



TOWN OF WARNER

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Select Board
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Selectboard Meeting Approved Minutes

October 10, 2023 6:30 pm

Lower Meeting Room Warner Town Hall 5 E Main St

1. Open the Meeting & Roll Call

Chair Seidel opened the meeting at 6:30pm and took roll. Present were Harry Seidel, Faith Minton, Allan Brown, Butch Burbank, interim Town Administrator, and Georgia Flanders, Zoom Administrator.

2. Old Business

Minutes from 8/29/23, 9/5/23, 9/26/23

From the 8/29 minutes, Faith said Page 2, LCIP should be LCHIP. Page 4 David Call should be David Carle.

It was moved by Faith Minton and seconded by Allan Brown to approve the minutes of 8/29/23 as amended. The motion was approved unanimously.

From the 9/26 minutes, Allan thought Tim Blagdon made the statement about the rail trail. Faith: page 2, Tim Allen's last name is spelled incorrectly, page 6, "though" should be "thought" and KCLT is spelled incorrectly. Allan: there was an error in some set of minutes he was unable to pinpoint, about there being a \$200,000 grant for Emergency Management, wasn't sure which set but they weren't going to be spending \$200,000 on Emergency Management this year.

It was moved by Faith Minton and seconded by Allan Brown to approve the minutes of 9/5/23 and 9/26/23 as amended. The motion was approved unanimously.

3. Appointments

A. Marianne Howlett, Tax Collector – Deeding

Marianne: passed around paperwork of the properties list with two parcels: Map 22, Lot 5 and Map 32, Lot 10a, she understood the Board had approved a payment plan for the second property.

Assessing Clerk, Welfare Director, Elizabeth has provided a payment plan for the Board to sign that evening, and a waiver.

Map 22, Lot 5: Marianne has reached out to the owner three times, a payment of \$33 was made in 2021, this is a small piece of land above the toll gate on the mountain, a certified letter was sent in June, letters sent again in August and September to a North Andover, MA address.

Butch said an abutting landowner might be interested in adding it to their property but the Town can't sell or deed the property to anyone else unless they own it. Marianne was asked to send another letter to the owner. The property is valued at \$1,500 and it is a triangular, acre-sized parcel, it is a class III, state park road. It was suggested the State be contacted to see if they might make the owner an offer to add to their property, as

it abuts the state park area. Allan suggested that if there is no response from the owner after this last letter to be sent, the Town will then take over the parcel.

B. Steve Shumsky, Pleasant Pond Road – Setback

Steve said he realized his building was being built within the setback and it was his error. He wanted to know what could be done on his end. Allan said he would have to come to Town Meeting to ~~give~~*ask for* an easement to be in the Town's right of way. He will also have to go to the ZBA because he didn't meet the setback that he was supposed to. He had a variance, but he didn't stay within the specified area that was allotted. Steve said that the Town's official (Building Inspector) didn't stop him when they started the process, so no one double-checked the bounds.

Allan said the building inspector came to look at the forms and footings. He wasn't sure if it was the inspector's job to look at the bounds. Chair Seidel said ultimately, it is the responsibility of ~~the builder~~ *the owner* to know where the bounds are. It is his call if Steve goes to the ZBA and Town Meeting, or if he moves the house. Steve was apologetic and didn't want to create another legal issue for the Town. Allan said the Town's legal counsel said that there wasn't anything the Town could do to help in this situation; it would be up to the ~~builder~~ *owner* to choose the route he would go; move the building or petition Town Meeting for an easement.

4. Old Business

A. Warner Connects Lease Agreement for an Occupied Space in the Warner Community Center

Chair Seidel said there is new information from the Fire Marshal and the Town is not able to sign the lease as they are not in compliance. He thought the Board should sit down with the fire chief and see what they could do to check things off the list.

Allan said the Town doesn't have the money to do the things that are required. The doors alone are \$40,000 to replace, emergency lighting could probably be fixed but he wasn't sure about the sprinkler system, they do have new fire extinguishers but the mechanism to hold them is too small and needs to be replaced.

Faith agreed that they should meet with the fire chief to see what issues they could tend to.

Chair Seidel said the sprinkler and alarm systems must be tested by a hired third-party fire *suppression* company.

Martha Mical said the pantry door is an issue because someone can get locked inside the room, it needs a new knob but there is a key that works from the outside.

More discussion followed about items on the Fire Marshall's list. It says that within 45 days the work needs to be done OR a letter be sent back to their office stating the requirements cannot be met. Butch thought the Board should consider the Town is on a 45-day clock and lessees should know this as well. They should work together with the fire department to figure out what the Town can do. Butch would get in touch with the Chief the following day.

B. Town Acquired Map 16, Lot 25 – the Lang Bridge Property

Allan said he would like the property to get on the market and be sold. He recommended doing this by sealed bids with a minimum of \$10,000 on it.

Barb Marty, Warner ZBA, noted that there was a process on how to sell town property and wondered if it process had been abandoned. Chair Seidel said they would follow ~~the~~ that process but he was not familiar with it.

Allan said policies are made by the sitting select board and he wasn't interested in old policies. They have a liability on this property and they need to get rid of it sooner than later. Chair Seidel agreed it is an incredibly dangerous site. Butch asked if anything was done with the open well. Allan said it had been covered.

Marianne said state law requires the previous owner to be notified, as they can re-purchase the property. Allan said as he understood, if someone didn't pay their taxes for three years, the Town could take it. Marianne said due to a court case, the three-year timeframe was no longer valid. But it is still required that a previous landowner must be offered the chance to purchase the property back before it is put up for sale to the general public. Allan was worried about the liability on the property.

Chair Seidel asked Allen how he would feel about removing the liability. Allan thought it would be OK if they wanted to bear the expense to demo, do asbestos remediation, and remove the materials. He thought it could be as much as \$10,000. There was discussion on the lot and whether it could become a building site. The sale of the property will get the Town's tax dollars back, *Chair Seidel* said and ~~the Town won't get to keep any additional funds, so~~ it wasn't important to him to try to sell it as a more expensive lot.

It was moved by Harry Seidel and seconded by Allan Brown that the Selectmen act to begin the process of sale of the property (Map 16, Lot 25) by reviewing the owners right to re-own, and advising the Conservation Commission, Planning Board and Historical Society that they have 30 days to respond, regarding the measures they can take, and if in agreement, the Town may choose to sell the property.

Allan said the Conservation Commission wants to save every piece of property. This piece is on the river and could be used for fishing and recreation. This isn't his land, it is Town property. He doesn't want the liability of the building. Martha suggested adding a 30-day time limit for the other committees and boards to get back to the Board of Selectmen with their advice (added above).

Chair Seidel called for a vote on the motion.

The motion was approved unanimously.

C. Warner Community Center – Estimate for work to bring to code compliance.

Chair Seidel explained the scope of work ~~and~~ suggested to do the minimum needed to bring the building up to code. ~~This is to~~ They must protect the egress ~~assembly~~ *assemblies* in the building, there are 15 doors, frames and hardware that must be made compliant, these doors can never be left open, installed, they are \$2,500 each which is \$40,000 for the building. Other things: painting, patching, dumpster costs, etc, removing broken flooring and installing new vinyl flooring - \$5,000, stairs on both sides - \$25,000, lighting upgrades - \$27,000, total - about \$198,000. Of this, the west side of the building (where the canopy is suggested) is the main entrance. If they make this area not the main entrance, it could save a lot of work and money. The last page shows a cost for the ramp and ramp roof repairs. This is \$37,000.

Chair Seidel said they need to figure out how they can get funding for these things, and if they want to sell the building. Allan said there hasn't been any discussion about making the building ADA compliant, or addressing the cracks in the foundation. This list of work in front of them is just the tip of the iceberg. He wondered if they could get actual dollar figures, to bring the building fully up to code, so they can be prepared for Town meeting. Chair Seidel suggested a company that could do this review of the building. Allan said the building is 113 years old. He also added that the Town shouldn't be in the landlord business.

Faith said ~~there was a Block Grant that used to take care of the costs of the building when it was known as the CAP building. The costs for this building has been a bone of contention with the Budget Committee for years since the grant has no longer been available.~~

The Warner Community Center was known as the CAP building because in the mid 1970's the Merrimack/Belknap County CAP (Community Action Program) received funding from a federally funded community development block grant to renovate the building. The intention was to serve the community. The building was known for years as the CAP building which housed several CAP programs including: Senior center, Meals on Wheels, Head Start, Food Pantry, Fuel Assistance. The CAP program had a rental agreement with the town. Many of these programs moved out, and then the building was referred to as The Old Grade School, then more recently The Warner Community Center.

Chair Seidel said the Economic Development Committee studied the building. If the Town could get a grant to do a general fit-up, would that be voted in at Town Meeting? Then, the next thing would be to do a bigger grant for the ADA elevator. This is the only way it is doable. Alone, it is a cost of more than \$800,000. Chair Seidel said the property is a valuable asset for the Town. The building houses functions that help the citizens. Faith said that all of the functions of the building could remain, but the building doesn't have to be owned by the Town. Allan wanted accurate figures to provide to the citizens at Town Meeting.

5. New Business

A. Cell Tower

Allan said that the Town needs to provide an answer to American Tower's request to change their lease agreement. They provided five options to consider:

1. \$600,000 lump sum to make it a 99-year lease,
2. \$550,000 lump sum to make it a 50-year lease,
3. A 99-year easement with payments of \$6,000/month, *add 10 years*
4. A 50-year easement of \$5,525/month,
5. A \$20,000 one-time payment and add the option to renew for several additional 5 year terms.

~~They want to add a~~ Chair Seidel said with regard to the non-compete clause and the \$20,000 sign-on bonus, *should the motion add this additional amount to the total?* Butch said that there may be a window, but the legal team is shipping the final documents to the Town for signature. They will have to see if the \$20,000 was added. They still have time to negotiate this.

Butch said American Tower is trying to get rid of their annual leases throughout their corporation. He said the lump sums could be spent right away or put in a long-term investment to make more money. This request for a decision has been going on since 2018 and he thought the Board should make a decision.

Chair Seidel said he already made up his mind on this, months ago. He said that Robert Blake, from the Budget Committee, suggested that the \$600,000 lump sum or the \$6,000/month both come out to about the same amount. In his mind, Chair Seidel thought it would be better for the Town to have the lump sum. Others agreed.

It was moved by Harry Seidel and seconded by Allan Brown to choose Option #1, 99-year easement, lump sum payment of \$600,000 for the cell tower, owned by American Tower. The motion was approved unanimously.

Ginger Marsh, Treasurer, suggested the Board also make a motion to determine what would be done with the money and who would hold it. Butch said when the funds come in, they will go into the General Fund.

At some point, the Board will need to determine what the plan would be for the revenue. He said that they won't see the money for 3-5 months.

B. Perambulation with the Town of Henniker

Chair Seidel said the gentleman who was going to do this has developed Covid and would not be available to help until after October 14th. Allan said Rich Cook and Rebecca Courser have agreed to walk the line too. Chair Seidel said this could be done, perhaps the weekend of the 21st. Elizabeth said she would be willing to walk as well and indicated where the book was to record the information.

C. Cemetery Increase

Allan said he read Cemetery budget had a 17% increase. He spoke with one of the trustees and said he would be meeting with him this week to understand more about where the increases are coming from. The Town used to outsource the maintenance of the cemeteries, and they took the cheapest bid they could get and it resulted in very poor service to the point that it never was completed by the people who were hired. Then they hired Gary Young and Lane Monroe to do the work. Allan said that Gary has gone to classes to be able to do headstone repairs. They take care of about 19 cemeteries in Town and want the extra money to take out some hazardous trees. Some damage was done to stones from the Civil War era by fallen trees at the Schoodac cemetery in the past. This should be avoided.

D. Storch Case – Building Permit

Chair Seidel said he had signed the building permit for the Storchs, but the Zoning Board had made a ruling on an appeal and he believed a motion ~~would need to~~ *could be* filed for a re-hearing, according to state statute. That was his opinion. Mrs. Storch said this does not make sense and they were not told this and were not given an opportunity to amend the permit. No one told them they should appeal to the Zoning Board. Chair Seidel said the permit was challenged by an abutter. Mrs. Storch said it was vacated. Chair Seidel said there was an appeal to the decision made by the Select Board. The Zoning Board heard the case and made a judgement on it. In this instance the Zoning Board voted to vacate the permit that had been issued by the Selectmen. This came about by an abutter who challenged the building permit. He didn't agree with the decision, but when in the arena of a decision that is made that is contrary to someone's hopes, they have the right to appeal the decision. This is the right of a property owner. Town Counsel has advised that a motion can be filed for a re-hearing.

Chair Seidel asked the Storchs if they had legal counsel. Mrs. Storch said they did. She had advised the Storchs that they could amend their building site and ask for a new permit. She never mentioned an appeal to the Zoning Board. The Zoning Board shot her down, didn't listen to her, and only listened to the abutters' lawyers. Mrs. Storch felt it was a very prejudiced meeting and it favored the Planning Board. She said she didn't see the sense in paying more money for a lawyer to not be heard at another Zoning Board meeting. Karen Coyne (via Zoom) said the Storchs lawyer was heard but not listened to. There was no basis, as the statute about setbacks being vacated after 5 years was the issue. Janice Storch said she didn't wish to speak with Mrs. Coyne because Mrs. Coyne always changes her words around and denies things, and lies to different boards, including the DES, and she didn't want to speak with her. She put herself on mute and said the others could now speak.

Chair Seidel said the Storchs have a legal right to ask for a legal hearing. The statute reflects this. Butch suggested that they move forward with the meeting as the Selectmen could not do anything in this situation. The statute had been referenced, and would appear in the minutes.

Mrs. Storch said that when she called the Town Office that day and spoke with the Town Administrator and with Mr. Brown, she was told that their portion of the meeting would be held privately and not in front of an audience and with others participating via Zoom. She said it was not fair and would have showed up in person and with something prepared if she knew the subject would come up at the regular meeting. Allan said that they were talking to legal counsel that evening, which is why she couldn't attend that portion. Allan said there was a misunderstanding; he thought she wanted to be involved at the meeting with the lawyer. She didn't realize that they would have a meeting with an audience. Chair Seidel said they are not allowed to go into non-public unless they have a really good reason (listed in RSA 91a). They can go into non-public if it involves someone's reputation, but they try to do the business of the Town in a public meeting. Mrs. Storch said she wouldn't have known that this topic would be discussed at the meeting and wouldn't have known anything about it if she hadn't called the Town Office that day. She felt the Board only wants to listen to the abutters and the people they know, not people like her who want to develop the land. Chair Seidel said they were listening to her as if she was there in the room. He asked if she would like them to schedule another meeting where she could be heard? Butch said that this is not a Selectman issue, and she should file an appeal with the Zoning Board. Chair Seidel said it isn't guaranteed that they are going to have the same outcome if they ask to be re-heard. Mrs. Storch said it would be useless.

6. Public Comment

Romeo Dubriel was present to ask Allan if anything came of the blocks in the Town's right of way. He also asked about the sign on town property saying that no one can use the beach. Allan said he forgot about this and he would tend to it the next day. He apologized for not tending to the issues earlier.

Romeo said that the whole Selectmen's meeting has been about building, land, and development of land in the Town of Warner. It seems there are issues with setbacks and it isn't fair to the people applying for a permit. He thought there needed a revamp of the building permit process. It sounds like the meeting has been just about building and codes. He asked who reviews plans before the permit is signed. Building a house is the biggest investment people make in their lives and the Town has to step up and address these issues that are becoming costly. Allan said the Board has been talking about this with Diane and they know there needs to be a revamp; he agreed with Romeo that the process is a nightmare. Chair Seidel said statute states that it is the responsibility of the homeowner to follow the regulations, it isn't up to the Town.

John Leavitt said in defense of the Selectmen, they didn't come in there that night to discuss the Storch issue; the Storchs brought up the discussion and the Selectmen got sucked into it.

John added that a comment Allan made regarding a past policy set up by previous boards. They have to address the policy and make the changes at hearings. A previous policy cannot just be ignored. Allan said they are going to follow the policy. He said he doesn't like policies in general; he prefers to make decisions and not pass the buck.

7. Town Administrator's Report

Butch said that he just had his first day, had some good meetings, met with staff, and they should have a quick non-public meeting about the hiring process so he could share some information from MRI. Other than that, he is there and he has been talking to quite a few people. He is making an attempt to answer everyone's calls.

8. Consent Agenda

Elizabeth provided several documents for signature. Timber tax, land use change tax penalty (outside the limits set by the State, as it was over 18 months ago).

9. Manifest

There was no manifest.

It was moved by Allan Brown and seconded by Faith Minton to adjourn the meeting and go into non-public session. The motion was approved unanimously.

The meeting adjourned at 8:30pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of Warner