

Groveland Board of Selectmen
Meeting minutes
October 16, 2017

Present: Chairman Michael Wood, Vice Chair Lisa Dube-Carpenter, Selectman Ed Watson, Selectman Bill Dunn and Selectmen Bill O'Neil

Absent: None

Others present: Denise Dembkoski, Finance Director

The meeting was called to order at 6:30PM.

RESIDENT/PUBLIC COMMENT

None

APPROVE WARRANTS

PW#18-15 \$165,563.83

Chairman Wood made a motion, seconded by Selectmen Watson to approve payroll warrant #18-15 in the amount of \$165,563.83; voted 5-0-0; warrant approved.

BW#18-15 \$651,311.16

Chairman Wood made a motion seconded by Selectman Watson to approve bill warrant #18-15 in the amount of \$651,311.16; voted 5-0-0; warrant approved.

APPOINTMENTS

Appointment of Mary Lou Costello, 604 Alyssa Drive, to fill a Board of Library Trustee vacancy effective October 16, 2017. Appointment is made until the next annual election, May 7, 2018. At that time there will be an election to fill the position for a three year term.

Ms. Costello was present to answer any questions from the Board. Ms. Costello indicated she is a regular patron and visits the library several times a month. Chairman Wood explained that part of the role is to work with other committees and boards. Ms. Costello indicated she is willing to do that. Mr. Watson indicated he is familiar with Ms. Costello's qualifications and thinks she would be a good fit for the board. Mr. O'Neill asked if Ms. Costello would be able to voice her opinion if something was wrong or could be better. Ms. Costello indicated should could.

Selectman Watson made a motion to approve the appointment of Mary Lou Costello to the Board of Library Trustees; Selectman O'Neil seconded; voted 5-0-0.

DISCUSSION AND POSSIBLE VOTE

Meadow Pond Conservation Restrictions Update and Legislative approval request

Mike Dempsey on behalf of Groveland Conservation was present to discuss the matter.

Meadow Pond is located off of Uptack Road with a total of approximately 84 acres of land. 64 acres already has a conservation restriction. Additional parcels were purchased with CPA funds and require restrictions that have not been recorded yet. Town Counsel approved adding the additional parcels and extending the current conservation restriction. Because a restriction is being placed on the parcels, Chapter 97 requires legislative approval. A letter from the Board

which includes the Act drafted by Town Counsel needs to be sent to Representative Mirra and Senator Tarr so the state can place on their agenda for a vote. No vote required by the Board at this time. Selectman Watson asked what would happen if they didn't agree to the restriction. Mr. Dempsey indicated the restriction must be signed because CPC funds were used to purchase. Mr. Dempsey indicated that Fish and Game will work with Town to provide signs for no hunting.

Wood Street Property Exchange and Conservation Restrictions update and Legislative approval request-vote to accept and sign Exchange Agreement

The property involves land in the existing Town Forest and 12 acres next to Town Forest. Board was provided Exchange Agreement to be signed. This will also require legislative approval because the land is protected by Chapter 97. Essex County Greenbelt will hold restriction. Costs for legal work, etc. will be paid by Mr. Dehullu. Town counsel review of restriction will be covered by CPA funds.

Selectwoman Carpenter made a motion to accept the agreement for exchange of Massachusetts real estate dated October 2, 2017 between Dehullu Homes and the Town of Groveland; seconded by Selectman Watson.

Mr. Watson asked about the legal expenses up to \$12,000. Ms. Dembkoski stated that Mr. Dehullu is paying those costs. Mr. Watson asked why the restriction is needed since the Town has owned it for a while. Mr. Dempsey stated it is because of an agreement made between conservation and the water department to protect the property when the water tower was put up. Mr. Dunn thought this was not going to cost the town any money. Selectman O'Neil stated the agreement requires Mr. Dehullu to pay up to \$12,000 and the only cost to the Town is the conservation restriction. Mr. Dempsey stated that cost should not exceed \$2000 and those funds were already approved to be paid from CPA at town meeting in 2015. Mr. Watson asked for the matter to be tabled until the next meeting.

Selectwoman Carpenter withdrew her motion.

In response to a question from Selectman O'Neill, Ms. Dembkoski stated she will monitor the legal costs. Ms. Carpenter asked for clarification of #11, second paragraph having to do with closing costs and filing fees. Ms. Dembkoski assumes that is referring to the parcel that the town is getting and so the town would have to pay the filing fees for that piece.

Selectman Watson made a motion to table the matter; Selectman Dunn seconded; voted 5-0-0.

Center Street Greenway Conservation Restrictions

Mr. Dempsey was before the Board in May of 2016 to have the Conservation Restriction approved. The Board requested Town Counsel review again. Town Counsel made a couple of small changes, the changes were sent to the state and the final agreement was just received back from the state. The conservation restriction is required because property was purchased with CPA funds. Restriction allows water department to put in wells on the property in the future. The review process was complicated due to the fact that this property is within a turtle habitat. This does not need to go to the legislature. The Board just needs to sign the restriction.

Selectman Watson asked for clarification on the plans.

Selectman Dunn confirmed this was just the Angelini and Mattingly properties and no other property.

Mr. Watson had the following questions: Why are bicycles not allowed? Is hunting and trapping allowed? Why are signs prohibited in one section of the document but allowed in another? Mr.

Groveland Board of Selectmen meeting- October 16, 2017

Dempsey suggested Chris LaPointe from Essex Greenbelt answer these questions when he is before the Board on October 30, 2017.

In response to a question from Selectmen O'Neil, Mr. Dempsey confirmed that the wells can still be placed there even with the turtle habitat. Mr. Dempsey indicated that was the purpose of the agreement.

Costs

All costs are being covered by CPA purchase article.

Acknowledge receipt of and review Open Meeting Law Complaint of Kathleen Prunier, received October 6, 2017 and vote to resolve

Chairman Wood read the following from KP Law: The complaint must be filed within 30 days from the violation or the date on which the complainant became aware of the violation, in this case September 6 or 7, 2017. Open Meeting Law does not address the substantive content of discussion so characterizations made by complainant do not implicate Open Meeting Law. Finance Director and Treasury/Tax Collections Clerk are not subject to Open Meeting Law because they are not members of the public body (Board of Selectmen). Thus emails from them to the Board do not implicate Open Meeting Law issues. Exchange between Finance Director and one board member do not implicate Open Meeting Law issues because it is not among the quorum and Finance Director is not a member of the Board. Possible that emails from one board member to Chair and Finance Director might constitute a serial deliberation where Chair was cognizant of the opinions of a quorum of members but none of the Selectmen hit reply all and no one email contained a quorum of members. If perceived as a serial deliberation, the board cured any potential violation by its vote to appoint a temporary Town Clerk at its April 24, 2017 meeting. To further cure any perceived violation the Board will attach emails to April 24, 2017 meeting minutes and will attach April 24, 2017 meeting minutes and emails at issue to October 16, 2016 meeting minutes.

Selectman Dunn made a motion that the Board of Selectmen acknowledge receipt of October 5, 2017 complaint from Ms. Kathleen Prunier alleging a violation of Open Meeting Law occurring between April 19 and April 21, 2017. Ms. Prunier indicates that she became aware of the emails on September 6 or 7, 2017 in connection with review of emails she received pursuant to a public records request. Assuming for the sake of this response only and reserving all rights with respect thereto the Board votes to resolve the same as follows: that four of the fifteen emails at issue in the complaint do not implicate the Open Meeting Law because they were sent by the Finance Director or the Treasury/Tax Collections Clerk who are not subject to the Open Meeting Law. That said, emails constitute a distribution by non-members of reports that may be discussed at a meeting wherein no opinion of any members was expressed; that other five of the fifteen emails at issue involve exchange between the Finance Director and one board member and thus so not implicate Open Meeting Law issues because they are not among a quorum of the Board; that the remaining 6 of the fifteen emails were sent between less than a quorum of the Board and thus do not implicate the Open Meeting Law in and of themselves. Although the Board denies any violation of open meeting law, to the extent of any of the six remaining emails are perceived as serial deliberation the Board takes the position that by appointing a temporary town clerk at its April 24, 2017 meeting cured any perceived violation. To further cure any perceived violation, the Board votes to take the following additional actions. To attach the emails at issue and the

Groveland Board of Selectmen meeting- October 16, 2017

complaint to the minutes of the Board's April 24, 2017 meeting and to attach the meeting minutes of the April 24, 2017 meeting as well as the emails at issue to the minutes of the Board's October 16, 2017 meeting. For all of these reasons the complaint is denied in its entirety and Town Counsel is directed to prepare a response to the complaint consistent with this vote; Selectman O'Neil seconded; voted 3-1-1. Selectman Carpenter opposed. Selectman Watson abstained.

Chairman Wood indicated that Town Counsel has stated there was no violation so the Board will not waste time with a discussion.

Public Comment Discussion

Selectman Watson stated he had some people reached out to him to bring back public comment. Selectman Watson requests it be brought back without the 48 hour requirement. Selectwoman Carpenter agreed with Selectman Watson and stated that the Chair has the right to stop someone that is behaving inappropriately and that the 48 hour requirement and putting the comments in writing creates a problem for people that would like to have free speech in this forum.

Mr. O'Neil made a motion to leave policy exactly as is. There was no second.

Mr. Dunn stated that the Board allowed this in the past and it got out of control and Selectmen were not able to do their due diligence on the issues that were being brought up.

Jane Dempsey, 33 Uptack Road, Groveland, stated that Public Comment is an important part of town democracy and the 48 hour written submission requirement seems to be the same as asking for it to be put on an agenda. Purpose of public comment would be to inform the Board and doesn't have to be a time for you to deliberate or give answers.

Selectwoman Carpenter made a motion that the Board permit Ms. Dempsey to provide the Board with some policies around public comment at open meetings for the Board to review and consider; Selectman Watson seconded; vote 5-0-0.

VOTES OF THE BOARD

Minutes from September 5, 2017

Selectwoman Carpenter made a motion to accept the minutes from September 5, 2017 with amendments; Selectman Watson seconded; voted 5-0-0

Minutes from September 18, 2017

Selectman Watson made a motion to accept the minutes from September 18, 2017; Selectman Dunn seconded; voted 5-0-0.

Approval of adding two additional street lights to Center Street

Included in the packet was an email from Kevin Snow, General Manager of Groveland Municipal Light Department recommending 2 lights be added at the corners on Center Street. Selectman Dunn made a motion to add two additional lights on Center Street; Selectmen O'Neil seconded; voted 5-0-0.

Selectman Watson stated that he received a complaint about poor lighting on Berrywood and asked if the light department could check out that area. Ms. Dembkoski said she received a request for a light on Uptack and asked the resident to put the request in writing. Board discussed the process for requesting a street light. Chairman Wood asked that residents submit their request in writing to Ms. Dembkoski and for Ms. Dembkoski to obtain a recommendation from the light department and the police department before placing on the Board's agenda.

One Day Liquor License for the Wine and Art Event at Veasey Park on November 4, 2017 between the hours of 5:30PM and 9:00PM (Applicant request to have the Detail Officer waived)

Selectman Watson indicated that the Board allowed them to have the event without a detail officer last year and there were no problems.

Selectman Watson made a motion to approve the one day liquor license for the Wine and Art event at Veasey Park and waive the requirement to have a detail officer; Selectman Dunn seconded.

Selectman Carpenter stated that she is not comfortable with waiving the detail officer where alcohol is being served. If something happened and there was not a detail officer there it could expose the Town to liability.

Chairman Wood agreed to pay the \$200 fee for the detail. Selectman O'Neil agreed to split the cost with Chairman Wood.

Selectman Watson withdrew his motion.

Selectman O'Neil moved to approve the one day liquor license to Vanessa Lopez et al for the Wine and Art Event at Veasey Park on November 4, 2017 with the understanding that Selectmen Wood and O'Neil will split the cost of the police detail; Selectman Dunn seconded; voted 5-0-0.

OLD BUSINESS

Selectman O'Neil asked if there was any progress on the bathrooms at the Pines. Ms.

Dembkoski did not have any information as they are busy finishing up paving. Selectwoman Carpenter asked Ms. Dembkoski to ask the person in charge to come to a Board meeting to explain why the project, which was approved in 2015, has not been completed yet.

Selectman O'Neil asked about the status of the library funds. Ms. Dembkoski informed the Board that the money has been invested and the account was opened about one and a half months ago.

Selectwoman Carpenter received the September 19th letter from the Chair and is requesting that either the letter or the minutes reflect the accurate definition of "emergency meeting" which is "a sudden, generally unexpected occurrence or set of circumstances demanding immediate action." Chairman Wood made a motion to add verbiage requested by Selectwoman Carpenter to the minutes of October 2, 2017; Selectman Watson seconded; voted 5-0-0.

Selectman Watson asked about the difference between a special meeting and an emergency meeting. Ms. Dembkoski indicated Town Counsel recommends the term "special meeting" be used when referring to a meeting that is outside of the Board's regular schedule and can be posted within the proper timeframe. This could have been a special meeting but the business owner was looking for an immediate answer so there was no time to post.

Mr. Dunn asked for an update on the letter from the Pines giving a progress report. Ms.

Dembkoski indicated she did not send them a letter because they will be before the Board at one of the next two meetings.

Mr. Dunn also asked about the Salem Street land sale. Ms. Dembkoski has tried to schedule an executive session but there is no date that works for everyone.

Mr. Watson asked for an update on the gun range. Ms. Dembkoski stated that the Chief, Lieutenant, Mike Dempsey and Rosemary Decie (the conservation agent) met with Natural Heritage about concerns about the turtles in the firing range area, but ultimately gave the blessing to the police to go ahead and start using the range. Police plan to start using it as soon as fence is installed.

CORRESPONDENCE

Minutes from October 2, 2017

Letter from Dr. Mulqueen regarding Planning Workshops for the School Building Project. Ms. Dembkoski said they are amending the dates and she will post all the information on the website.

Letter from the AG's Division of Open Government regarding the Open Meeting Law Complaint filed by Lisa Dube-Carpenter on September 5, 2017

Decision from the AG's Division of Open Government regarding the Open Meeting Law Complaint filed by Anne Brodie on August 21, 2017

Invitation from David Tuttle of the American Legion for the Veterans Day Service on November 11, 2017. Mr. Tuttle is looking for a member of the Board to speak. Chairman Wood indicated he would speak if no other Board member wanted to speak.

FINANCE DIRECTOR'S TIME

Ms. Dembkoski stated the Fire Department received their Class V license so they are now operating as a non-transport ambulance service, providing improved medical care with quicker response time. The Board asked Ms. Dembkoski to research when the paperwork was voted by the selectmen and when it was signed.

The Fire Department and Police Department are hosting a public safety open house on Saturday, October 28th from 1:00PM to 4:00PM. They will also be having a food donation drive to benefit Puerto Rico.

Tomorrow is the first flu clinic for residents 60 and older from 9-11AM. There is another one next Tuesday from 9-11AM for residents 60 and older.

SELECTMEN'S TIME

Selectman O'Neil gave a shout out to Congressman Tim Murphy from Pennsylvania-a do as I say not as I do politician. Mr. Murphy was a big prolife candidate until his mistress got pregnant and now he is a pro-choice advocate. Selectman O'Neil stated he wanted to commend the man for his morals, integrity and righteousness.

Ms. Dembkoski stated paving from Salem Street and the side roads around Lower Gardener is happening the 20th and 21st. Chairman Wood asked Ms. Dembkoski to check on the drainage grates that were removed.

Ms. Dembkoski indicated she has received some complaints about the paving on Route 97 and she has forwarded them to the contractor and the state. Selectman Dunn asked for the contractor to come to a Selectmen meeting so residents can have their concerns heard.

Selectman O'Neil made a motion to adjourn at 8:39PM; seconded by Selectman Dunn; voted 5-0-0.

The next regular meeting will be held on **Monday, October 30, 2017** at 6:30PM.

Respectfully submitted by: Laurie Burzlaff, minutes clerk

**** Unanimously Approved on November 13, 2017 ****