

TOWN OF ORFORD

Board of Selectmen

Meeting Minutes

February 8, 2023

MEMBERS PRESENT: John Adams, Jen Carter Chase Kling

OTHERS PRESENT: Esther Dobbins-Marsh, Terry Straight, Chris Crowley, Steve Williams, Barrett Williams, Tim Cook, Pierre Kozely, Charles Smith, Jr.

Call Meeting to Order

The meeting was called to order at 5:30 p.m.

Approval of Minutes

- *Motion made by Adams, seconded by Kling to accept the minutes of 01/11/2023 (as amended) Motion Passed 2/0 (Carter was not at this meeting)*
- *Motion made by Adams, seconded by Carter to accept the minutes of 01/24/2023 Budget Public Hearing (as amended) Motion Passed 3/0*
- *Motion made by Adams, seconded by Carter to accept the minutes of 01/25/2023 (as amended) Motion Passed 3/0*

Reports

- A. **Fire Department** – Chief Straight presented the departments stats for January 2023. There was a total of 10 calls in January (in 2022 there were 6 calls). The calls consisted of 3 medical calls, 5 fire calls and 2 mutual aid. Straight attended the Mutual Aid Chiefs meeting (Straight is the president of the group), and went to Concord to pick up some free medical supplies. The supplies consisted of COVID test kits, masks, gloves and sanitizer. While the supplies were free, the Town did reimburse Straight for mileage. Adams asked if the department was ready for the projected cold spell. Straight said the department has checked trucks and equipment, and added antifreeze to the vehicle's inlets and outlets.
- B. **Trustees of the Trust Fund** – Chris Crowley presented the 2022-year end balances in the Capital Reserve Fund (CRF) accounts. This report will also be included in the Town Annual Report. Crowley mentioned the additional CRF added for the Orford Village District. While this isn't a town CRF, the NH DRA requires the Trustees to manage this fund. Crowley discussed the various committees the Trustees met with in 2022. The primary purpose was to discuss when various CRF's can be accessed for expenses, and the process for the committees to follow when funds are to be used from the CRF. The committees include the Niles Fund, Cemetery and Parks & Playground. While the Town will pay the invoice and request reimbursement from the Trustees, committees should have a conversation with the Trustees prior to spending funds. This allows the Trustees to review if the expense qualifies for reimbursement and to determine if funding is readily available for reimbursement. (For example, only income generated from the Perpetual Care Fund can be spent for Cemetery maintenance). There are also times when the Trustees may need to close out an investment account to have cash for the

reimbursements. Crowley asked who can request to use funds from the Heritage Center CRF? Adams said it would be the Selectboard. Crowley discussed the need for the Cemetery Commission to review the fees charged for lots and possibly increase the fee (which has remained the same for many years), as the investment of those funds is what generates the income for the Perpetual Care fund. The original intent of the Perpetual Care fund was to generate income to fund all maintenance of the cemeteries in Orford. Somehow over time, the Town started contributing to the cost of maintenance.

- C. **Highway Department Updates** – Williams reported the loader and grader were re-shimmed, and the storage addition is almost complete. The engineer working on the Archertown Road hill project would like to attend the Feb. 22, 2023 Selectboard meeting to discuss the project. Williams asked about the possibility of the Highway department keeping the old cruiser. Currently they use the F550 for picking up parts and supplies, or when they take a truck to be repaired in Lebanon. Because the Town's insurance doesn't cover personal vehicles used for Town business, the crew is reluctant to use their personal trucks for these situations. This vehicle could also be used by other town employees. The Selectboard agreed to look into the possibility of keeping the old cruiser for town employee use.

Williams looked into the cost to rent a grader for a month so the crew would have two graders for the work in the spring to help get the road work completed quicker, but the cost was too high. Kling wants the minutes to reflect his appreciation for the maintenance knowledge Williams brings to the department. It is a huge step in the right direction for the Town as it pertains to the longevity of vehicles and other equipment. Williams reported when checking over the 2013 International truck he found damage to the sander chain bed sub-frame. He had EZ steel rebuild the bottom of the bed for \$1,600.

Williams asked about call-in pay. The Town doesn't have a policy for this, and many other towns start the clock when an employee is called back to work after leaving for the day. The Selectboard said currently the work time starts when an employee arrives at the garage. Williams understood that the fire fighters are paid from the time they are called to a fire. The Selectboard will look into that.

He spoke with Rutland Overhead doors and was told when the new doors were installed several years ago, the old motors were not replaced. Because those motors can't be configured with the doors for a dead fall, it looks like new motors will be needed. The Selectboard asked Williams to obtain an estimate for motors. Adams addressed the need for a plan to have better communication from several dead zones in Town. The Selectboard will look into the cost to possibly install repeaters in 2024.

- D. **Selectboard attended Committee meeting recap** – none held in the last week

Old Business

- A. **Community Field Lease** – Rivendell's Superintendent Barrett Williams, representing the Rivendell School Board, addressed the Selectboard regarding the increase of the leasing fee, and asked for clarification on how it was determined? He asked if this would be the on-going lease fee, or if this fee was based on higher than normal costs to maintain the Community Field last year. The Selectboard outlined the reasons for the

increase of the leasing fee – much work has been needed to maintain the fields, such as grub control that is put down twice a year, and the work that’s needed to maintain the baseball and softball running paths and pitching mounds. The cost of mowing the field increased, and some of that increase is due to the extra time it takes to pick-up baseballs and litter left on the fields after practices and games. In the past, the cost to maintain the field was shared 50/50 between the Town and Rivendell. After looking at the available amount of time the fields can be used by Orford residents, the Selectboard agreed that Rivendell should pay a higher percentage of the costs than 50%. The lease fee of \$29,000 is based on a cost share of 80% to Rivendell, and 20% to Orford. Adams said with limited volunteers to help with the maintenance, the Town has to contract most of the work out. Williams asked what Rivendell can do to help reduce the costs. Rivendell has equipment that can be used to fill in base paths, and the lease contract is clear that teams are expected to clean up the playing fields after games and practices. Williams said he’d like to hold a joint meeting in July of 2023 between the Rivendell athletic director, the Selectboard and Parks & Playground members to review the needs for maintaining the community fields, and discuss what Rivendell can do to contribute to help lower the costs of maintenance. Then Rivendell would have the same conversation with their coaches.

- B. River Road Shoulder work** – Tim Cook was representing the group of residents that live on River Road that had submitted a petition requesting the material used on the shoulder of the newly paved road be material that will grow grass (i.e.: top soil) on the side of the road where lawns abut the road. Cook was at the meeting to express the concerns of the group as they never received a response from the Selectboard to their petition, nor did they receive prior notice when the shoulder work was scheduled. Cook asked why nothing done with the petition. Kling explained the board did review their petition, but the need to protect the edges of the road and the investment of paving the road was necessary. Without adding staypak to the shoulders, damage from delivery trucks and farm equipment driving on the outside of the road would have caused cracking and breaking of the asphalt. Carter said drainage issues were also part of the reason to add staypak, but in hind sight, letters should have been sent to the residents on River Road. Adams acknowledged the Selectboard short coming on this, and will look at past minutes as to what action was to be taken. Cook explained, on River Road, many residents have lawns that go out to the road. Williams said on the lawn side of River road, the staypak was only 12” wide, and it’s 18” on the opposite side. Nate Tullar was thanked for filling in some driveways along the newly paved road. Williams said the Town replaced the material he used for this.
- C. Hild Property road work agreement letter** - The Town attorney drafted the letter to respond to Susan Hild’s complaint, dated 02/08/2023 to be signed by John Adams as the Selectboard Chair. Because the property is actually owned by GMILLZ Real Estate Holdings, LLC, the Town attorney Christine Johnston addressed the letter to that entity, in care of Attorney Fish. At the Selectboard meeting on 01/25/2023 the legal ownership of this property was questioned, and the board asked Dobbins-Marsh to discuss the ramifications of ownership with Attorney Johnston. In an email to Dobbins-Marsh dated 01/27/2023, Attorney Johnston outlined her discussion with Attorney Fish, who

represents GMILLZ, the LLC member Judith Miller, and Susan Hild. He felt as he represented all of these parties, it was fine to address the letter to GMILLZ Real estate Holding, LLC. Attorney Johnston also listed items that should be included in the letter to be sent to GMILLZ regarding the agreement by the Selectboard outlining the work to be completed on Upper Baker Pond road. Attorney Johnston then drafted the letter in response to the complaint filed by Susan Hild. A copy of this email correspondence was given to the Selectboard at the meeting. Kling is concerned that Susan Hild represented herself as the owner of the property. and feels this is a false and erroneous claim, and has no legal status in this process. Kling read his own letter into the minutes, as follows:

Susan Hild – these are the findings by Orford Selectman Kling following the Public hearing of January 18, 2023 concerning 54 Upper Baker Pond Road:

1. You are not the owner of this property though thru out the whole sequence of events leading up to his hearing, but you have presented yourself as such – now we see a switch to the true owners GMILLZ Real Estate Holdings, LLC on document addressed to your attorney dated February 8, 2023. This is deceitful, misleading conduct on the part of you and attorney Fish at best and has no place in dealings with the Town of Orford. You both should seriously consider your legal position and withdraw for cause your complaint against the Town of Orford and its highway maintenance.

Further, the hearing established the following facts: Attorney Fish in his December 21, 2022 request for a hearing states “there can be no reasonable dispute that the Town’s regrading directly and proximately caused the water damage for which the Town is liable”, but in the hearing dismissed Selectman Kling’s repeated challenges as to where and how the water is entering the house and causing damage. Attorney Fish says “It’s not the burden of his client to assess how the water is entering her basement. This is immaterial to the issue being presented!” To the contrary, this is exactly what the whole argument which Attorney Fish presents.

2. At the site visit when Selectmen Kling asked Susan Hild’s excavation contractor Larry Taylor where the driveway and parking area for this property was, it was not on the west side of the house between the travel lane and the house, but on the south side within two parking spaces with a tree in between. The grade drop from center line crown of the lane to the edge of the road bed was 6” in 8’, then another 6” in 8’ more into the parking areas. (still probably in the Town ROW for the Upper Baker Pond Road). A pathway then leads directly to a door entering the house on the south side.

Susan Hild and her visitors should not park along the travel lane of Upper Baker Pond Road nor its ROW period. There is no danger as Attorney Fish contends if Susan and her guests park in their legal parking areas on her property.

3. The minutes of the January 18, 2023 hearing says the “meeting resumed at 54 Upper Baker Pond Road”. Selectman Kling did not approve those minutes partially for cause: Selectboard Chairman John Adams never brought the hearing back into order and session. This ended up a site visit, but no legal actions could

have been taken without the Selectboard meeting and hearing being legally reconvened.

A straw vote considering potential actions for the Town and its highway department but no official plan was approved until the Selectboard have consulted with their Attorney Christine Fillmore Johnston. It is uncertain to this Selectman as to how Chair John Adams has come to his document of February 8, 2023 as the Selectboard of Orford have never in the sequence of events since mud season 2023 ever received any complaint or consideration about this property 54 Upper Baker Pond Road by GMILLZ Real Estate Holdings, LLC and the time for this legal action has expired.

The Selectmen of Orford should dismiss for cause the complaints of Susan Hild – she has drained the financial and personal resources of the Town and needs to fix the leak in her cellar herself.

Carter said because Judith Miller (the sole member of the LLC) was at the public hearing and heard the information Attorney Fish presented, she's comfortable moving forward with this matter. Adams read from the initial correspondence from Attorney Fish where he wrote "Susan Hild and her family have owned the Property since 1950", to which Kling asked who the family is, and said there is nothing in written stating that Hild is authorized to represent the LLC. Carter said this issue should have been resolve last year when the issue was first raised by Hild, and feels the Selectboard is here to help residents with issues, not make it more difficult. Kling reminded the board that Road Foreman Williams had met with Hild to review her concerns, and Williams suggested she have a contractor look at the property to determine how the water was getting into her basement.

Carter said she feels the road was built up in excess of what was needed and the grade should be lowered to 6" above the existing front yard. Carter said if the board decides to dismiss for cause, most likely Attorney Fish will file the same complaint for GMILLZ Real Estate Holdings, LLC and the whole process will start over. The Selectboard need to decide what action they want to take on this matter as they only have 30 days from the January 18th Public Hearing to respond to the complaint. Adams agrees the front yard of the property was going to be used to establish the new grade, because it had been on equal footing to the road previously. He didn't feel Hild had any intent to defraud the Town with her complaint, and feels the board should move forward with lowering the grade to approximately 6" above the existing front yard. The work will be started in the spring of 2023.

Motion made by Carter, seconded by Adams to accept the draft letter addressed to GMILLZ Real Estate Holding, LLC dated 2/8/2023 which outlines three points: 1. Once mud season has ended this coming spring of 2023, the Town will remove material from Upper Baker Pond Rd from approximately the mailbox above the property to the utility pole below the property to reduce the grade to an elevation approximately six (6) inches above the existing front yard area of the property; 2. It is anticipated that the road will become compacted with use over time to bring this elevation down to approximately four (4) inches; 3. The road in this area will also be regraded to pitch toward the uphill side of

the road (away from your client's property) to direct more water into existing drainage structures on that side of the road. Motion Passed 2/1 (Adams & Carter-yes, Kling-no)

D. Update of Outstanding Projects

- **Highway garage storage addition** – there is a small amount of wiring to finish up and possibly adding flooring to the office area (over concrete).
- **Mousley Brook culvert project** – DuBois & King completed the Conceptual Study which outlined the options for replacing the Mousley Brook culvert. Kling said he thought the task was to get a hydrology study, but we got a whole lot more. D&K is looking to reduce the weight limit to 3-tons, but this will cause an issue for loggers currently working in the area. The Selectboard agreed lowering the weight limit can wait until the roads are posted for mud season for a 6-ton weight. The weight limit of 3-tons will be readdressed once the roads are unposted. The conceptual study, H&H analysis suggests a 99 square foot opening is needed – the current opening is 46.5 square feet, basically the current culvert is 50% of what's needed. The Town could install 2 culverts, but that has its own issues. The other option will be a concrete culvert like Town Road #100. To replace the culvert in-kind is estimated at \$465,400, the pre-cast concrete structure is estimated at \$1,012,112, which is what D&K recommend. Adams will contact the engineer, Mark Neuroth for a big picture discussion to see if a bridge can be installed using grant funds that may be available from the Federal Infrastructure Bill that would cover the cost of the bridge.

New Business

A. Complaint – Pierre Kozely filed a complaint regarding the speeding and excessive noise on Bridge Street by pick up trucks, resulting in disturbance in the neighborhood, endangerment to local residents and unease for safety and protection. Heavy tire marks were observed on the Samuel Morey bridge, of which Kozley has photos. In addition, Kozely played a recording of the loud truck noise. He said this is the same issue that was brought to the Selectboard last year. The speed cart helped to temporarily slow the speeding, but now the speeding is back. He has spoken with Chief Bachus, but without proof of who is driving the truck, there is not much he can do about these drivers. Kozely suggested the Selectboard, as Chief Bachus' supervisors, discuss the following suggestions with him:

- Change up his hours for patrolling, specifically adding more nights and weekends.
- Use a handheld radar by “hiding around the corner” to catch speeders
- Get the speed cart repaired and start using again – it was helpful when it was on Bridge Street last year
- Have zero tolerance for those driving more than 10% over the speed limit

The Selectboard said they will address these issues when Chief Bachus is at the regular Selectboard meeting on February 22, 2023

B. Road Committee annual report – Charles Smith, Jr. discussed the role of the Road Committee. Currently they feel they've received little feedback on their role and are looking for assistance from the Selectboard. The Road Committee had created bylaws for the committee which didn't match with the original warrant article that created the Road Committee. The Selectboard agreed they'd work on a project list for

the Road Committee and the two boards would meet quarterly to update and revise as necessary. Regarding the Road Committee's 2022 annual report, the Selectboard suggested changes to better reflect what the committee has accomplished, and to outline meetings with the Selectboard moving forward. Dobbins-Marsh will type a draft for the Road Committee to review at their meeting on 02/09/2023

C. Review and Vote on Petitioned Warrant Articles – the Selectboard reviewed the two petitioned articles

- “To see if the Town will vote to raise and appropriate \$1,500 to help defray the costs of providing music events at the Orford Community Bandstand.”
The majority of the Selectboard recommend this article (Kling and Carter-yes, Adams-no)
- “To see if the Town will vote to instruct the Selectboard to consider the feasibility of the town purchasing the Orford Congregational Church building located on Main Street, at an amount to be mutually determined by both parties.”
Carter expressed concern of the time and funds the Selectboard will spend to determine if purchasing the church is feasible, and to determine what the site would be used for. *The majority of the Selectboard recommend this article (Adams & Kling-yes, Carter-no)*
- The 2023 Warrant was signed by the Selectboard members

D. Finalize the 2022 Selectboard and Highway annual reports

- The Selectboard reviewed the Selectboard Report for 2022 prepared by Adams. *Motion made by Kling, seconded by Carter to accept the report. Motion Passed 3/0*
- The Selectboard reviewed the Highway Report for 2022 written by Kling. A few clarifying changes were made. *Motion made by Adams, seconded by Kling to accept the report as amended. Motion Passed 3/0*

E. Review of received “Notice of Intent to Cut Wood”

Property Owner: Harrison & Linda Pease, Map & Lot #001-093-014, Logger: David Rondeau

F. Correspondence

- Terry Martin sent an email to the Selectboard regarding the status of the purchase of the Prosecutors Office to use for the Community Center. The Selectboard will address this site once the Library Consultant's report is received.
- Application to Topsham Communications to install internet and phone service at the fire station. This will replace Consolidated Communications current at the station. Adams signed the application
- Application to use the Rivendell Academy Gymnasium for the March 14, 2023 Annual Meeting. Adams signed the application
- Contract with the Upper Valley Humane Society – Adams signed the contract

G. Other – a work session be scheduled for March 15, 2023 for the Selectboard to approve appointments and address other business that arises from the Annual Meeting.

Manifests, Payroll and Accounts Payable folders

The manifest, payroll and accounts payable folders were reviewed and signed where necessary

Adjourn

Motion made by Carter, seconded by Adams to adjourn the meeting. Motion Passed 3/0

The meeting adjourned at 9:25 pm

Respectfully Submitted,

Esther Dobbins-Marsh