

DRAFT

These minutes have not been reviewed
or approved by the convening board or commission.

**TOWN OF LUDLOW
BOARD OF SELECTMEN**

REGULAR MEETING

June 1, 2009

BOARD MEMBERS PRESENT:

Howard Barton, Jr., Chairman	John Neal	Bruce Schmidt
Douglas Ficken	Brett Sanderson	

STAFF PRESENT:

Frank Heald

OTHERS PRESENT:

Gary Blodgett	Robert Kottkamp	Tim Rice
Joanna Bombadil	Virginia Kottkamp	Richard Russo
Bruce Farr	Marilyn Ledoux	Brian Siano
Ann Foreman	Susan McNeely	Ron Tarbell
Tom Fuller	Anne Nowak	Dave Thurber
Willie Kennedy	Richard Nye	Atta Ullah
Peter Kolenda	Ralph Pace	Herb Van Guilder
Maureen Korzun	Josh O’Gorman	Dave Guerrero (LPC-TV)

1. **Call to Order**

A. Chairman Howard Barton opened the regular meeting at 7:00 p.m. All members are present.

2. **Approve Minutes of Previous Meetings**

- A. Howard Barton advised that the minutes to be approved are from the regular meeting of May 4 2009. He advised that Item 11-K should be changed to indicate that the vote was not unanimous and he voted against it.
- B. Doug Ficken referred to page 4 Drive Up Window hearing, item H, 3rd line down, should read, “They need a co-branded...”
- C. Doug Ficken noted that item 6N page 7 (Liquor Control Board) N second line should read “license and request...” (remove “not.”)
- D. **MOTION by John Neal and seconded by Brett Sanderson to approve the minutes amended above as presented. Motion passed unanimously.**

3. **Comments from Citizens**

- A. Comments pertaining to Public Hearing on May 4, 2009 regarding Drive Up Window.
- i. Richard Nye asked when the public would be permitted to make further comments.
 - ii. Howard Barton said now, but the Select Board has already had a public hearing and heard the process and the board would prefer not to go into more detail tonight.
 - iii. Richard Nye said that he thought the whole issue was decided years ago when it was denied. He still objects.
 - iv. Herb Van Guilder said that since the last meeting he said that people have said that the issue is settled because the town already has drive-up windows at the banks and electric company. Other towns have drive up windows. Has the zoning been changed since the banks and electric company drive-ups were put in.
 - v. Howard Barton said that he does not know when or if the zoning was changed.
 - vi. John Neal said he would like to see the permits.
 - vii. Frank Heald said the zoning may speak to drive up windows for banks.
 - viii. Anne Nowak said that she is in favor of the changes to allow drive up windows.
 - ix. Howard Barton said that the board will discuss its decision when we reach the item in the agenda.
 - x. Gary Blodgett said that he wants to address the legality of spot zoning. Has that been checked out since the public hearing. He said that it would mean zoning for one specific area.
 - xi. John Neal said that any zoning district has lists of things that are allowed in that district. He added that he personally felt that the comments made at the public hearing were about 50-50. He feels that with that being so close it is not a decision that he wants to make and thinks this issue should go to a public vote.

- xii. Richard Nye said that the process bothers him. At the last meeting they were told that they could not discuss McDonalds. He read from the Variance section of the zoning regulations.
- xiii. John Neal asked wouldn't it be fairer to leave the decision to the community.
- xiv. Richard Nye said he would like to see the Select Board lead, not follow.
- xv. John Neal said the board is listening to the people of the community.
- xvi. Howard Barton said that if this issue is approved, the project would still have to go through DRB and Act 250 review. This meeting is only to decide if drive up windows should be allowed on Route 103 south of the village.
- xvii. John Neal advised that this meeting would not be the last shot. People would have the opportunity to voice their opinions at the DRB hearings and Act 250 hearings.
- xviii. Gary Blodgett noted that at the public hearing, the people from Champlain Oil said that they already had state approvals, except for the window.
- xix. John Neal said that they could not have already gone through Act 250. They would have had to have a hearing. This is only the beginning of the process.
- xx. Gary Blodgett asked what the town Planning Commission does.
- xxi. John Neal said that Planning Commission sets up a process for enacting regulations. The DRB is responsible for the permitting and regulatory process.
- xxii. Gary Blodgett said that the Planning Commission was against the petition. He asked if the Select Board is going to override the recommendations of the Planning Commission.
- xxiii. Frank Heald said that there is a process that needs to be followed when a petition comes into town hall. The Planning Commission must meet and review the petition and then must hold a public hearing for input and comments from citizens. The Planning Commission then prepares a report based on input and current zoning regulations and the town plan and makes a recommendation to the Select Board. The Select Board must then hold a public hearing. Based on all of the information they receive the Select Board may approve the change, deny the change or may take it to the voters. The Select Board is facing a dilemma. The comments from the public hearing seemed to be split for those in favor and those against. The Select Board may take it to the voters for the final decision.
- xxiv. Gary Blodgett said then the Planning Commission would have to change the zoning regulations for one place.
- xxv. Howard Barton said that this would not be the first time this has happened. That is how the Jackson Gore district was formed. A petition went to a public vote.
- xxvi. Richard Nye started to refer back to the variance section.
- xxvii. Frank Heald advised that this would not be a variance.
- xxviii. John Neal noted that the petition has nothing to do with variances. The Select Board must follow the process.

4. **Open 2009 Summer Paving Bids**

- A. Howard Barton asked about the work to be done on the Okemo Access Road in the Village.
- B. Frank Heald advised that last year, this piece was inadvertently omitted and should be subject to state funding.
- C. Howard Barton noted that 6 bid requests were sent out and 6 responses came in. He added that the village pieces may be in with the town bids.
- D. Frank Heald said some will, but he does have one separate one in the vault.

Bidder	Price Per Ton
Pike Industries	\$71.07
Wilk Paving	\$62.39
Fuller Sand and Gravel – South Hill	\$58.00
- Transfer Station	\$64.00
- Andover	\$58.00
EME Management	\$63.97
FW Whitcomb Construction	\$65.65
Lane Construction	\$72.60

- E. Howard Barton gave the bids to Ron Tarbell and asked when he might have a decision.
- F. Ron Tarbell said he would have it tonight. Ron left the meeting to review the bids.
- G. Ron Tarbell returned to the meeting and said that Fuller is the low bidder with an average price of \$58.39 per ton.
- H. Bruce Schmidt asked if Ron Tarbell has worked with Fuller before.
- I. Ron Tarbell said they did work for the town last year and he was pleased. He recommends Fuller.

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- J. **MOTION by John Neal and seconded by Bruce Schmidt to award the bid for summer paving to Fuller Sand and Gravel for the average price of \$58.39 per ton. Motion passed unanimously.**
5. **Award Ludlow Fire Truck Bids**
- A. Peter Kolenda advised that in his letter, the fire truck committee recommends the purchase of the Kovatch KME truck. The department has one and it works well. All of the bidders are competent bidders. KME is about \$21,000 lower than the next lowest bidder. This unit will do the job.
- B. Howard Barton noted that KME is the low bidder.
- C. Peter Kolenda advised that the specifications were 56 pages and there was a lot to review and some clarifications to be made. He added that there is a discount of \$3,164 if you pay for the chassis when it arrives at the factory. The total price without the discount is \$315,938. The chassis should arrive in 2-3 months.
- D. Frank Heald advised that the town could pay for the chassis when it arrives at the factory. He said that the motion should spell out the details of the price and discount.
- E. **MOTION by Bruce Schmidt and seconded by Doug Ficken to accept the bid for the new pumper fire truck, from KME for \$315,938.00 and to take advantage of the \$3,164 discount by paying for the chassis upon receipt at the KME factory. Total net cost will be \$312,774. Motion passed unanimously.**
- F. Howard Barton asked when the new truck could be expected.
- G. Peter Kolenda said 180 days after the receipt of the chassis, probably around January or February.
6. **Proposed Changes to the Town Zoning & Flood Hazard Regulations to Include Wind Turbines (Public Hearing – May 4, 2009)**
- A. Bruce Schmidt said there was a lot of support at the hearing for this. The Planning Commission did a good job regarding heights and landowner consideration.
- B. John Neal said that it is good to find alternate energy sources and he agrees that the Planning Commission did a good job. He explained that this change was not due to a petition as was the drive up window change.
- C. **MOTION by Bruce Schmidt and seconded by John Neal to adopt the proposed changes to the Town Zoning & Flood Hazard Regulations to include Wind Turbines as discussed at the Public Hearing – May 4, 2009 and proposed by the Planning Commission.**
- D. Frank Heald advised that there was a typographical error in the original notice. The town Residential Commercial District was intended to be included in applicable sections. The sections of the Town Zoning & Flood Hazard Regulations included are:
- i. Section 252.2 – Renewable Energy Resource Structure Variance
 - ii. Section 410 – Aquifer Protection District
 - iii. Section 450 – Town Residential District
 - iv. Section 460 – Town Residential Commercial District
 - v. Section 470 – Mountain Recreation District
 - vi. Section 475 – Jackson Gore Recreation District
 - vii. Section 480 – Industrial District
 - viii. Article 7 - Definitions
- E. **Motion passed unanimously.**
7. **Proposed Changes to the Town Zoning & Flood Hazard Regulations to Allow for a Drive Through Window in the Residential/Commercial District (Public Hearing – May 4, 2009)**
- A. Howard Barton said that there were a lot of comments at the public hearing. The Select Board listened to those comments and it seemed that the comments were about 50/50 split in favor and against.
- B. John Neal said it is important that the community decide this issue.
- C. Bruce Schmidt noted that in the minutes, the representative for Champlain Oil did make comments about receiving state approval. Bruce Schmidt assumes that this referred only to the flood plain issues.
- D. Richard Russo asked if the board could check the validity of that.
- E. Frank Heald said that would all come out in the hearings if the voters pass the issue and the project proceeds.
- F. John Neal said that in the planning process, applicants have to file for permits. Flood Plain issues are big concerns.
- G. Rich Russo said that he hopes that no one was misled by those comments.

- H. Bruce Schmidt said that it would all come out. People say a lot of things at hearings. Flood Plain issues take a lot of time. They may have started that part early. He wants to clarify that this petition is for one location.
- I. John Neal noted that the location would be Route 103 south of the village.
- J. Howard Barton added that the drive up would have to be included in a multi-use building.
- K. Susan McNeely asked if this does go to a town vote, would the public have a chance to speak.
- L. John Neal said that this board held a public hearing. The next step will be a public vote. If the public votes this down, the process stops. If the public votes yes, they will have to file applications with the DRB and Act 250. The public will have the chance to speak at those hearings. It is a long process.
- M. Joanna Bombadil asked if the people want another hearing, could they request it.
- N. John Neal said this board would hold a public informational meeting before the vote.
- O. Joanna Bombadil asked if the petition could be amended to include other areas.
- P. John Neal said this was a petition and cannot be amended.
- Q. **MOTION by John Neal and seconded by Bruce Schmidt to move this issue to a public vote to be held on Tuesday, July 6, 2009, with an informational meeting to be held at the regular Select Board meeting at 7:00 p.m. on Monday, July 6, 2009. Motion passed unanimously.**

NOTE: Items 8 and 9 were addressed together

- 8. **Execute FY 2009 Renewal Notes**
- 9. **Execute FY 2009 New Notes**

- A. Frank Heald advised that some capital acquisitions are made using 5-year notes. Renewal notes include 2006 Highway Truck, 2006 Highway 1-ton, 2006 Cemetery Backhoe, 2007 Loader, 2007 Bus, 2007 Buildings and Grounds Pick-up, 2007 Highway Pickup, School Bus note with one payment left, 2005 Bus, Cemetery Building Addition, and 2008 Highway Backhoe. New notes are Trackless Mower/Tractor and Bus.
- B. **MOTION by Bruce Schmidt and seconded by Brett Sanderson to sign the renewal notes and to execute and sign the new notes through Chittenden Bank. Motion passed unanimously.**

10. **Department Head Reports**

- A. Howard Barton advised that all reports are in, except Planning (vacation.)
- B. **Recreation Department**
 - i. He asked about the mention in the Recreation Department minutes regarding town repairs of Dorsey Park fields.
 - ii. Frank Heald said that the town is not involved and will not spend any money on the repairs.
 - iii. Bruce Schmidt voiced his concern about Homestead, noting that the town has nothing in writing form them committing to the repairs. The economy is not the same as last year. Homestead has a good reputation, but he is still concerned.
 - iv. Frank Heald said that the plan is to let the softball team finish up this season, which should be about June 10th or 12th. His understanding is that Homestead will remove, shim and replace the turf. We will need to stay off the field for 4-6 weeks and return late August. We have done one round of fertilizer, but will wait for the new turf to do any more. He thinks Homestead will do the work.
 - v. John Neal asked if Homestead has given any reason why they have not given up a letter.
 - vi. Frank Heald said he has not pressed the point.
 - vii. John Neal said he would like a letter.
 - viii. Bruce Schmidt said that he encourages Frank Heald or Brett Sanderson or Ron Tarbell to go and look at the field before the turf is laid. Someone needs to sign off on it. He can't believe there was that much settling to puddles.
 - ix. Howard Barton agreed that it was not like that before the work was done.
 - x. Frank Heald said the field wasn't that level.
 - xi. Bruce Schmidt said it was not as bad before the work as it was in October.
 - xii. Frank Heald said they could put a laser on the field it when the turf is taken up.
- C. **False Alarms**
 - i. Howard Barton said that there are several long-term, outstanding bills. How will that affect year-end closeout.
 - ii. Frank Heald said when they are billed it shows as income.
 - iii. Bruce Schmidt asked if we have called the people with the outstanding bills.

- iv. Frank Heald said that he has not spoken to them. Pam Cruickshank has a regular billing schedule. We will put liens on Pike and Gill.
- v. Bruce Schmidt said that Gill just received tax abatement. You would think they would pay.

11. **Other Business**

A. **Cemetery**

- i. Herb Van Guilder said that he is here representing the Cemetery Commission and they would like to encumber the 2008-2009 money and move it to the 2009-2010 budget. They recently found out they have several thousand dollars in tree work that is needed and would like to carry the money over to next year.
- ii. Howard Barton said they will do that at the July meeting. They hope to have everything from the state so they can set the tax rate.

B. **Fuel**

- i. Bruce Schmidt asked if Frank Heald has done anything about fuel for next year.
- ii. Frank Heald said yes. For the last 3 years, the town has used the state contract. This year there are some other opportunities. The school negotiated a contract with a company and will ask if the town could be included. There is also a company in Springfield that has some good pricing. His sense is they will be able to lock around \$2.00. Futures in New York through Friday were at \$1.82 for #2. Adding \$.15 for transport up the river and \$.09 for delivery and mark-up from New York to Albany, that still puts it in the \$2.00 range.
- iii. Howard Barton asked if they would know at the July meeting.
- iv. Frank Heald said he will try to get one or more quotes and may call a special meeting if needed. If the school negotiates by itself, it would be more than if the town was included.

12. **Sign Warrant Orders**

- A. Warrant orders have been signed.

13. **Set Date for July Meeting**

- A. Howard Barton advised that the next regular meeting will be held on Monday, July 6, 2009 at 7:00 p.m. or a special meeting if required.

14. **Possible Executive Session – Personnel**

- A. Frank Heald said that an executive session for personnel is needed.
- B. **MOTION by Brett Sanderson and seconded by Bruce Schmidt to enter into executive session. Motion passed unanimously.**
- C. Board entered Executive Session at 8:15 p.m.
- D. Board came out of Executive Session at 8:44 p.m.
- E. **MOTION by Brett Sanderson and seconded by John Neal to allow Frank Heald to give pay increases to non-union employees of up to 4% based on merit. Motion passed unanimously.**

15. **Adjourn**

- A. **MOTION by John Neal and seconded by Bruce Schmidt to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Lisha Klaiber

Howard Barton, Jr., Chairman

Brett Sanderson

Doug Ficken

Bruce Schmidt

John Neal