

**New London
Board of Selectmen
Meeting Minutes
October 15, 2007**

Present:

Sue Clough, Chair
Mark Kaplan, Selectman
Larry Ballin, Selectman
Jessie Levine, Town Administrator

Also Present:

Norm Bernaiche, Assessor
Mark Wendling, New London property owner
Bradford E. Cook, Esq., Sheehan, Phinney, Bass + Green (on behalf of Colby-Sawyer College)
Peter Stanley, Zoning Administrator
Debbie Cross, Intertown Record
Phil Stake, Argus Champion

Chair Clough called the meeting to order at 8:00 AM.

Colby Sawyer Abatement Request: Mr. Cook met with the Selectmen to explain Colby-Sawyer College's position in regards to an abatement request. A letter of request from Colby-Sawyer College was received on October 9, 2007. The College received a current use penalty for the 5 acres of land where the tennis courts were built, which originally had been part of the Colby Farm property. Mr. Cook explained that the tennis court property was not developed into taxable property but turned into a tax-exempt athletic use, exempt under RSA 72:23 IV. The current use statute does not address non-exempt property, but there is the abatement process. Colby-Sawyer does not feel the current use assessment is illegal, as the statute does not indicate that the penalty cannot be charged. Colby-Sawyer is asking for an abatement because it is property going from little taxation to no taxation, the property is non-developed other than the tennis courts, and there are no costs incurred by the town.

Ms. Levine asked for confirmation that Colby-Sawyer does not disagree with the Town's application of the law; the abatement is more because of the principle. Mr. Cook agreed and said it's the fairness of the application as opposed to the letter of the law. Mr. Cook added that the change of use for the property took place in 2001 and could have been exempt from the time of construction but taxes continued to be paid until this year.

The Selectmen asked Assessor Norm Bernaiche for his opinion. Mr. Bernaiche explained that one could make the argument that if the Town had purchased a piece of current use property and developed it then it's the people of the town that would be paying the penalty. In this case it's not the people, it's another private entity. Mr. Kaplan asked whether the Kelsey athletic fields were taxed. Mr. Bernaiche said no, the Kelsey fields should have had a current use penalty but it was overlooked by the assessor at the time and is too late to collect at this point. Mr. Bernaiche explained in this case there was no building permit process so the assessors were not aware of the courts. Norm became aware of the change in use when he visited the property for another purpose. The Kelsey fields were noted on the property card as developed in 2003, so the assessor was aware of the change but did not issue a current use penalty. Ms. Levine explained that there is a one-year period after becoming aware of the change to issue the penalty. Ms.

Levine also explained that there is a difference between tax and penalty; the athletic fields are tax exempt but current use penalties are not subject to the tax exemption laws. Mr. Cook said the Town was aware of the development of the Kelsey fields; a penalty was not imposed, leading the College to assume that the penalty never came up. Ms. Levine said she is fairly certain that it was simply overlooked by the previous assessors and was not an agreement between the Town and College at the time.

Mr. Kaplan said that with respect to the tennis courts, he believes that the fact that land remains undeveloped and the athletic fields are tax exempt are strong arguments to grant the abatement. Mr. Bernaiche disagrees and said that the land is not open space, as the current use laws intend, but has been improved. Mr. Ballin asked if there is vehicular access to the tennis courts. Mr. Bernaiche said there is a road and sidewalks to the courts but there is no parking lot. Mr. Ballin asked if there is any precedent in the State where other athletic facilities were kept in current use. Mr. Bernaiche said no, not for current use. Mr. Bernaiche gave an example of the State Liquor Store being developed on current use land in Keene, and upon appeal the Board of Tax and Land Appeals rejected the City of Keene's current use penalty.

Mr. Kaplan repeated that the land is still open and recommended granting the abatement. Mr. Ballin agreed. Mr. Kaplan moved to grant the abatement in the amount of \$6,500. Mr. Ballin seconded the motion. All were in favor. The motion passed 3-0.

Report on MS-1/2007 Assessment Changes: Mr. Bernaiche presented the Board of Selectmen with a comparison of 2006 and 2007 taxable property in New London. Mr. Bernaiche explained that in part due to the College's increased assessment (following his review this summer), and in part due to building permits and other changes, the town-wide assessment had increased by about \$26 million. He added that the College has hired its own appraiser to review and possibly appeal the Town's revised assessment. The College's assessment increased by just under \$12 million.

Mr. Wendling asked about the effect on the tax rate if the College successfully appealed. Ms. Levine said that prior to setting the tax rate, the Town sets aside funds to repay abatements that might be granted during the year. So the impact on the tax rate would be at the outset, due to raising funds to cover possible refunds, and in the future if the total town-wide assessment were reduced again.

Mr. Bernaiche explained that he developed a policy about four months ago regarding the issue of trespassing from the point of view of the assessor and the liability they may have out in the field doing their job. He will draft a letter to be sent to taxpayers in compliance with RSA 74:17 that will ask for permission for the assessor to access and inspect the property. If the taxpayer denies consent, they lose their opportunity to appeal. Ms. Levine explained the letter will relate to typical data collection. For building permits, the application gives the right for the assessor to come and do the pick-up, and sale inspections are arranged by appointment to access is given by agreement.

Norm said the total valuation for the town increased by 2.7%. Ms. Levine said this is higher than the assumption used to estimate the tax rate for Town Meeting last March.

Meeting Minutes: Mr. Kaplan moved to accept meeting minutes dated October 1, 2007. Mr. Ballin seconded the motion. Motion passed 3-0.

Mr. Ballin moved to accept meeting minutes dated October 6, 2007 for the Citizens Advisory Committee. Ms. Clough seconded the motion. Motion passed 3-0.

Old Business

Comcast Franchise Agreement: Ms. Levine reported that an ascertainment hearing for public input is scheduled for October 29, 2007 beginning at 6:30 p.m.

Master Plan Session: The Board of Selectmen thought the session went well. Over 50 people attended between Friday and Saturday. On December 1, 2007 there will be a vision statement discussion.

Capital Improvements Program: Mr. Ballin said the CIP subcommittee met to specifically go over the Recreational Land Capital Reserve Fund that has been funded with \$25,000 for the last four years. The group decided as a whole the need for the fund is not a high priority as far as the budgeting process goes. The CIP Committee suggested the Recreation Commission return with a new name for the fund and a set of goals for what they would want to use the money for; there is currently \$104,000 escrowed. Ms. Levine said that both Chad Denning and Ken McWilliams thought the conclusion of the subcommittee meeting was to ask Town Meeting for a name change and, if the change were approved, an appropriation of \$25,000. She asked Mr. Ballin to clarify if that was his understanding. Mr. Ballin said if the Town votes not to change the name then applying the \$25,000 to the current fund would be a moot point. The CIP Committee strongly urged some focus on what the money would be used for. In a separate discussion a remedy for the lagoon was discussed even though it's not recreation. Ms. Clough asked if there was a feeling from the CIP that was different from escrowing money to go into conservation. Mr. Ballin said no, the conservation CIP has specific pieces of land that are under consideration.

Sonja Philips Building Permit: The Board of Selectmen were joined by Peter Stanley, Zoning Administrator. Ms. Levine referred to the letters from Town Counsel Bart Mayer and from Sonja Philips's attorney, Susan Slack, dated September 14, 2007 but only recently received. Ms. Levine reminded those present that Ms. Philips had applied for a building permit awhile back and was denied because setbacks were not met. She appealed to the Zoning Board for a variance and was also denied, and she then hired counsel to approach the Board of Selectmen to review the original decision of denying the building permit. Peter Stanley met with Town Counsel because the issue of rights-of-ways that are not public roads will arise around town, and the town should be consistent in its interpretation and application of the zoning ordinance. Town Counsel supported the town's decision on the interpretation of the definition of the setback from the right-of-way and added that Ms. Philips is well outside of the time period for reconsideration and cannot re-submit the same building permit application that has previously been denied.

Mr. Stanley showed the Board of Selectmen a copy of the subdivision that was never recorded that showed Ms. Philips land and the intended location of the right-of-way. The right-of-way was not constructed according to this plan and intersects the back of Ms. Philips's lot. Mr. Stanley is going to ask the Planning Board to clarify the setback definition with a uniform approach, as there are at least 12 private right-of-ways in town. Mr. Kaplan recommended notifying those taxpayers of the potential setback problem.

Ms. Levine said the staff's recommendation is that the Selectmen either deny or not accept the building permit for consideration, as it is the same permit that was originally submitted.

Ms. Clough moved to deny the building permit (the same that was applied for in September 2006). She said the permit has followed its course, was denied, went through an appeal process and therefore the building permit cannot be accepted. Mr. Kaplan seconded the motion. Motion passed 3-0.

Building Permits

- KJAM Associates Realty Trust, C.W. Strom, 812 Route 103A (Tax map: 103-021-000); demolish and remove an approx. 20'x40' - 4 car wood frame garage (no replacement) see enclosed site plan w/erosion control and asbestos survey report - Approved (Permit #07-125)
- Janet K. Royle, 195 Tracy Road, (Tax Map: 118-002-000); 16x36 addition - downstairs master bath/bedroom suite. - Approved (Permit #07-126)
- Robert & Agnes Davis, Page Road, (Tax Map: 117-025-000); build new house, attached garage, driveway, septic, well - Approved (Permit #07-127)
- Steve & Peggy Theroux, 69 Pressey Court, (Tax Map: 073-060-000); 17x14 sunroom addition to the back of the existing structure - Approved (Permit #07-128)
- Nancy Stratton (Constable) 471 Forest Acres Road, (Tax Map: 119-015-000); demolish existing garage, construct new garage with 1 bed, office, bath above, completely remodel existing house, reconfiguring interior, replacing windows, residing, removing chimney, finished foot print reduced (3 total bedroom) – DENIED – non-conforming property that encroaches on the 50-foot shoreland buffer; value of proposed renovations exceed 50% of assessed value of the building, thereby constituting substantial improvement (Permit # 07-129)
- Tracy Poland, 91 bog Road, (Tax map: 107-022-000); remodel, (siding, windows, bathroom, kitchen, cosmetic facelift - Approved (Permit # 07-130)

Building Permit Amendments or Extensions

- Application for Amendment for Millstone Realty, 40 Andover Road, (Tax map 122-001-000); front addition to have heat added - (Permit #06-142) Approved
- Application for Amendment for Rob & Caroline Bossi, 51 Putney Road, (Tax map 011-002-000); moving forward to complete Phase I and begin Phase II of building onto the home. It is a post & beam project moving slowly but beautifully! - (Permit #06-047) Approved

Other Items for Signature

- Disbursement and payroll voucher week of 10-12-07 - Approved
- Cartographic Associates, Inc. Service Agreement for 2008 GIS mapping, street renumbering, and zoning map updates – Approved (subject to Town Meeting appropriation)
- Cartographic Associates, Inc. Maintenance Contract for Public Works Information Management software, to be split between Public Works and Sewer -- Approved

Applications for Signatures

- Application for use of town Commons, Bandstand and/or Whipple Hall, for Friday night concerts, 2008 dates: June 20 - July 4, 11, 18, August 8, 15, 22 -- Approved.

Selectmen's Meeting Minutes

October 15, 2007

Page 5 of 5

- Application for use of Whipple Memorial Town Hall, for New London Barn Playhouse, Inc. for classed for Youth Theater Training Program, Saturdays in 2008: Jan. 5, 12, 19, 26, Feb. 2, 9, 16, 23, 10:00 a.m. to 5:00 p.m. -- Approved
- Application for use of Whipple Memorial Town Hall, for New London Barn Playhouse, Inc. for Performance of Youth Theater , Sunday, February 24, 2008 -- Approved

Sign Permits

- Application for Temporary Sign Permit - First Baptist Church, Main St. - Health Fair Today - Sat. Oct. 13th, 2007 9am - 12pm (signed on Monday 10/8/07 - due to the fact that the sign was needed for the Saturday prior to the BOS meeting) Approved

No further business meeting adjourned at 9:30 p.m.

Respectfully submitted,

Mary Whalen
Recording Secretary