

**Minutes of Meeting  
CONWAY BOARD OF SELECTMEN  
December 1, 2020**

The Selectmen's Meeting convened at 4:00 pm in the Meeting Room at the New Town Hall with the following present: C. David Weathers, Mary Carey Seavey, Carl Thibodeau, John Colbath, Steven Porter (arrived at 4:28 pm), Town Manager Thomas Holmes, and Executive Secretary, Krista Day.

PLEDGE OF ALLEGIANCE

Mr. Weathers led the Board in the Pledge of Allegiance to the Flag.

APPROVAL OF AGENDA

Mr. Weathers stated that there was one addition to the agenda: The Signing of the Tax Collectors Warrant.

**Mr. Colbath moved, seconded by Ms. Seavey, to approve the agenda as amended. The motion carried unanimously.**

CONSIDERATION OF UNANTICIPATED REVENUE LESS THAN \$10,000/RSA 31:95-B III

- a. \$3,348.02 from the State of New Hampshire for DUI Enforcement to be placed in the Officer OT Line

Chief Mattei stated that these funds were from the Highway Safety Grants.

**Mr. Colbath moved, seconded by Ms. Seavey, to accept the \$3,348.02 from the State of New Hampshire for DUI Enforcement and place it in the Officer OT line. The motion carried unanimously.**

SIGNING OF CERTIFICATE OF AUTHORITY

- a. To Accept Household Hazardous Wastes Collection grant funds and to enter into a grant contract with the NH Department of Environmental Services.
- b. To Authorize Paul A. DegliAngeli to execute any documents which may be necessary for this grant

**Mr. Colbath moved, seconded by Mr. Thibodeau to authorize Town Clerk/Tax Collector Louise Inkell sign the Certificate of Authority to Accept Household Hazardous Wastes Collection grant funds and to enter into a grant contract with the NH Department of**

**Environmental Services and to Authorize Paul A. DegliAngeli to execute any documents which may be necessary for this grant. The motion carried unanimously.**

DISCUSSION OF TAX RATE

a. Signing of Tax Collection Warrant

Mr. Holmes explained that they had received the tax rate and it was decreasing to \$16.32. He noted that each owner's actual rate will vary depending on their specific precinct.

Mr. Holmes added that tax bills would be going out as soon as possible with a due date of January 7, 2021.

**Ms. Seavey moved, seconded by Mr. Thibodeau, to sign the Tax Collector's Warrant. The motion carried unanimously.**

BUDGET REVIEW

a. Library (pg. 17)

Library Director David Smolen appeared before the Board.

Mr. Smolen thanked the Board and stated that his budget proposal was unanimously approved by the Library Trustees. He is proposing a 3% increase.

The increase is due mainly to increases in salaries and benefits.

He also noted that they are asking for more money for electronic materials to allow for more remote use of the library.

Mr. Smolen stated that they have a new line in the budget for \$1,000 for strategic planning. He noted that the cost of the strategic planning will be covered primarily by the Friends of the Library.

Mr. Smolen explained that they are proposing a revenue of \$33,500 and they had some funds that were invested and yielded a nice return.

The net cost of the library with the revenue is proposed to be \$510,727.

Mr. Smolen noted that he is proud of the staff and Trustees of the library for their hard work this year. He noted that they were one of the first libraries in New Hampshire to open after the shutdown.

Mr. Smolen noted that there was transposition error and the figures for adult periodicals and electronic materials needed to be switched.

b. Assessing (pg. 11)

Mr. Holmes explained that this budget was looking at a 20% decrease due to the decision to hire a contract assessor a few days a week.

Mr. Holmes stated that there is lack of availability of a qualified Assessor who would be willing to relocate to this area.

He also noted that they were decreasing the funding for seminars, meals and travel.

Mr. Colbath asked for more information about the outside firm.

Mr. Holmes explained that that they have a date to sign a contract with Corcoran Consulting Associates, Inc.

Mr. Holmes noted that the key point is that they have staff familiar with the Univers Software.

Mr. Colbath asked about the future of the software. Mr. Holmes explained that he would like to start a Capital Reserve Fund to start saving for the purchase and conversion of the software. It would be his hope that they would have the software up and running by 2023 so that the 2024 revaluation could go smoothly.

It was stated that Mr. Holmes would like to go a full year with the contract assessor, but they would need a full-time assessor on staff for the revaluation.

c. Planning and Zoning (pg. 12)

Mr. Irving noted a 2.3% increase due largely to merit increases for wages, but that this is partially offset by a decrease in planning and zoning seminars.

d. Building Inspections (pg. 15)

Mr. Holmes noted this department was going to see a significant increase due to the establishment of the proposed assistant building inspector position to replace the code enforcement officer. He added that if everything goes well, this person would be primarily tasked with the licensing and regulation of short-term rentals.

Mr. Weathers confirmed that it would be the intent of the short-term rental license fee to cover the cost of the assistant building inspector.

e. Health (pg. 17)

Mr. Holmes noted that this was a stipend position and the only real increase was that the kennel fees were up \$200.

f. Welfare (pg. 17)

Mr. Holmes noted a significant decrease of 4%. He explained that Ms. Parker is doing an excellent job.

He added that due to the lack of housing, there are not a lot of places to put people up in town.

g. Valley Vision

Bill Edmunds explained that they were fully moved into Town Hall.

Mr. Edmunds explained that 2020 was a challenging year financially for Valley Vision noting that a majority of their revenue is derived from sponsorships during sports programming. Due to COVID-19 and its effect on sporting events, they were down \$18,000 in revenue. However, Mr. Edmunds had hope for 2021 and therefore Valley Vision was requesting level funding.

h. Non-Precinct Fire (pg. 14)

Mr. Holmes explained that this is part of a three-year contract. This section of the budget is combined with the Emergency Management Budget, and was down a total of 6.9%

i. Emergency Management (pg. 14)

j. Ambulance (pg. 14)

Mr. Holmes explained that this was also contractual and was going to see 4.1% increase.

DISCUSSION OF SHORT-TERM RENTAL PROPOSALS

a. Discussion and Approval of Sections I. through IV. (Pgs. 25-27)

Mr. Weathers explained that the short-term rental committee had worked for 14 meetings and had the opportunity for public comment. He noted that he would open up for public comment at the end of the meeting.

Mr. Holmes suggested going through each section, I. through IV., and discussing any amendments they wished and voting to accept the sections one by one.

I. Definitions

A. Short Term Rental: Shall mean the rental of a dwelling unit for periods of less than thirty (30) days, rented or offered for rent for 15 or more days in a calendar year. This is a non-residential use.

B. Short Term Rental License: Shall mean a business license issued under RSA

41:11c by the Town of Conway to an owner permitting use of a dwelling unit as a short term rental.

C. Application: Shall mean the application for a short-term rental license which shall be a form approved by the Conway Board of Selectmen

D. Complete Application: Shall mean an application that has satisfied all the submittal requirements set forth herein and otherwise complies with the criteria required for issuance of a short-term rental license.

E. Floor Plan: Shall mean a level by level plan of the rental property with labeling of all enclosed spaces within the structure(s) and dimensions, including without limitation all sleeping areas.

F. Owner: Shall mean the recorded titled owner of the residence for which a short term rental license is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New Hampshire. If the owner is a business entity, said entity must maintain current registration with the NH Secretary of State's Office.

G. Parking Space: Shall mean an area with a width of not less than nine feet and a length of not less than 18 feet located either within designated garage, or on impermeable surfaces such as asphalt, concrete, or gravel.

H. Owner's Agent: Shall mean a person, or business designated by the owner to manage the property. An owner's agent shall be designated by the owner as a person who can be contacted by the Town, by Emergency Services, and can receive legal notices on the owner's behalf.

I. Sleeping Area: To be a valid sleeping area, there must be a primary means of egress, a secondary means of escape, and a working smoke detector as per chapter 24 of NFPA 101, The Life Safety Code. The number of sleeping areas in a short term rental shall not be more than the number of bedrooms listed on the Tax Card.

J. Town: Shall mean The Town of Conway, NH.

K. Valid Objection: Shall mean an objection based on:

1. The owner's failure to file a complete application
2. The owner's failure to meet any of the required criteria for issuance of a short-term rental license.

**Mr. Colbath moved, seconded by Mr. Thibodeau, to amend section A. to read as follows:**

- A. Short Term Rental: The rental of a dwelling unit for periods of less than thirty (30) days, rented or offered for rent for 15 or more days in a calendar year and where the dwelling unit is not associated with commercial activities such as a hotel, motel**

**or bed-and-breakfast. This is a non-residential use. A qualified Short-Term Rental must have a Business License in good standing from the Board of Selectmen.**

**The motion carried unanimously.**

Ms. Seavey questioned whether the Town had a definition of a bedroom. Mr. Holmes stated no. They had concluded that the number of bedrooms on the tax assessing card would be the number of bedrooms associated with the short-term rental license.

At 4:28 pm, Mr. Porter arrived.

Mr. Weathers asked if there were any other concerns about the definitions in section I.

Ms. Seavey asked if the parking spaces had to be so far from the setbacks. Mr. Holmes stated no, they were treated just like any residential property.

**Mr. Colbath moved, seconded by Mr. Thibodeau, to accept section I. as amended. The motion carried unanimously.**

The next section discussed was as follows:

II. Short Term Rental License Required:

A. To operate a short-term rental, the owner, or the owner's agent shall file an application with the Town for a short-term rental license.

B. No dwelling unit may be rented or offered for rent as a short-term rental without a short term rental license.

C. Operating a short-term rental without a license may be charged as a criminal offense under RSA 41:11-C and/or be subject to civil penalty of \$275.00 for the first day and \$550.00 each subsequent day the dwelling unit is being rented or offered to rent as a short-term rental without a license. An owner who believes he/she has been fined in error may appeal as per section VII E.

**Mr. Colbath moved, seconded by Mr. Thibodeau, to accept section II. as presented. The motion carried unanimously.**

The Board reviewed section III. as follows:

III. Requirements for Application: Short Term Rentals are a permitted use anywhere single family dwellings are permitted. The following information and documentation shall accompany the application and be provided to the Town.

A. Completed application

B. Proof of ownership

C. Sketch, to scale, of property showing structures, parking spaces, and outside amenities.

D. Floor plan

E. Letter signed by owner designating owner's agent if any.

F. The Name, address, and 24-hour contact phone number for the owner or owner's agent who can be contacted in case of emergency. This person or business must be able and available to be on site within 30 minutes if requested by the Town or emergency services.

G. A form certifying compliance with safety standards set forth in section V I.

H. A signed acknowledgement on the application that the owner, and owner's agent, if any, have read all of the Town's regulations pertaining to the operation of short term rentals.

I. The owner and the owner's agent, if any, shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.

J. Septic Systems. Short Term Rentals on Septic Systems must show that their occupant load does not exceed the capacity of their septic system. This can be done by showing a State of New Hampshire ISDS Permit showing approval for the proposed occupant load or, where there is no permit on file, a letter from a New Hampshire Licensed Septic Inspector stating the Septic System is appropriately sized for the proposed occupant load within 12 months.

K. Garbage. Short term rentals shall demonstrate an approvable plan for trash storage and removal.

L. Fire Pits. If the short-term rental has a fire pit, the owner must submit with their application and subsequent renewals, permission for the guests to obtain a fire permit. Fire pits must meet the requirements of NH RSA 227:L-178

M. Should an owner believe that their property possesses more sleeping areas than the tax card shows, they may request the Town review that. The Town and Fire Department will inspect the property and if the room in question meets the requirements of a sleeping area, it may be added to the floor plan and license as such.

Mr. Irving suggested that the Board strike the statement “Short Term Rentals are a permitted use anywhere single family dwellings are permitted.” From the beginning of this section.

**Mr. Thibodeau moved, seconded by Mr. Porter, to amend the beginning of section III. to read as follows:**

**III. Requirements for Application: The following information and documentation shall accompany the application and be provided to the Town.**

**The motion carried unanimously.**

There was discussion regarding what would be considered a sleeping area. Mr. Holmes explained that later in the proposals they explain that sleeping areas must have two means of egress. He gave the example that a loft accessed by a ladder would not be considered a sleeping area.

Mr. Holmes explained that if someone said they had more bedrooms than was listed on their tax card, it would trigger an inspection.

**Mr. Thibodeau moved, seconded by Mr. Porter, to accept section III. as amended. The motion carried unanimously.**

The Board review section IV as follows:

IV. License

A. The license shall be issued by the Town provided that:

1. The application is complete
2. Any valid objections have been corrected to the satisfaction of the Town.
3. The fee has been paid.

B. The license shall be valid for one year from date of issue.

C. Annual renewal must be completed prior to expiration. Renewals will expire on the same date year to year as the original license.

D. Failing to renew the license prior to expiration shall be treated the same as operating a short-term rental without a license and will be subject to the penalties set forth in section II C.

E. License Fee. The License Fee shall be established annually by the Board of Selectmen as per NH RSA 41:9-a.

**Mr. Thibodeau moved, seconded by Mr. Porter, to accept section IV. as presented. The motion carried unanimously.**

Ms. Seavey stated that she had received an email asking if the Board was going to consider the grandfathering issue. The person who sent the email was concerned that if the Town ruled short-term rentals to be allowed in all residential neighborhoods, that condominium, association, or precinct covenants that do not allow them would be erased.

Mr. Holmes noted that would not be the case as precincts and associations can be more restrictive, but not less restrictive.

Ms. Seavey requested that Mr. Holmes get a legal opinion on this issue.

Mr. Turner noted that Mr. Holmes was correct as did Mr. Porter.

Ms. Seavey emphasized her wish for a legal opinion.

Mr. Weathers opened the meeting up to public comment for those in the room.

Earl Sires Jr. appeared before the Board. He stated that he believed the Board had a good package in front of them, but there was concern about whether it would pass the voters.

Mr. Sires noted that after concerns voice by Ray Shakir, perhaps they should find a way to take abutter consideration more into account. He also noted the impact of short-term rentals on affordable housing.

Ideas that Mr. Sires suggested were that of limiting the number of licenses in Town.

In terms of relations of neighbors, Mr. Sires suggested requiring short-term rental owners to introduce themselves to their neighbors and give out their contact information in case it is necessary.

Mr. Thibodeau asked Mr. Holmes to get a legal opinion on whether they actually have the ability to cap the number of licenses.

Mr. Holmes stated that they would be requiring a posting on each short-term rental with contact information for the owner or property agent. He also noted that the plan was to potentially use Host Compliance and their number of services to help with enforcement, and contact information was part of that.

Mr. Holmes noted that they had decided during this process that they were not going to take into account affordable housing, but instead find a way to regulate and not eliminate short-term rentals.

Mr. Holmes emphasized that no one on the committee was completely happy.

Greydon Turner noted that he would caution against setting a license limit. He stated that they were already proposing to make a lot of changes without knowing the effects.

It was stated that Host Compliance could provide a 24-hour service in regards to helping with enforcement.

Mr. Holmes stated that currently Host Compliance had identified 540 short-term rentals in Conway.

Mr. Steer stated that they could look into either capping the licenses by a maximum per owner or a maximum per Town.

REVIEW OF RECEIPTS

The receipts were available for review.

SIGNING OF DOCUMENTS

- a. Selectmen's Deed for Map/Lot 266-44

**Mr. Colbath moved, seconded by Mr. Porter, to sign the document listed above in a. The motion carried unanimously.**

CONSIDERATION OF BILLS

- a. AP Manifest dated 12/3/2020
- b. Payroll dated 12/3/2020

**Mr. Colbath moved, seconded by Mr. Thibodeau, to sign the AP Manifest and Payroll dated 12/3/2020. The motion carried unanimously.**

RATIFICATION OF DOCUMENTS SIGNED OUT OF SESSION

(none)

REVIEW AND CONSIDERATION OF SPECIAL EVENT APPLICATION(S)

(none)

CONSIDERATION OF MINUTES

(none)

TOWN MANAGER REPORT

Mr. Holmes explained that the Town had been approved for a Community Block Development Grant for AVESTA housing.

**Mr. Colbath moved, seconded by Mr. Thibodeau, to authorize the chairman to sign the agreement out of session for the CDBG for AVESTA Housing. The motion carried unanimously.**

Mr. Holmes noted that they had awarded the cleaning contract to Up Country Property Services.

Mr. Holmes noted that they were exploring options for a new fire alarm system and had received bids.

Mr. Holmes explained that the Marshall's had delivered their donation for the demolition of the old recreation center to the Friends of Recreation.

Mr. Holmes noted that there was a bit of extra cost as they found an underground oil tank and the site required some rock crushing. This would be funded by the Town.

Mr. Holmes noted that trying to get the lobby complete and under budget is becoming a concern. He added that they have been lucky that the road crew has been able to get quite a bit done in the building, however, plowing season is starting.

Mr. Colbath asked what is next for the old recreation center property in Center Conway. Mr. Holmes explained that after a discussion with Mr. Marshall, they were going to try and bring in some people from the garden club to discuss the raised beds. They were also going to move forward with looking into options for irrigation, loam, and seeding.

#### BOARD REPORTS AND COMMENTS

Mr. Porter noted that the Planning Board would be meeting on Thursday, December 10, 2020.

Mr. Colbath noted that the ZBA was not meeting this month and the Budget Committee would be meeting on December 16, 2020 at 6:30 pm in the Marshall Gymnasium.

Mr. Thibodeau gave the activities report for the ESAA from the month of October.

#### PUBLIC COMMENTS AND MEDIA QUESTIONS

Chairman of the Budget Committee James LeFebvre asked if they were going to have to pull a TAN because the tax bills were going to be going out late. Mr. Holmes stated that it depends on how fast people bring money in.

Mr. LeFebvre asked what Mr. Holmes believed the Assessing Software would cost. Mr. Holmes stated that it would be about \$100,000. His plan would be to establish a Capital Reserve Fund and start adding those monies over the next few years.

It was stated that the bid for the new fire alarm system was just under \$22,000.

Daymond Steer from the Conway Daily Sun asked that if since the School Budget is going to be up, would the Town reduce their budget. Mr. Weathers stated that it cannot be done that was but emphasized that they always bring a needs-based budget and often reduce it even further.

Mr. Porter reminded Mr. Steer that they had reduced expenditures in 2020 with asking the voters to vote down warrant articles and that they do the best they can.

Mr. Colbath explained that they try to be as frugal as possible, but everyone wants services but do not want to pay for them. He stated that they are doing the best they can.

Mr. Steer asked what happened to former Assessor David McMullen. Mr. Holmes stated that he had been let go but had a great deal of respect for him.

Mr. Steer questioned the complexity of getting the information to the voters regarding all of the warrant articles and the processes they were following.

It was stated that they work the way that Conway has always worked and that they utilize transparent procedures.

Mr. Holmes noted that he would be relying heavily on the Conway Daily Sun to get out unbiased information about the proposals.

**At 5:11 pm, Mr. Colbath moved, seconded by Mr. Thibodeau, to go into non-public session under RSA 91-A:3 II (D). The motion carried unanimously.**

NON-PUBLIC SESSION RSA 91-A:3 II (D) – CONSIDERATION OF ACQUISITION, SALE  
OR LEASE

**At 6:11 pm, the Board returned to public session.**

**Mr. Colbath moved, seconded by Mr. Thibodeau, to seal the minutes from this non-public session. The motion carried unanimously.**

ADJOURN

At 6:11 pm, the meeting adjourned at the call of the Chair.

Respectfully Submitted,