

BOARD OF SELECTMEN REGULAR MEETING
December 17, 2013

A regular meeting of the Board of Selectmen was held on Tuesday, December 17, 2013 in the Selectmen's Conference Room.

Members present: First Selectman Michael Criss, Selectman Jon Truskauskas, and Selectman Nancy Schnyer.

Attendees: Althea Stowe, Attorney Rybak, Jason Emery,

Call to Order:

Mr. Criss called the meeting to order at 7:05 p.m.

Minutes from the Previous Meeting

Mr. Truskauskas moved to approve the minutes from the meeting held on November 19, 2013. Ms. Schnyer seconded. All were in favor.

Public Participation

None

Appointments and Resignations

Town Clerk, Nancy Eldridge, has requested the re-appointment of Timothy Cook and Keith Phalen as Subregistrars to serve from January 6, 2014 through January 1, 2018. Mr. Truskauskas moved to approve the appointments of Timothy Cook and Keith Phalen as Subregistrars from January 6, 2014 through January 1, 2018. Ms. Schnyer seconded. All were in favor.

New Business

Possible reconsideration of claim for attorney's fees by Althea Stowe:

Mr. Truskauskas pointed out that the town has nothing to do with purchase prices. He questioned why she purchased the land if she thought it was overpriced. Ms. Stowe said she purchased the land in June and did not get any information on it from Assessor's office until July. She said the mistake has been there for years and still hasn't been corrected. She told Mr. Truskauskas she will accept the fact that she will not be paid the \$630 difference in price from the town but she wants the assessors cards corrected. Mr. Criss noted that the land use clerk, tax collector, and the assessor supplied Ms. Stowe with reports. The assessor, per Mr. Criss's request did make an adjustment, which by statute, was not required. The assessor was correct when she stated by law she cannot change the value of land based on a sales price without a proper appeals process until the 2013 revaluation. The assessor stated that Ms. Stowe may file an appeal. Applications will be available February 1, 2014 and must be returned by February 20, 2014.

Ms. Stowe's second issue is that after explaining her desire to build a garage to the land use clerk, she was told to attend a Zoning Board of Appeals meeting and paid the \$215 application fee. Her application was denied and she was told she should have gone to the Zoning Commission first. Attorney Rybak stated that an owner of a non-conforming lot with nothing on it is entitled to use of the property but you still have to follow guidelines so should go to the Zoning Commission and tell them you need a variance to

put an accessory building on its own lot. A restrictive covenant should be recorded with the deed stating that the lot will stay with the house lot then it becomes an accessory to the house lot and is, therefore, permitted. Ms. Stowe is requesting \$215 that she paid for the application to the Zoning Board of Appeals. Mr. Criss confirmed with Attorney Rybak that if the proper steps are taken, an applicant should first apply to the Zoning Commission and pay a fee, they approve the use first then the Zoning Commission should then refer the matter to the Zoning Board of Appeals for a side yard variance and setbacks and pay the application fee to the Zoning Board of Appeals. Even though the steps taken were out of sequence the fees would have remained the same. Ms. Stowe stated she would check with fees with the Land Use Clerk. If there is a difference in cost she will request the difference.

The third issue for Ms. Stowe is her attorney's fees. Mr. Truskauskas noted that Ms. Stowe hired an attorney on her own free will. She stated she hired an attorney to make the town understand the laws because the laws were there and they weren't followed. Ms. Schnyder asked if she hired an attorney because Ms. Lund had done the same thing. Ms. Stowe replied that was true. Ms. Stowe noted that the town's attorney told the zoning board that they needed to learn their laws. Attorney Rybak stated that the board needs to have a rule to address this issue at the lake because they can't keep doing this on a case by case basis. Attorney Rybak noted that for zoning matters in Connecticut, each side pays their own attorney's fees. With regard to the potential small claims suit being consider by Ms. Stowe, Attorney Rybak stated that it is certainly anyone's prerogative but he wanted Ms. Stowe to know that the town's response will be that we don't defend the town in small claims court and the town will remove the case to Superior Court where we will then submit it to the town's insurance carrier for defense. Ms. Stowe stated that taxpayers shouldn't have to hire an attorney to use their own land. Mr. Criss reiterated that no one from the town advised her to hire an attorney. Mr. Truskauskas pointed out that the Zoning rules are available to the public. Ms. Stowe feels that mistakes were made and she feels she should receive some money back. Mr. Criss informed the newest member of the Board of Selectmen, Nancy Schyner, of the decision by the Board of Selectmen in a letter dated July 18, 2013 to Ms. Stowe stating that the on July 16, 2013 the Board voted to deny claim by Ms. Stowe based on the facts and the town does not waive any of its legal rights and defenses or limit its reasons for denial by virtue of this letter or any other document. Mr. Truskauskas and Ms. Schyner did not want to change the vote from July 16, 2013. Mr. Truskauskas moved to uphold the decision made by the board on July 16, 2013 and the letter dated July 18, 2013 to deny claim by Althea Stowe. Ms. Schyner seconded. All were in favor.

Set date for Town Meeting and Referendum:

Mr. Criss would like to set the town meeting date for Tuesday, January 21, 2014 and a referendum on January 28, 2014.

First on the call is "As recommended by the Board of Finance and the Board of Selectmen that the Town of Harwinton (a) approve a supplemental appropriation of \$425,000 for the construction of the Harwinton EMS facility at 166 Burlington Road at a total cost not to exceed \$1,070,000 (less \$100,000 to be contributed by the Harwinton Ambulance Association, Inc.); and (b) authorize the First Selectman and the Board of Selectmen to apply for and accept any additional governmental or private grants to defray the cost of the project.

The rest of the call will be as follows:

2. To consider and act upon an Ordinance Concerning Membership in the Northwest Hills Council of Governments.
3. To consider and act upon an Ordinance Concerning Redemption Fees for Impounded Animals.
4. To consider and act upon an Ordinance Amending the Zoning Commission Application Fee Schedule.
5. To consider and act upon an Ordinance Regulating Peddlers, Hawkers, Canvassers, Solicitors and Vendors.
6. As recommended by the Planning Commission, to accept the gift of a remainder interest in 79+- acres of land on Bissell Road owned by the High Riders Snowmobile Club, Inc.

Mr. Criss stated that, unfortunately, the EMS facility will cost more to complete. He wants residents to be able to vote on whether to fund what is still needed because they approved the facility at a previous referendum.

Mr. Truskauskas made a motion to approve the call and the town meeting for January 21, 2014, 7:00 p.m. in the Assembly Hall. Ms. Schyner seconded. All were in favor.

Mr. Truskauskas made a motion to move item #1 from the warning of the town meeting so it can be voted on by a referendum with paper ballots. Said referendum to be held in the Assembly Room of the Town Hall on January 28, 2014, between the hours of 6 a.m. and 8 p.m. Ms. Schyner seconded. First Selectman Criss voted yes. Selectman Schyner voted yes. Selectman Truskauskas voted no. Motion passed.

Request for Refund of Property Tax:

Mr. Truskauskas moved to approve the following tax refunds- Douglas Souilliard, \$23.86. Chase Auto Finance, \$88.15. Toyota Motor Credit, \$216.55. Ms. Schnyer seconded. All were in favor.

First Selectman's Report

Mr. Criss reported the town had another good turnout for the Holiday Hometown Celebration. Mr. Criss will give a legislative update at the next meeting and work on the budget will begin in January. The field recommendation from the Board of Ed will be voted on at a referendum on January 14th. They are requesting 2.9 million and Mr. Criss thinks they are going to referendum without working everything out. Mr. Criss is not against the fields but feels that all must account for the fact that this is a revaluation year and we are looking at roughly 13 to 15 percent less than recent years that works out to be almost 2 mils.

Correspondence

The Selectmen reviewed reports for November from the Fire Marshal and the Animal Control Officer.

Adjournment

Mr. Truskauskas moved to adjourn at 8:14 p.m. Ms. Schnyer seconded. All were in favor.