

Town of Canterbury, NH
Board of Selectmen
Date: 2023 October 2
Location: Meeting House

Selectmen:
Cheryl Gordon (Chair), Kent Ruesswick, Scott Doherty

Town Administrator:
Ken Folsom

Historic District Commission: Kevin Bragg (Chair), Lois Scribner, Jeffrey Leidinger, Harry Kinter

Others Present:
Edgar Rivera (Libertad Press NE)
Michael Courtney (Town Counsel) (attended online)

1. Call to Order
 - a. The meeting was called to order at 5:00 p.m.
2. Administration
 - a. The Selectmen signed:
 - i. Kent made a motion to sign the Accounts Payable Manifest in the amount of \$450,015.06. Scott seconded. All in favor by roll call, motion carried.
 - ii. Kent made a motion to sign the Payroll Manifest in the amount of \$45,823.26. Scott seconded. All in favor by roll call.
 - iii. Kent made a motion to sign the Welfare Manifest in the amount of \$1,400.00. Scott seconded. All in favor by roll call. Cheryl signed the associated check.
 - iv. Cheryl signed the Intermunicipal Agreement with the Town of Boscawen for building inspection services.
 - b. Previous Minutes Approval
 - i. Scott made a motion to approve the public minutes for the Selectmen's meeting on September 25th, 2023. Kent seconded. All in favor by roll call, motion carried.
3. Historic District Commission (HDC)
 - a. See Selectmen's Minutes 9/25/2023 Section 5.d. for previous discussion.
 - b. The HDC is proposing changes to the Historic District Regulations. The proposed changes have been reviewed at a public hearing and by the Selectboard, Ken Folsom, and the Town's Counsel, Mike Courtney. Mike highlighted sections of concern and the HDC discussed those sections at their last meeting.
 - c. The HDC believes the changes they have suggested do not require approval through the Town Meeting. The HDC argues the following:
 - i. The Town of Canterbury Zoning Ordinance Article 13.3 and NH RSA 674 allows for the HDC to create regulations and rules that implement the directives that were voted on in the ordinance.
 1. [NH RSA 674:46-a](#) describes the powers of a Historic District Commission: "The historic district commission may adopt and amend regulations in the manner provided in RSA 675:6."
 2. [Town of Canterbury Zoning Ordinance Article 13.3](#) contains the Powers and Duties of the HDC. Section D says "The Commission may adopt and amend regulations and prepare amendments to this ordinance."

- ii. Article 13 is vaguely worded and the HDC has had difficulty interpreting and consistently implementing it. They decided to make changes to the regulations “to produce an updated document for guidance and process, clarifying the procedures and criteria adopted by the HDC to be fair and effective for residents within the districts, and ultimately upholding the spirit of purpose behind the ordinance” (See Public Notice – HDC Regulation Changes).
 - iii. Some of the changes are suggestions and guidance rather than requirements.
 - iv. Some of the changes are already covered by the broader language in Article 13 and the changes don’t contradict or expand the Ordinance.
 - v. Article 13 is currently too vague and certain parts of it seem just as likely to result in litigation if the HDC does not clarify them.
 - d. The Town’s counsel, Mike Courtney, believes the changes are significant enough that they should be approved through the Town Meeting. Mike argues the following:
 - i. Providing clarity is important and valid. These changes should be made, but they need to be approved by the legislative body.
 - ii. The changes that the HDC says are suggestions, use language that indicate requirement. (e.g. “shall”, “should”) Years from now when context is lost, all that will remain is the text itself and the text indicates that a number of points are requirements rather than suggestions.
 - iii. The changes that the HDC says are just clarifying Article 13 are too broad and change the meaning of the Ordinance.
 - iv. If a challenge is made, the appeals courts (who are very sensitive to the rights of property owners) will overturn the regulations because they were not approved at a Town Meeting. It is safer and more consistent with how judges are reviewing cases to get this approved at the Town Meeting.
 - v. The cost of litigating an appeal would be in the tens of thousands, but the cost of bringing this to the Town Meeting is much less.
 - e. The Selectmen decided to follow the advice of the attorney. They will not approve the HDC’s changes and they recommend that the HDC creates a warrant article to get the new regulations approved at the next Town Meeting.
4. New Business
- a. Invitation to Attend School Board Meeting
 - i. The Selectboard has been invited to the school board meeting at CES on 10/24/23.
 - ii. This invitation occurs annually and they usually discuss the upcoming budget.
5. Old Business
- a. Shaker Road Mailboxes Update
 - i. See Selectmen’s Minutes 8/28/2023 Section 4.a. for previous discussion.
 - ii. Ken talked with the Post Master in Tilton. They said that cluster boxes would be acceptable and they could come do a site visit.
 - iii. Ken talked with Joanna Michno about cluster boxes. The residents had discussed this possibility with the Post Office, but the Post Office requires 100% of the residents to agree. Most but not all of the residents agreed to this solution because cluster boxes would cost money to install and keys to open the boxes.
 - iv. Ken estimates the cost of the boxes to be about \$234 each.
 - v. The Selectmen feel that a solution has been identified and it is up to the residents to implement it.
 - vi. Ken will set up a site visit with the Post Master and discuss the situation with Joanna.
 - b. Broadband Expansion Update
 - i. See Selectmen’s Minutes 9/25/2023 Section 5.c. for previous discussion.
 - ii. Consolidated called and requested that the Town sign an application with them for the BMGI grant. The Town has already signed with Comcast, so Ken let them know this was

not possible. Ken had previously reached out to Consolidated for a Broadband RFP, but they never responded.

- iii. Comcast has sent a new contract to the Selectboard with updated language and names. This contract is the same as the one they previously sent, including the density requirement. Comcast says they will be moving forward with providing Canterbury service regardless of BMGI funding or density requirements.
- iv. The Town has not had a contract with Comcast or any other ISP for about six years. The Selectmen have repeatedly refused due to the density requirement which would exclude most residents.
- v. The Selectmen decided that unless Comcast excludes the density clause, they are going to wait until the BMGI money is granted and then reevaluate. Ken will convey this to Comcast.

c. Grader Update

- i. See Selectmen's Minutes 9/25/2023 Section 2.f.ii. for previous discussion.
- ii. Evan Hauptman (Highway Department) contacted a different mechanic and the new mechanic believes that the yellow grader can be fixed with a readily available and cheap part. The part should arrive tomorrow and if that is indeed the solution, then the grader will be fixed within the week.

d. Police Department Vacancy Update

- i. See Selectmen's Minutes 9/25/2023 Section 2.d.iii. for previous discussion.
- ii. The department held a physical agility test and none of the candidates passed.
- iii. One candidate who cancelled their interview said they were taking a better paying private security job instead.
- iv. Ken advises looking at benefits and wages for Police if the Town wants to fill this vacancy. Concrete details will be needed by the end of the year so that it can be worked into the 2024 budget and a new advertisement can be posted.

6. Adjournment

- a. Kent made a motion to adjourn the meeting at 6:13 p.m. Scott seconded. All in favor by roll call, motion carried.

Next Meeting: 2023 October 16, 5:00 p.m. at the Meeting House

Minutes submitted by Kathleen McKay, Administrative Assistant