



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## BOARD OF SELECTMEN MEETING MINUTES January 4, 2010

### **PRESENT:**

Larry Ballin, Chair  
Mark Kaplan, Selectman  
Tina Helm, Selectman  
Jessie Levine, Town Administrator

### **ALSO PRESENT:**

Ron Koron, Little Sunapee Protective Association  
Michael Doheny, New London resident  
Peter Bianchi, New London resident  
Peter Stanley, Zoning Administrator  
Debbie Cross, Reporter for *The Villager*  
Pat Trader, Reporter for *The Intertown Record*  
Chair Ballin called the meeting to order at 8:00 AM.

Minutes of December 21, 2009: Chair Ballin asked for comments on the draft minutes of December 21, 2009. Mark Kaplan moved to approve the minutes, seconded by Tina Helm. There were no changes and the minutes were approved 3-0.

Quicklink Newsletter: Jessie Levine briefed Selectmen on subjects for a Quicklink to be sent prior to Town Meeting: budget preview will be on the first page, followed by education about the four major subjects for Town Meeting: fiscal year change, single stream recycling, cell tower lease, and the Sunapee sewer bond. Mark Kaplan said that these four subjects are complicated, important, and potentially expensive to the Town, and he asked if anybody felt that we ought to be doing one full page on each subject. Mr. Kaplan said that if we overload people with information, we lose them, and suggested instead doing two separate mailings on two subjects each. Ms. Levine said that she did not think that was appropriate or cost effective. Chair Ballin said that he thinks two separate mailings would overload people, whereas four brief descriptions of what we are working on and an invitation to attend public meetings for further discussion would make more sense. Ms. Levine suggested picking a date for a public meeting on each subject to address questions that arise after the mailing (there is already a public hearing scheduled on February 17 for the wastewater bond). Ms. Helm said that this allows people to generate questions, and from that we can create a more detailed handout for the public meetings. Mark Kaplan agreed that a public meeting would make sense.

Jessie Levine asked to add a Selectmen's meeting on January 11 at 8:00 AM to address the payment of the sewer bond. The Selectmen agreed and added the meeting to their schedule.

Ski Joring Signage Plan: Ms. Levine reminded the Selectmen that there would be ski joring on the Town Common on January 30 and 31 as part of the New London Winter Carnival. She referred to the proposed course layout and signage plan in the agenda packet. She said that similar to Hospital Days, the Northeast Ski Joring Association (NESJA) would like to display signs from the sponsors, and the signs would not meet the zoning regulations but the Board of Selectmen can waive the regulations for Town property, as they do for Hospital Days. Ms. Levine stated that they would like to have five sign panels at the start and three at each of the first two jumps, as well as a New London Winter Carnival banner.

Chair Ballin said that he has no problem with the sign request but he is concerned about the overall traffic flow, and he NESJA has adequate staff to manage people, horses, and trailers coming in and out. He said that he has concerns about trying to compress the event into half of the real estate that they had last year, and he's concerned that there will be traffic congestion, problems from inexperienced drivers with horse trailers, etc. He repeated that he hopes NESJA has additional people available to move everyone in the right direction.

Tina Helm asked two questions: 1) Have we notified abutters to the Common? Ms. Levine said that the Town has not notified abutters, as it usually does not do so for events on the Town Common. She said that she thinks that it comes with the territory that the Common will be used for big events. Ms. Helm suggested that since this is the first time that these events will take place, we should notify abutters. Ms. Levine said that can be done. 2) Ms. Helm asked if there would be police officers on duty and if that would cost the town overtime. Ms. Levine said that she did not think the Police Department had planned on additional coverage but would staff with on-duty officers. Chair Ballin asked that to be reconsidered and Ms. Helm agreed that additional police presence may be necessary. Ms. Levine said that she will talk to Chief Seastrand about it.

Mr. Kaplan questioned the crowding of the event on the Common vs. the additional room and straightaway on the airstrip. Ms. Levine said that NESJA ideally would like a straight course, but they have been on other courses with curves and obstacles, and they have proposed this course and seem comfortable with it. Mr. Kaplan asked if they had considered everything like crowd control and the like.

Ms. Levine said that she thinks that NESJA has considered those things, and reminded the Selectmen that they had already approved the use of the Common for this event.

Chair Ballin said that the Hospital provides a lot of staff to manage their event, and he thinks NESJA should do the same. Ms. Levine replied that the Town provides about \$5,000 in staff time to contribute to Hospital Days; the Hospital employees do not do the crowd control or manage traffic. Chair Ballin said that he is talking about the organization and management of the event, and he hopes there is adequate staff for the ski joring group. He asked if this was a fundraising event, and Ms. Levine said that NESJA is non-profit but that they are not charging admission for the event, so there is no money being raised.

Ms. Helm said that the ski joring event was very well organized last year, and she thinks its worth trying on the Town Common to see whether it works.

The Selectmen approved the proposed signage plan.

Cell Tower Lease Update: Chair Ballin referred to the draft cell tower lease in the agenda packet. Ms. Levine reminded the Selectmen that this lease agreement for a cell tower at the Transfer Station has been progress for quite a while. She received a draft lease from Tower Resource Management (TRM) and she had it reviewed by Town Counsel and by the Town's insurer, Local Government Center. Ms. Levine said that this draft reflects changes she made after comments received back from those two sources and based on her review of tower leases with other towns, such as Stratham, Londonderry, and Plaistow. She reviewed the lease terms with the Selectmen:

- Length of Term: The current draft calls for an initial term of five years, with seven automatic renewals for a total of 40 years, with a provision for renegotiation of terms every ten years.
- Rental Income: Ms. Levine said that there is a period of time on which TRM would pay for a lease option (\$2500 over 30 months), and once a building permit is obtained the baseline rent would be \$1500 per month, plus \$250 per month for the first two subtenants, \$275 per month for the third, and so on. This could generate at least \$18,000 per year of revenue for the Town.

- Use of Tower for Town Communications Equipment: Ms. Levine said that she added a provision to allow for free use of the tower for Town emergency and public safety communications.

Ms. Levine said that the revised lease is being reviewed by TRM, and that ultimately Town Meeting will need to vote to authorize the Selectmen to finalize negotiations on the lease, and once that's done, TRM will have to go through the Planning Board and Zoning Board process.

Chair Ballin said to make sure that the lease does not allow subleasing by subtenants, so that the unit is not being used by multiple vendors without the Town receiving benefit. Ms. Levine said she would review that.

Zoning Amendments: Chair Ballin welcomed Zoning Administrator Peter Stanley to talk about the Planning Board's proposed zoning amendments, to be voted on during town elections on March 9, 2010. Mr. Stanley said this year has the fewest zoning amendments since he has worked for the town. There are a total of four, three of which are housekeeping in nature:

- 1) The first amendment changes the definition of structure, which Mr. Stanley said we have to do every other year or so to accommodate issues that we discover during the building permit process. In this case, we have added essential service equipment as an exception to the definition of structure, as well as other new exceptions: landscaped features, wells, and propane tanks. Mr. Stanley said that we have always considered these items to be exceptions but have never memorialized it in the definition, so that is accomplished with this zoning change. In addition, the amendment adds a threshold size limitation of 40 SF, above which a building permit is required, so the basic dog house is not considered a structure, but a large shed would be.
- 2) The second amendment deals with Article XX, which covers legal non-conforming uses, buildings and structures. Mr. Stanley said that the language in the article has been awkward for some time, so this amendment attempts to clean up the language and address what could be put back onto a non-conforming building site that was destroyed by fire or natural disaster.
- 3) The third amendment is to Article XXVII, Enforcement, and to bring the Zoning Ordinance up-to-date with the current language in the state statutes regarding enforcement.
- 4) The fourth amendment modifies the Workforce Housing ordinance. Mr. Stanley said the ordinance has been modified somewhat to add the requirement that third party expenses are at the expense of the developer, and added a third party administrator for continuing third party review of applications and project qualification, also at the expense of the developer. This takes the administration responsibility away from the Board of Selectmen, which otherwise would have had to administer the projects in-house, so Mr. Stanley said there is cost-saving to the community.

Mr. Stanley said that there are two bills before the legislature right now that continue to modify the workforce housing regulation. The original law came about two years ago the bill and instituted a fairly Draconian requirement, and now there are bills to roll that back to some degree, so we will undoubtedly have to review the workforce housing regulation again. One bill in particular before the legislature is to reduce the definition of multi-family from a threshold of five to a threshold of three, which is what most local zoning ordinances in the state consider to be multi-family. The existing workforce housing law says that 50% of residential districts must allow workforce housing; the new proposed law would change that from "majority" to "some," and no one understands what the outcome of that would be.

Tina Helm said that the fact that there are only four items means that Mr. Stanley is getting on top of zoning, and she commended him for that. Chair Ballin said that it will be interesting to see what the legislature does and he hopes that they don't make a mess so that we do not have to continually revise our ordinance. Mr. Stanley said that we were one of the few towns that changed their zoning ordinances to

address the new workforce housing law, so we are one of the few towns that will have to amend its ordinances to keep up with changes in the law.

Peter Bianchi referred to #6 on page 6 of the draft zoning amendments, and asked for clarification of the language regarding misdemeanor or felony for zoning violations. Mr. Stanley clarified the amendment and explained how the law could be enforced. Mr. Bianchi asked if the purpose was to increase the fine, and Mr. Stanley said that the fine would stay the same, but there is an increased fine for a second offense.

There being no other comment, Mr. Stanley departed at 8:50 AM.

#### Committee Meetings & Reports:

Planning Board, December 22: Tina Helm reported that the 12/22 Planning Board meeting consisted of the review of the second draft of the energy chapter for the Master Plan, and the Energy Committee did an incredible job of creating a second draft, so there were very few changes to it. She said that there was a very good dialogue and everyone felt good about it, and it was by far the most productive chapter discussion since she has been the Selectmen's representative to the Planning Board. The other major topic was John and Donna Ferries, who are putting an addition onto their home on South Cove Road and there were some stormwater management issues due to the shoreland location, but those seem to have been resolved. Ms. Helm said that Energy Committee Chair Jack Harrod alluded to the fact that he had asked for a tax exemption due to his solar panels, which had been denied by the Selectmen. He is now talking about bringing forward a petitioned warrant article to ask Town Meeting to allow exemptions for solar panels, and Ms. Helm asked for background. Jessie Levine explained that state law allows Town Meeting to authorize the assessors to give exemptions for wind energy, solar energy, and wood heat. She said that New London had granted these exemptions for years, but Assessor Norm Bernaiche discovered that Town Meeting had never authorized the exemptions. He brought the question to the Board of Selectmen, who decided last year not to bring the question to Town Meeting because it was their feeling that people who had the wherewithal to make these kinds of energy improvements to their house would be transferring the tax burden onto the backs of other people who could not afford to make those changes. Chair Ballin said the Selectmen saw it as a fairness issue. Jessie Levine said that the Selectmen also noted that the people who made improvements could receive tax credits at another governmental level.

#### Upcoming Meetings:

KRSD Deliberative Session, Saturday, January 9: Jessie Levine will attend; the deliberative session will coincide with the Public Health Network's H1N1 clinic.

Budget Committee, January 11: Chair Ballin referred to draft memo from the Board of Selectmen to the Budget Committee regarding the December 14 meeting and the Budget Committee's request for a revised budget. Mr. Kaplan asked how this memo should be presented. Tina Helm recommended that Mr. Kaplan read the memo aloud as early on in the conversation as he can on January 11. Ms. Levine also recommended sending it to the Budget Committee in advance, so they'd have a chance to consider the Selectmen's points.

Ron Koron said that he had looked at the Selectmen's minutes, which he found to be hard to follow, but he said that it sounds like there is an issue about the budget between the Budget Committee and the Selectmen. If he looks at the numbers correctly, it looks as if the town is reversing the milfoil reserve. Chair Ballin said that in the initial budget prepared to go back to the Budget Committee to give them the 2% increase that they requested, the milfoil fund was terminated to meet their request for a lower budget. At their meeting on December 21, the Selectmen revised the request back to them to go to 3% instead of 2%, and the Selectmen put the milfoil funds back into the budget, so the Selectmen support the milfoil fund as it stands now and the expenditure of funds for this coming year. Mr. Koron said that he recognizes that in 2011 there will be a problem, and explained that the primary purpose of this funds is to pay the part-time lake monitors. If we don't inspect the boats, he said, we will get milfoil. The Town has

provided \$6-7000 per year for that purpose, and he cannot see another way of raising this type of money to inspect the boats at the launches. He said there are all kinds of studies done by the NH Department of Environmental Services that say, for example, that milfoil in the lake will reduce assessed values by about 16%, so that lost tax revenue would have to be made up somewhere else. There are other studies showing that if a lake does get milfoil, it's perceived that the lake has reduced quality, and tourism will drop, and there are statistics regarding declining revenues, loss of employees, etc. He reiterated the importance of these inspections, and said that all four lakes feel the same way about this, and in 2011 the lakes will either ask to have the money included in the budget or prepare a petitioned warrant article. Chair Ballin thanked Mr. Koron for his comments and said that one of the reasons the Selectmen chose to push for the milfoil funding is that they understand the value of it, just like they understand the value of having a properly working sewer system, which may affect the value of one piece of property day-to-day, but overall the quality of life in town is improved.

Peter Bianchi referred to the changes proposed by the Selectmen on December 21 and said that the Selectmen never formally voted on the changes brought forward by the Department Heads. The Selectmen agreed and Chair Ballin said that this is a fluid discussion. Mr. Bianchi said that according to the spreadsheet, the milfoil fund and sidewalk and intersection funds were put back in. He said that he is concerned about how the Elkins project will work, and asked if the Selectmen will be going to Town Meeting to vote on the project this year or will the Selectmen be going forward without a Town Meeting vote. Ms. Levine said the vote this year is just to keep the capital reserve funded, and that in 2011 the Selectmen will go to Town Meeting for approval of the Elkins project, because we will not find out about final grant approval until the summer of 2010. Mr. Bianchi said that people he has been talking to do not support the Elkins project and buying the Mesa building. He thinks there is support for sprucing up Elkins, but he questioned whether the \$160,000 match is just the beginning of the expenses related to the Mesa building and the dam, and asked if this is going to be the first payment of an expensive renovation of which we do not yet know the full extent of the cost. He asked if there is the potential for the Elkins project to be a cash cow to keep up. In other words, he said, buying the building is one thing, making the building safe is another, fixing the dam is a third thing, because those things are not part of the grant application. He thinks these are going to be critical issues and it seems that it's a difficult nut to crack because we're talking about putting money away in 2010 for a project that we do not know what we have and he does not know if there is outcry from people in town and in Elkins to do it.

Chair Ballin said that the Selectmen have heard from a roomful of people who disagree with Mr. Bianchi. The Selectmen have hosted two charrettes in Elkins and a number of meetings at the Town Offices, and time has been spent by people in Elkins who have volunteered on this project. Chair Ballin said that he's sure Mr. Bianchi can find a dozen people to agree with him on any subject, but in this case, there are more people who disagree and we have had an appeal from our citizens and taxpayers in that town who would like some attention paid to Elkins. Chair Ballin said the village of Elkins is in need of that attention, and we feel that this is good time to do it, with the potential for 80% funding. Chair Ballin agreed that we do not have a final cost analysis, but we will be spending the year working on it and we will do our best to try to do what the public has asked us to do. Mr. Bianchi asked if the board is unanimous in their support of the project, and Mark Kaplan and Tina Helm said yes. Mark Kaplan said that he has the same trepidations, especially regarding the dam, but that this is a unique situation. Mr. Kaplan said that he does not go through Elkins more than twice a year, so he's not integrally involved, but he does know that when we help one section of town, we help the entire town, and there were enough people at both of these charrettes and meetings thereafter to make him believe that as a board that we should help.

Mr. Bianchi said that for the whole project, from the people he's heard from, there is concern about the long-term implications of the project that are unknown. Ms. Levine said that she will be putting together that information before Town Meeting in 2011, so that we will be able to present the entire cost of the project, and if people vote it down, they vote it down. Chair Ballin said that we are trying to move ahead in a judicious manner to try to get something done that we think needs to get done. Mr. Bianchi asked if

having these articles approved this year showed the state that we were on track to match the grant, and questioned whether that was strong enough language to show support of the grant. Ms. Levine said that she thinks it shows that the Town is continuing its funding of capital reserve programs so that its matching funds will be in place.

Chair Ballin said that sometimes the Selectmen work for the benefits of Elkins, sometimes for the benefit of lakefront owners, sometime for the benefit of Main Street, and he is sure that on all three issues there are some people who do not care.

Portsmouth Coalition, January 15: Mr. Kaplan asked if the three Selectmen should agree on a message prior to the January 15 meeting with the Portsmouth Coalition. Chair Ballin said that he is clear that we are on board with any efforts to avoid going back to donor town status. Ms. Helm suggested that we should spend the meeting listening to the other members of the Coalition. Ms. Levine said that she did not think we should bring up New London's unique status within the Kearsarge Regional School District, as that has already been decided on by the court. Jessie Levine said the Selectmen may still want to fight that battle, but she did not think it should be brought up at the Portsmouth Coalition meeting. Mark Kaplan said that if it's not the right time, he will not push it.

Joint KRSD Meeting, January 21: Chair Ballin confirmed that the next meeting of the Joint Boards of Selectmen will be on January 21 at 6:00 PM in Warner, with road agents from the seven towns. Debbie Cross asked if there was any particular purpose for the meeting, and Chair Ballin said that the subjects will be regionalization and joint purchasing for maintaining roads and infrastructure.

Any Other Business:

Letter from County Attorney's Office: Chair Ballin referred to an undated letter from the County Attorney regarding the increase in fees for the county prosecutor from \$9000 in 2009 and 2010 to \$10,000 in 2011 and \$11,000 in 2012. Ms. Levine said that she does not know when the letter was received by the Police Department, but she the letter was on her desk when she came into the office over the weekend. Chair Ballin said that he is not impressed with the numbers of cases tried by the County Attorney's office, and he questioned whether they are accurate. Ms. Levine said that she had e-mailed the County Attorney for more information on the fees paid by the towns that use their prosecutors and the formula for cost allocation. She said that there is no doubt that the Town needs the prosecutor's assistance, but she questioned the cost effectiveness of \$9000 per year for only about 30 cases.

Police Chief David Seastrand joined the meeting at this time and said that there are categories of work in her letter that take only a few seconds, but some of the hearings and cases might take more time, and that in his experience it seems like the County Attorney's office did more to help dismiss cases than to actually prosecute them. That said, he thinks the numbers in her letter are low – he knows that have arraigned more than one case, for example, and pointed out that this letter shows only one trial on a Class A misdemeanor, and he thinks there was more than one trial. He will ask her for more detailed information. He then apologized to the Board of Selectmen and Ms. Levine and said that he had received the letter some time ago and it had been buried on his desk, so it was not late delivery by the County Attorney's office.

Chief Seastrand said that up until last year, we were in court every week with five or six cases a week, so these numbers are very low and he does not think that they are accurate. Mr. Kaplan asked if we would have more or fewer cases now that we are travelling out of town, and Chief Seastrand said it could potentially be more because we could be called any day of the week rather than just Wednesdays. Ms. Levine clarified that in the past, we knew that our cases would be on Wednesdays, and now they are spread out among the days of the week so it's less efficient and there will be more trips to court by the officers and the county prosecutor. Mr. Kaplan asked who's going to pay for the increase, and Ms. Levine said that the costs will fall on the town. Tina Helm asked how much notice is given for court

appearances, and Chief Seastrand replied that it could be anywhere from a few weeks to a day or a few hours.

Chief Seastrand told the Selectmen that he is working on a new system in his office to manage scheduling at the new court – they lost a DWI case because an officer did not show up because of a scheduling error. Chair Ballin said that it will require more heavy lifting and he's glad that it will be straightened out.

Lamson Lane: Chair Ballin referred to Jessie Levine's e-mail from Wednesday regarding the Hazard Mitigation Grant for Lamson Lane. Ms. Levine summarized that the grant had been applied for in the summer of 2007 after major washouts to Lamson Lane in 2006 and 2007, and the State Office of Emergency Management had been sitting on the grant. She had periodically asked for an update and she was told that it was a good application and was likely to be approved, but it was under FEMA review. She heard this week from Richard Verville at the State OEM that the amount of the grant (\$450,000) was not justified by the past damages and lost use of the road, so he has asked her and Richard Lee to provide more information. Ms. Levine said that they are likely to receive the grant, but she is not sure at what level. She was also told that the grant would become available in 2010 and the Town must have it's 25% match in place, and Ms. Levine is concerned about coming up with \$112,000 in 2010 given the Budget Committee's position.

Tina Helm pointed out that this is another example of how pushing off costs will add up later. Ms. Levine agreed, but said that she had never asked to fund this grant because she was never sure that it would be approved. She said that she and Richard Lee will work with the State this week and report back on the status.

KRSD Warrant Article #1: Ms. Levine asked the Board of Selectmen if they wanted to take a position on warrant article #1, which is the School's request to borrow money to pay for energy conversion of certain school buildings, per the Honeywell report. Ms. Levine read the article aloud to the Selectmen. Tina Helm and Mark Kaplan said that they were inclined to support it. Chair Ballin asked if this included the biomass project and Mark Kaplan said that it was not included. Mr. Kaplan moved to support KRSD warrant article #1, seconded by Tina Helm. There being no further discussion, motion was approved 3-0.

Budget Committee meeting, January 11: Mark Kaplan moved to approve the memo from the Board of Selectmen to the Budget Committee and attached spreadsheet showing budget changes by the Board of Selectmen as of 12/21/09. Seconded by Tina Helm and approved 3-0.

Application for use of conference rooms:

- Sydney Crook Room: US Census Bureau – recruiting & testing – January 5, 12, 19, 2010 1:00-3:30 – Approved.
- Small conference room – US Census Bureau – recruiting & testing – January 26, 2010 1:00-3:30 – Approved.

Other:

- Disbursement voucher weeks of December 28, 2009 & January 4, 2010 - Approved.
- Jesse P. Smerald's Eagle Scout invitation and sign certificate.

There being no further business, Mark Kaplan moved to adjourn, seconded by Tina Helm and approved 3-0. Meeting adjourned at 9:50 AM.

Respectfully submitted,

Jessie Levine, Town Administrator