

**TOWN OF EPSOM
BOARD OF SELECTMEN
Monday, July 26, 2010**

Bob _____
Joanne _____
Keith _____

Final _____
Accepted _____
Accepted as Amended _____

Present: Keith Cota, Vice Chairman; Bob Blodgett; Darlene Phelps, Recording Secretary

Not Present: Joanne Randall, Chairperson

Also in Attendance: Rick Bilodeau; Andrew Walton; Mary Frambach; John Klose; Gordon Ellis; Captain Matt Moulton; Betsy Bosiak; Kathy Bailey; Nancy Wheeler; Chief Stewart Yeaton; Dave Fiorentino; Ken Smith; Dick Frambach; Chief Wayne Preve; Jay Hickey; Lee Adams; Rick Belanger

6:15pm Keith called the meeting to order and asked Bob Blodgett to lead us in the Pledge of Allegiance

6:20pm Public Hearing to Accept Donations Keith opened the Public Hearing to accept Donations & Grant Funds. FEMA grant funds were received as a result of the wind event in February, 2010 in the amount of \$13,219.15 and are requested to be allocated and expended by the following departments as follows:

- \$2452.89 Fire Dept - Training & paramedic intercepts
- \$302.63 Police Dept - Equipment
- \$1760.63 Highway Dept -Center Hill Road drainage project
- \$8775.00 Webster Park - Storm Debris Removal

The Town of Epsom also received \$92,300 in March from the Hazard Mitigation Grant Program. This was the 2nd half of the grant to replace culverts on Drolet, New Orchard & Lockes Hill Roads. Those projects were completed in 2009.

Keith inquired as to any comments from the staff and general public. The public hearing will remain open through the Department Head Meeting.

6:30pm Staff Discussion

Nancy Wheeler said in last weeks AP was an invoice from Avitar, and a portion has been noted to come from the Capital Reserve Fund, per the BOS decision on 7/12/10. She has prepared a voucher to be sent to the Trustee of the Trust Funds for that release of funds. A copy of expenses to date has been given to all department heads.

An auditor will be in the Town Office on Friday to audit the Retirement funds. Nancy said she spoke to Marylou Keane, Trustee of Trust Funds and a member of the Budget Committee today and Marylou is requesting the following departments give an idea of their intentions for spending funds out of the following funds. The Trustee of Trust Funds would like to see each of these funds receive a better return on its money: Morrison Fund for Fire, Morrison Fund for the Town, The Bridge Capital Reserve Fund & the Vehicle Equipment Fund for the Highway Dept. Nancy said she expects the need next year to replace the server and feels this could from the Morrison Fund. Keith inquired as to how much should be held out. Nancy estimated up to \$5000.00. Barbara Clark said Housekeepers 911 came in today to look at the office for a bid on sealing the floors. She will provide this bid to the Epsom Shops Manager for consideration.

Department Head Meeting

Zoning Compliance Officer- Jay Hickey said he brought in the tax maps U18 & U16 (Kings Grant & Kings Town) showing the flood plain. These are the FEMA maps adopted by the Town in March. There have been a significant amount of changes due to the Suncook River avulsion. Keith correct Jay and explained the maps are the result of reassessment of the river corridor before the avulsion. The update used more accurate field data and flood analysis by FEMA's consultant. Keith noted that one of the engineering assessments that need to be done by the State is to amend the flood maps as a result of the 2006 avulsion and it's after affects. Barbara & Jay are meeting with the Flood Plain Coordinator on Wednesday to discuss the impact of these new maps and how the Town will go forward enforcing Flood Plain regulations. If the Town of Epsom does not adhere to FEMA's Flood Plain regulations then everyone in town can be assessed a \$50 fine through the FEMA program.

Jay said he spoke to Dick Verville about Daniel Fredyma, and Mr. Fredyma's intention is to work with Dick Verville on the buyout of his property by FEMA as the cost to raise his house to an appropriate height will likely exceed \$200K.

Jay said he spoke to Atty. Soltani about the Cease & Desist order at the Circle.

Andrew Walton asked if someone has a question about a zoning compliance issue, who would that person contact & what is the response time. Keith said the appropriate person would be the Zoning Compliance Officer and it's up to him to decide if it's an emergency situation that needs immediate response or how it can be worked into his regular schedule.

Planning Board – Phil Demeritt sent a report stating that the Planning Board will be working on the CIP in August and the Master Plan will be completed by August.

Welfare Dept – Lee Bartlett sent a written report saying she has only seen a couple of Food Pantry clients in the past couple of months. She will be placing some signs around with her name & contact information indicating that there is food available to those in need. She said some food is out of date and doesn't want to see more go to waste.

Highway Dept – Gordon Ellis said things are going very smoothly. The New Orchard Road project is $\frac{3}{4}$ done. The project should be finished in the next couple of weeks. In October the Highway Department will own the backhoe. The money in the Capital Reserve Bridge Fund must remain there for the repair to the Cass Road Bridge, and that is due to be repaired in 2019, so that can be placed in long term investment. He said he looked at the Equipment Capital Reserve Fund, and he's not sure if he will put in a Warrant Article for a new F550. He's been working on FEMA items for 2011, and waiting for the money from FEMA for 2010. Drolet Road is complete, and the shoulders have been repaired on North Pembroke Road.

Dawn Blackwell – 89% of the 2010 1st half taxes have been paid. She & Donna will be attending election training on August 11th. She is happy with the new Town Office location with the exception of the late day sun. She noted she currently has no plans to expend any money from the Capital Reserve Account.

Police Dept – Chief Wayne Preve said everything is going fine with DWI checkpoints and speed controls. Things are very busy. Last week there were several car break-ins around Black Hall Road and he recommended to property owners to lock their cars when left unattended. Several GPS systems & IPODS were stolen. He would like to change the graphic on the cruisers and would like to do this as cruisers are replaced, as they include the Town seal that is on the officers' uniforms. He passed around a copy of the police vehicle logo for those in attendance to see. He said he will be submitting a request for some vacation time. He said over 50 candidates applied for a position at the beginning of the summer. Out of those, 10 passed the PT & written tests, and those were narrowed down to the top 3, and by the time all 3 were called, they had accepted jobs someplace else. The other preferred candidates did not pass the PT portion. The Department is now looking at January before they are able to hire

another officer to enter the academy. The Dept will be paying 12-16 hours of overtime per week until they can hire another officer.

Fire Dept – Chief Yeaton reported that the thermal imaging camera that was damaged during the fire in Northwood several months ago was replaced & it was received today. He said he had several Explorers attend Fire Camp and he was very pleased with their participation. He said an invitation was received from the lake sites to attend a thank you barbeque. He said no one was able to attend from the FD, but he has expressed his appreciation for the invitation. Engine 2 is locking up in gear and it will be going to Concord tomorrow to be checked again. This is a major concern. He said they are having a hard time keeping all shifts covered during vacation. He said a few times they have been short-handed. Keith noted that the Fire Dept. expenses to date are on track. Chief Yeaton said the interest from the Morrison Fund is used each year to purchase a special piece of equipment. He said \$2K - \$2500 should be reserved and the rest can be reinvested. He said he responded to the first accident at the Route 107/Route 4 intersection the other day – it was a rear end accident with no injuries.

Parks & Recreation – Gary Perry is not in attendance & sent a report stating that the new lighting with safety shielding at the large pavilion has been completed. The ceiling at the concession stand has been boarded. There is a PO request for Barton Lumber to put up the soffits on the new concession stand and repair the base of the gazebo. The new parking lot is mostly cleared & stumping has begun. He is requesting more fill from the Meeting House site for base material for the parking lot. The signs requested by the BOS have been placed at the swimming hole. Friends of Webster Park will be sponsoring Old Home Day this year & the theme is “Proud to be an American.” Activities are planned for Friday evening through Sunday. Keith inquired with Gordon as to his need for any of this material. Gordon supported Gary’s request to use this material as needed.

Health Department - Cec Curran is not in attendance and sent an update that he has been working on the Meadowbrook Estates issue regarding the septic smell. He has been trying to contact Gary Spaulding (the designer) to coordinate a reset of the system. Bob said he was at Meadowbrook yesterday & the smell is very bad. One resident had to move her air conditioner to another part of the house due to the smell. Keith said the affected residents should also contact the Board of Directors at Meadowbrook, as they are the owners and managers of the property.

Budget Committee – No one in attendance / no report submitted.

Cemetery Committee - No one in attendance / no report submitted.

ZBA – No one in attendance / no report submitted.

Stewardship Committee – Report is in conjunction with the report from the Meeting House

Meeting House Committee – A written report was sent regarding the work day that was held on July 24, 10 volunteers were there, with about 50 hours valued at over \$1200 toward matching grant funds. A description of the work completed was given.

Emergency Management – Rick Bilodeau reported that they will be applying for a grant for some equipment for the EOC, and will be scheduling some training for October. The Hazard Mitigation Meeting has been rescheduled for August 25.

Keith summarized said the following for reinvestment of Morrison Fund and interest as follows: Fire Dept. all but \$2500; Town all by \$5K; Bridge – all the balance; none on vehicle replacement for highway.

7:40 PM Keith asked if anyone had any discussion on the receipt of donations & grant funds. Being none, Bob made a motion to close the Public Hearing for the receipt of donations as noted above. Keith seconded the motion. All in favor.

7:42pm Tony Merullo, AAM Builders, Inc – Inspection Requirements – Tony said he recently completed a house in Epsom and reported that he found the process to be very difficult and also found the process to be different depending on who is asked. He asked if there has been a change in Inspection Requirements in the past 5 years. Keith replied that there are two inspections: Zoning inspection and Life Safety inspection. Jay added that 5 or 6 years ago, Life Safety Inspections began to include an electrical inspection. Jay said he agrees that there could be some confusion, and has updated the list of requirements including the electrical inspection and would like to use it once it is approved by the Fire Department. Tony said that he's been advised by Matt Moulton, Fire Captain that a plumbing inspection is now required as well. Tony is also having difficulty obtaining a street address, due to the issuance of a driveway permit and the need to have it constructed before a street number can be provided by the Fire Department. He would like the process to be made clearer, and he has obtained copies of checklists from surrounding towns & suggested that Epsom compile a similar list. He said he has built many houses in Epsom and these problems have only come about lately. Jay said his inspection for the issuance of a Building Permit is basically just a follow-up to be sure any issues that the Fire Department had found have been addressed. Chief Stewart Yeaton said that since Epsom doesn't have a Building Code, the NH Life Safety Code is followed. Keith said that there needs to be a list in the office available that states what items specifically are going to be inspected through the Life Safety Codes and an explanation of the appeal process. Keith noted that Tony's concerns have been heard and a review of the process/checklist needs to be done.

8:00 – 8:10 PM Break

8:10 PM Ken Smith & Lee Adams – ZCO Compliance (final decision): Ken stated he was in attendance at the BOS meeting on July 12 and there was a discussion regarding the number of vehicles parked on his property, as he was not in compliance with his site plan conditions. He is requesting that the \$400 fines as issued by Jay Hickey be waived, while he works on putting a new site plan together which he hopes will be completed by late August. Jay said he spoke with Lee Adams and tried to resolve the issues along with waiving part of the fees if the conditions were followed. He said they have not paid the fines and they are still not in compliance with the conditions. Keith noted that he is aware of a condition on the property that limits the number of cars for sale can be parked on the property and he knows that there have been several past violations of this condition. Keith said his opinion is Mr. Smith has delayed action to correct this situation for an unreasonable amount of time since January. He is not sure why it has taken so long for the development of the site plan given the importance this is to the business owner. He also noted that the BOS only has the authority to waive the fines, as this must be heard through the Planning Board and/or zoning board if it is an interpretation of the ordinances. Ken said he hopes to have his new site plan ready to present to the Planning Board in August.

Lee Adams stated that part of the reason for a delay is that they had two family deaths in a short period of time and went to Florida for some time. Keith inquired as to why the interim operator was not able to represent him in this action while he attended the family issues?

Jay Hickey said he was asked by the Planning Board to count the cars based upon some Board members observations at the site. He has in the past issued a warning, but due to the repeated non-compliance and due to the lapsed time for submitting Planning Board application, he has issued the fines. Jay is not in favor of waiving any fines.

John Klose asked why other businesses around the circle, i.e. McDonald's and Wendy's haven't been cited for having too many vehicles on the property. Keith said because those particular

businesses are not regulated by the number of cars that can be parked on their property. John feels this one business is being singled out.

Andrew Walton asked who has the authority to issue fines. Keith stated that it is the ZCO's authority to issue a fine, and also his authority to reduce the fine with justification. Andrew asked if M & M Ford has been inspected to be sure they do not have more cars than they are allowed per their site plan. Ricky Belanger said there are only 4 dealerships in Epsom that have a limit of the number of cars that can be parked in the lot at one time. Andrew requested copies of the inspection reports and enforcement action for those other dealerships. Keith explained that it is not the responsibility of the BOS to research this type of public right to know information for him. Keith suggested that Andrew make an appointment with Town Office staff to review the current property files as to whether enforcement was taken or not and request copies as desired.

Jay noted that it had been discussed previously with the Planning Board that conditions on businesses be cataloged & inspected once a year similar to health inspections done every year by the Health Officer.

Betsy Bosiak said she was Chairperson of the Planning Board when the approval with conditions for AutoSmith went through. She said careful consideration was given to this lot due to the special circumstances – the size of the lot, the abutters, the wetland boundaries, and the residence being on the property. She'd like to make it clear that the Planning Board has requested that Jay inspect this property.

Ken Smith, Sr. lives on that property and wants to know if his car & the employee's cars were counted on the lower lot. Jay stated that the conditions on the property allow a total of 60 cars on the lower lot, and 10 on the upper lot – which is to include employee and personal vehicles. Also Jay stated that the conditions allow a maximum of 10 cars on the upper lot and 60 cars on the lower lot... not 70 cars total on the lower lot.

Dave Fiorentino said there are a lot more important things to worry about in town than this. Keith said he understands this is may be a financial hardship for Ken Smith; however the Town's Zoning Compliance Officer has spent a lot of time on this issue, which has cost the town money. He also said the fine is 10% of what it could have been as Jay has the authority to fine up to \$1000 per day. He also offered to reduce the fine if they came into compliance & they didn't proceed to do so, as no public hearing has yet been set by the Planning Board.

Ken replied that he requests the BOS reduce the fine by 50% payable at the time of the Planning Board hearing. He said he didn't accept Jay's offer because he wanted to present his request to waive the fees to the BOS.

Betsy said the Planning Board hasn't received a formal application for this yet, but she spoke to Joe Wichert, the Surveyor & he plans to be ready to submit the application by the first of August.

Bob stated that rules need to be followed & he is not in favor of reducing the fines. Keith stated that a reasonable amount of time has lapsed when corrective action could have & should have been taken. Because this corrective action wasn't taken, it has cost the Town of Epsom time & money for continued enforcement action. Keith is also in favor of not waiving the fines.

Keith made a motion to deny the request by Ken Smith & Lee Adams to waive the fines for violation of the site plan conditions. Bob seconded the motion. All in favor.

FOR SIGNATURE

1. **Accounts Payable** has been signed.
2. **Manifests** have been signed.
3. **Payroll** has been signed.
4. **Junkyard Licenses – Belanger & Gilman** – Barbara said that there is a letter of commitment attached to these licenses that the owners will sign saying they agree to any conditions placed on their licenses. The authorization for the

signing of these was done at a previous meeting and Keith signed them on behalf of the Chairman tonight.

5. **Application for Leave** – has been signed.
6. **Annual Auditors Report MS-5** – Nancy said this appears to be in order & once it is signed it will be sent to the Dept. of Revenue. This information will be included in the information for tax rate setting. This has been signed.
7. **Capital Improvement Program Preparation** – A committee needs to be formed for this with the following make-up: 1-2 Planning Board members, 1 Planner (member of CNHRPC), 1 Major Dept Head (Highway, Police or Fire), 1 Selectman, 1 Budget Committee member, 1 School Board member and 1 citizen. Keith made a motion to enter into an agreement with CNHRPC in the amount of \$2500 for CIP Preparation. Bob seconded the motion. All in favor. Keith volunteered to be the BOS's representative on this committee.

FOR DISCUSSION

- A. **Town Office Signs & Window Coverings:** Barbara said this afternoon there was a 25^o difference between the front office & the back office. One computer shut down due to the heat today. Barbara said the window screening from JC Penney seems to be the best deal. It will appear that you are looking through a fine screen, and it is portable so if the Town Office moves again, it can be taken with us. The price for these is approximately \$1000 for all bay windows in the front of the office area only, not the meeting room. This will be discussed at our next meeting as it needs to be decided where in the budget to request the funds from.
As for the signs, the pricing below includes the 4' x 6' sign over the front door and window decals for 3 doors. Quotes received were: Diamond Signs \$550, Creative Signs \$675 and Unkomin Grafix \$330.
Keith made a motion to accept the bid from Unkomin Grafix for a total of \$330 for three window decals & one exterior over the office sign and the money to be taken from Budget Line 01-4130.1-690 Misc. Expense. Bob seconded the motion. All in favor.
- B. **Request for Raffle – Historic Meetinghouse** – A request was received to hold a raffle on Aug. 14 during Old Home Day to benefit the Historic Meetinghouse. Bob made a motion to grant this request. Keith seconded the motion. All in favor.
- C. **Request for Partial Payment of Cell Phone** – The Health Officer uses his personal cell phone for his duties as Health Officer and Concord and Epsom. He is requesting that the Town of Epsom pay about 24% of the cost of his plan, \$12 per month. Keith supported this request when considering the total cost per month could exceed \$50 per month if the Town supplied a singular phone for his use. Keith made a motion to authorize the Health Officer to have a joint personal/business phone and the Town of

Epsom will pay \$12 per month toward that expense. Bob seconded the motion. All in favor.

- D. ZCO Committee Member:** Keith said Albert Kulacz has resigned the appointment to the ZCO Committee due to a personal injury and long-term recovery needs. It was decided to ask the next 3 candidates randomly chosen to come in for an interview on August 9, similar to what was done when the original candidates were chosen. The three candidates that were randomly chosen at last BOS meeting that will be invited are Nancy Wheeler, Frank Collins & John Moulton. There are two positions to be filled on this committee. Kathy Bailey asked about the other vacancy. Keith replied that it came to the attention of the BOS that Larry Caraway was found guilty of felony charges and although he is appealing the verdict to the State Supreme Court, the BOS didn't feel it was appropriate for the Town Clerk to confirm his appointment at this time in consideration of the charges.

Andrew Walton noted that after the last BOS meeting, he requested 91-A non-public conference with the BOS and Town Counsel, and asked why that was not scheduled. Keith said Andrew, as a private citizen, has no basis to be granted a 91-A non-public session with town counsel. John Klose asked why Attorney Soltani was consulted when he is representing the two people who are suing Larry Caraway. He said this is a conflict of interest. Keith stated that the question could have been put to Attorney Soltani as a hypothetical question without any detail. Keith said he is not aware of Tony's representation of anyone except the Town of Epsom. Keith also said that based on the charges against Larry Caraway, if he had known this ahead of time, he would likely not have supported the appointment and noted that Larry was in attendance at the first two meetings of the ZCO Committee when he had never signed his appointment papers. Andrew Walton said he has copies of court papers showing that Attorney Soltani has represented someone in this case since 2008, and he fears the Town of Epsom has opened itself up for a lawsuit by dismissing Larry from the committee. Keith said he will follow up with Attorney Soltani and will determine if alternate counsel is needed and if so, it will be sought.

Dave Fiorentino suggests that the BOS is essentially doing a background check, and even the BOS is not subject to a background check. Keith stated that he is unwilling to risk the safety of the any members who serves on that committee including the female representative. Dave Fiorentino said that Attorney Soltani discussed this with him the other day & told him that the BOS had an illegal meeting to discuss this issue. Dave contends that

emergency meetings have to be opened to the public and then motioned to go into non-public session. Keith said he will inquire about the past action of this board under RSA 91-A and whether any meeting of the Board could be classified as illegal.

Andrew Walton suggested that the BOS handle this quickly to avoid any lawsuits.

- E. **LGC Health Trust – Combination of Entities:** Barbara said that she & Nancy would like to investigate their 999 entity, as the Town is committed to that thru 2011. Keith said that the cost of insurance as part of the group will be discussed at the next SVRTA meeting, when it is decided whether to include Allenstown to that group. Nancy reminded Keith that we have an August 15 deadline to make a decision about whether to sign on with LGC. This will be back on the agenda for August 9.
- F. **Land Use Abatement:** This is a request for abatement from Adam Towne, Cobblestone Development for Lot numbers R10-23-22, and R10-23-23. Keith made a motion to deny this request as recommended by Avitar. Bob seconded the motion. All in favor.

MINUTES FOR REVIEW AND DISCUSSION

- **Draft – July 12, 2010:** Keith requested the BOS review these minutes at the next BOS meeting.
- **Draft – July 19, 2010:** Keith made a motion to approve these minutes as amended. Bob seconded the motion. All in favor.
- **Final – June 28, 2010:** Keith made a motion to approve these minutes as written. Bob seconded the motion. All in favor.
- **Final - Non-Public – June 14, 2010:** Keith made a motion to approve these minutes as written. Bob seconded the motion. All in favor.
- **Revised – May 17, 2010:** Keith made a motion to approve these minutes as written. Bob seconded the motion. All in favor.

FOR YOUR INFORMATION (No action required)

- **2 Letters from Zoning Compliance Officer –**
 - A. A letter regarding use of storage trailers to Cheryl & Al at Dollar Plus, Suncook Valley Hwy.
 - B. A letter to Mike Gruette, 2008 Dover Road for clarification on a ruling on a Special Exception.
- John D. Shea - News Release
- Comcast Updates (two letters)
- Letter from DRA Commending Tax Collector
- Letter from David Fiorentino
- Letter from Devine Millimet

- Letter from DRA noting that we are required to have an audit
- Letter from Town of Barnstead advising the Town as an abutter that they are hearing an application for a cell phone tower

ANY OTHER BUSINESS BROUGHT FORWARD BY THE BOARD

Board Member Liaison Reports

Keith said there will be a Planning Board meeting on Wednesday, July 28.

The River Study meeting was held on July 19 and the 4 towns have agreed to accept the invitation from the Governor to meet with him at his office for further discussion. Keith has offered to represent the Town of Epsom, and the other BOS members are supportive of this due to Keith's past involvement. Keith is already preparing for this meeting by printing out some maps showing the sediment that is flowing downstream. Keith stated he has concerns about the State's plan to remove the West Buck Street Dam and its possible affects to the river, it loss of recreational use and unknown affects this may have on river channel and State bridge on NH Rte 28 due to large flows by other storm events. Keith also noted that he was not too thrilled with the State's minimal action plan and their limited approach of minimal stabilization and "wait and see" approach to see how it works or not.

Joanne sent in a report that Rick Bilodeau has been keeping her informed of severe weather alerts as part of the line of communication regarding the Emergency Operations Center.

Dave Fiorentino asked Bob about the non-public meeting that was held and whether it was legal. Keith stated that an emergency phone meeting was held due to the limited time to consider BOS action. Mary Frambach stated that there still needs to be minutes taken for a phone conference. Keith said he will check with Joanne to make sure the minutes have been reported.

Andrew Walton questioned expenses that are being made in a year with a default budget.

10:10 PM Keith made a motion to adjourn. Bob seconded the motion. All in favor.