of those appeals will resolve this matter.

The Board recessed the public meeting to meet with Legal Counsel pursuant to RSA 91-A:2, I (b) at 7:23 p.m.

The Board reconvened the public meeting at 7:36 pm.

Non-Public Session

Mr. Raiche moved to enter into non-public session pursuant to RSA 91-A 3, II (c)

Reputation of any person, other than a member of the public body; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Meeting in Non-Public Session with the Selectmen were Attorney Eggert, Town Administrator Herman and Secretary Skoglund.

Mr. Raiche moved to exit Non-Public Session; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Mr. Raiche moved to seal the minutes to the Non-Public Session; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Mr. Raiche moved to unseal the investigative report of Attorney Craig Staples and provide a courtesy copy to the Town Road Agent; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

[Click here to view the above referenced report.](#)

Mr. Sullivan stated that copies of the report will be available tomorrow at the town hall during business hours for a fee and will be up on the website by the end of the week. Mr. Sullivan noted that the investigating attorney reached three conclusions. Mr. Raiche read the following for the audience:

1. More probably than not, the Road Agent was not involved in, did not authorize and did not have contemporaneous knowledge of the burial of the solid waste at the landfill.
2. More probably than not, Darren Wetherbee was involved in and had contemporaneous knowledge of the burial of the solid waste at the landfill sometime between 2009-2011.
3. More probably than not, no other official, employee or agent of the town was involved in, authorized or had contemporaneous knowledge of the burial of the solid waste at the landfill.

Mr. Boisvert asked who Darren Wetherbee is. Mr. Sullivan responded that Mr. Wetherbee is a sub-contractor who formerly did work for the town. Mr. McCarthy asked if the town would look to Mr. Wetherbee to recoup the cost the town has expended in this matter. In response Mr. Raiche made the follow motion:

Mr. Raiche moved to refer the matter to legal counsel to determine whether any civil action for recovery of remediation costs is warranted; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Mr. DiPietro asked what the cost was. Mr. Sullivan stated that the town is not yet in receipt of Attorney Staples invoice(s) so they do not have the total cost yet. Mr. McCarthy asked if the report addressed why the Police could not come up with these conclusions. Mr. Sullivan stated no.

Mr. Raiche moved to provide a copy of the report to the Rockingham County Attorney's office with an informational copy to the Chief of Police; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Minutes

February 17th 2014 Public Meeting

Mr. Raiche moved to approve the minutes of the February 17th, 2014 public meeting as amended; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Other Business

Mr. Herman informed the Board that he received a telephone report regarding the investigation of mold at the Safety Complex and there is one nickel size area. The Board will receive a written report soon.

Ms. Skoglund informed the Board that Mr. Anthony Mesiti is here this evening to discuss a matter with the Board. Mr. Mesiti introduced himself to the Board and stated that he is the owner of the office park on Dartmouth Drive, recently tenants have been complaining of the condition of Rockingham Road and one blew out a tire due to a pothole. Mr. Mesiti stated that he is aware that the area of concern on Rockingham Road is Manchester and he has called 15/20 times and was transferred around and left a message, he is asking if the Town of Auburn could communicate his concern with the City of Manchester. Mr. Herman stated that he could call the Director of Public Works. Mr. Raiche asked who the alderman was. Mr. Herman stated he could find out. Mr. Headd suggested that in the meantime, Mr. Mesiti could encourage his tenants to go to the traffic circle and take Manchester Road to the highway underpass instead of Rockingham Road. Mr. Mesiti stated that he has and will again and thanked the Board.

Mr. Raiche moved to enter into non-public session pursuant to RSA 91-A 3, II (a) Personnel Evaluations; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Meeting in Non-Public Session with the Selectmen were Town Administrator Herman and Secretary Skoglund.

Mr. Raiche made a motion to approve:

a step increase for the Planning/ Zoning Secretary based on results of the performance evaluation. The step increase would advance the Planning/Zoning Secretary from a Labor Grade 7, Step 3 to a Labor Grade 7, Step 4 on her anniversary date of employment.

a step increase for the Building Inspector based on results of the performance evaluation. The step increase would advance the Building Inspector from a Labor Grade 10, Step 15 to a Labor Grade 10, Step 16 on her anniversary date of employment.

a step increase for the Executive Assistant based on results of the performance evaluation. The step increase would advance the Executive Assistant from a Labor Grade 7, Step 7 to a Labor Grade 7, Step 8 on her anniversary date of employment.

a step increase for the Assessing Coordinator based on results of the performance evaluation. The step increase would advance the Assessing Coordinator from a Labor Grade 7, Step 7 to a Labor Grade 7, Step 8 on her anniversary date of employment.

a step increase for the Finance Director based on results of the performance evaluation. The step increase would advance the Finance Director from a Labor Grade 10, Step 15 to

a Labor Grade 10, Step 16 on her anniversary date of employment.

Mr. Headd seconded the motion. A vote was taken; all were in favor, the motion carried unanimously.

Mr. Raiche moved to exit Non-Public Session; Mr. Headd seconded the motion; all were in favor, the motion passed unanimously.

Mr. Headd moved to adjourn; Mr. Raiche seconded the motion; all were in favor, the public meeting ended at 8:14 p.m.