

**TOWN OF BEDFORD
TOWN COUNCIL MEETING
September 14, 2016
BEDFORD MEETING ROOM
10 MEETINGHOUSE ROAD**

1. ROLL CALL: A meeting of the Bedford Town Council was held on Wednesday, September 14, 2016 at the Bedford Meeting Room, 10 Meetinghouse Road. Present were Chairwoman Kelleigh Murphy and Councilors Jim Aguiar (Vice Chair), John Schneller, Bill Duschatko, Chris Bandazian, Melissa Stevens. Also present was Town Manager Rick Sawyer.

Councilor David Gilbert was not present.

Chairwoman Murphy opened the meeting at 7:03 PM.

2. PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was led by Councilor Schneller

3. PUBLIC COMMENTS – None.

4. PUBLIC HEARING

a. Ordinance-2016-03 to amend Article 262-1, Parking Prohibited, to restrict parking on County Road and Back River Road adjacent to the Peter Woodbury School

Mr. Sawyer explained that the Highway Safety Committee made the recommendation to the Council to amend Article 262-1 Parking Prohibited of the Town ordinances.

Chief Bryfonski explained that upgrades were made in site improvements at the Peter Woodbury School and Superintendent McGee requested that they review the parking that had been traditionally along County Road in front of the school. The Highway Safety Committee considered the line of sight, which is somewhat obstructed by the elevation and curvature of Back River Road. The school has a number of events where they do run out of parking and they compromised with the Highway Safety Committee and recommended that during those events, the school would notify the Police Department and they would bag or cover the 'No Parking' signs on County Road, but not on Back River Road.

Chip McGee, School Superintendent added that as they reconfigured the parking lot at Peter Woodbury, they took away the 'informal' off road parking that had been used extensively for years in front of Peter Woodbury. In order to protect the new configuration, they requested that they put the 'No Parking' signs to make it clear that they don't want people pulling into that area.

MOTION by Councilor Aguiar to open the public hearing. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 6-1.

MOTION by Councilor Bandazian to close the public hearing. Seconded by Councilor Stevens. Vote taken – Motion Passed – 6-1.

MOTION by Councilor Bandazian that the Bedford Town Council ordains Chapter 262-1 of the Bedford Town Ordinance is amended to prohibit parking on the north side of County Road from the intersection of Back River Road to the western property line of the Peter Woodbury School site; and to prohibit parking on the west side of Back River Road from the intersection with County Road north to the property line of the Peter Woodbury School site. Seconded by Councilor Aguiar. Vote taken – Motion Passed – 6-1.

5. NEW BUSINESS

a. State Education Funding Update

Chip McGee, School Superintendent explained that there is a certain amount of funding that is provided to public schools at the State level. He referred to the Adequacy Grant. The NH Constitution requires that the State define and provide funding for an adequate education. In the biennium it is turned into a formula used to fund a portion of the cost of public education at the State level. In the last budget setting of the biennium, the Bedford School Board along with quite a few other ones had noted that the formula used for adequate funding had in it a cap. If a town was growing in student population, the 'per pupil' funding had a cap of 105% no matter how many more students are added. The Board began to advocate at the State government Legislative level questioning the constitutionality of that. That advocacy led to the Town of Dover to decide to sue the State of NH. The suit was on the grounds that the funding formula with that cap was unconstitutional because the Constitution requires that the State fund an adequate education on that 'per pupil' level. In that process, the School Board used their attorney to keep an in on the Dover case and they've been watching that for about 1½ years. In addition, as last fiscal year 2016 came to a close, they put forward their own case in order to make that they had a claim to fiscal year 2016 and they had made it in 2016, because the Dover case saw rollover into fiscal year 2017. The judge's decision in the Dover case was that yes, the formula used to fund schools in fiscal year 2016 and 2017 that cap was found to be unconstitutional. He did not support claims for fiscal year 2015 and before because of the timeframe in which the suit had been filed. The Department of Justice for NH and the Town of Dover had agreed that the decision relative to the Dover case would apply to all other districts similarly affected and that includes Bedford. In 2016, there were 40 school districts that were negatively affected by the spending cap. Based on the judge's decision, there is funding that the State owes to the Bedford School District from fiscal year 2016 and there is a correction that is going to be required for fiscal year 2017. It's a legal case and both sides care about it a great deal. Dover asked for about \$14 million and is being told that they will probably

get a tenth of that. The Legislature claims that this money is not owed and the total bill they are going to face appears to be about \$11 million. Both of them have the option to appeal. Because of that, he's encouraging the School not to count on that money until it's guaranteed. His calculation is \$4 million that Bedford was underfunded in fiscal year 2016 and for fiscal year 2017 about \$1.6 million for a total of about \$5.6 million that the state did not fully fund its obligation to provide an adequate education.

Councilor Duschatko wanted to know how Dover went from \$14 million to \$1.4 million. Mr. McGee explained because they were making a claim for all past years.

Councilor Bandazian congratulated the Bedford School Board for following it closely and placing their claim during fiscal 2016 to maximize the claim. Mr. McGee stated that the efforts on behalf of the Board in terms of conversations with the Legislature and to bird-dog the Dover case have panned out well. They will have to see what happens in the next month and a half.

Chairwoman Murphy was appreciative of the efforts of the Bedford School Board. Mr. McGee stated that he would keep the Council informed about how the appeal plays out.

b. Outside Water Use Restriction

Chairwoman Murphy explained that they had a constituent request that came to the Town Manager to take a look at water bans in the Town of Bedford. Pennichuck has instituted odd/even watering bans for some of their customers and many communities across NH have instituted some kind of a water ban. She mentioned that there were numerous issues of wells running dry throughout Town and people having concerns about their neighbors watering their lawns when they are running out of water.

Mr. Sawyer explained stated that about 60% of Bedford is in severe drought but all of Bedford is either in severe or extreme drought conditions. There are already some restrictions in Town including English Woods, Greenfield Farms, Cabot Reserve. He noted that anyone in Bedford that is on public water, it is sourced outside of Bedford. It's coming from either Lake Massabesic or from the wells from Merrimack. It is potentially helping recharge. It's moving water out of one water shed and bringing it in to the Bedford water shed. The utility companies have an RSA that allows them to regulate their customers. The RSA that the Council has the ability to use is very narrowly written to allowing the Council to specifically put restrictions on the watering of residential lawns. The Council has the choice of making something mandatory or voluntary. The RSA is written for residential watering of lawns, so if they were to put something as a mandatory issue on those properties, the businesses could still water their lawns.

Chairwoman Murphy stated that she drives down Route 3 a lot and there are two very large office buildings on the right hand side and their sprinkler heads are pointed towards Route 3 and that's where they watering, not the grass, but the actual road.

Mr. Sawyer was surprised about how many residents were impacted by wells. He knows of some roads and properties that haven't had water since at least mid-July. It is truly impacting some Bedford residents. There are about 10 emails in the last week that have been provided to the Council. One says don't do anything and others say do something.

Chairwoman Murphy stated that she has spoken to members of the Mom's group and members of the Bedford Business Association and put a post on the Bedford Taxpayers page, and has spoken to many others and the overwhelming consensus she was getting was either they are having problems with their well running dry or they know someone close to them who is having problems with their well running dry.

Councilor Bandazian stated that he went through his neighborhood, and he thought that most have voluntary conserved.

Dillon White, 29 Bracken Circle, didn't have an issue with his well, but heard that two wells were re-drilled on McAfee Farm, because they were out of water and had been for some time. He would be in support of either don't water your lawn or voluntarily asking people no washing your car. They should definitely ask businesses to cease any kind of outside watering. He's concerned for all his neighbors and was concerned for the LaBelle expansion.

Councilor Schneller was sympathetic and mentioned the steps he's taken to conserve water. He believed that if the Council reached out to businesses and residences and asked people to restrict their use of water from private wells, they would refrain from watering lawns, shrubs and washing cars. He thought it should be voluntary, which is Motion #2.

Councilor Duschatko didn't think they should do a mandatory enforcement.

Councilor Bandazian thought that the drought situation warranted some kind of action, but didn't think they should do a mandatory restriction and thought they would accomplish the same thing with a voluntary request of the residents. He would like a definition of when it applies so that it ends at a point without the Council having to do anything affirmative. The other way to have it end would be to put a date on it.

Councilor Stevens was not looking to have the police out there enforcing and putting out notices, but was talking to constituents who were very concerned about the water levels of their wells. She thought that they should ask residents and businesses to restrict their outdoor water use. She thought they should continue to take care of vegetable gardens. She thought there should be some education

Councilor Aguiar wasn't going to tell any private land owner what to do on their private well, however, he was concerned about the cost of enforcement if they moved forward with any mandatory ban. He thought businesses seemed to be the significant offenders. He would rather spend resources that they would spend on enforcement on

engaging the Town in education on the consequences of water use for them and others in their aquifer and request a voluntary cessation of lawn watering and use of water beyond gardens and in-home necessities.

Chairwoman Murphy was in favor of a voluntary ban.

MOTION by Councilor Aguiar that the Town Council request all residents and business owners voluntarily suspend the outdoor watering of lawns and washing of vehicles and unnecessary water use in response to the drought conditions and impacts facing Bedford residents effective immediately. Seconded by Councilor Schneller. Vote taken – 6-1.

Chairwoman Murphy asked everybody to spread the word through social media pages, groups they belong to, and make sure that they are able to notify as many people as possible.

6. Sewer Bill Waivers

Mr. Sawyer gave some background and stated that they have nine additional properties. A letter has been sent to them saying that they are about to receive a bill. To treat them the same as the previous 26, they are asking that they waive any back billing for those properties. The committee has made progress on a back billing policy that will be going before the Water & Sewer Committee shortly that will ultimately come before the Council for adoption. Mr. Stanford expected the policy to come before the Council at their October meeting. The subcommittee asked that they get a copy of it first. They are looking at an 18 month period. The Finance Director has recommended that they modify that to the previous six quarters from when they find the infraction. They will be putting that within the fee portion of the Town ordinance for sewer and Finance will also be putting some language in as well.

Councilor Bandazian wanted to know if they waive back billing, when the billing period for those customers begins. Ms. Young stated that it would begin with the next quarter's billing, which is effective back to July of this year.

MOTION by Councilor Bandazian that the Bedford Town Council waive sewer back billing for the customers listed in the staff memo dated September 6, 2016. Seconded by Councilor Schneller.

Councilor Aguiar wanted to make sure they have specified the date of back billing in the motion. Councilor Bandazian stated back billing meaning billing prior to July 1st 2016 and incorporated that as part of his motion and Councilor Schneller accepted the amendment.

‘...that the Bedford Town Council waive sewer back billing for the customers listed in the staff memo dated September 6, 2016 for billing prior to July 1, 2016...’

Vote taken – Motion Passed – 6-1.

7. Capital Fund Discussion

Theresa Young, Finance Director, explained that her staff report recommends that the Town Council recommend a change in accounting policy for the capital reserve funds. Currently there is about \$83 million identified for capital projects and equipment in the Capital Improvement Plan. Of that, about \$4.4 million is in savings. She explained how it is currently done, but that there is a method that is easier and eliminates the double appropriation. The new method is they’ve identified the project and they want to save for it, they appropriate \$10k every year. It would come through the Town process for the budget and then it would be deposited in a newly established Capital Reserve Fund. When there are sufficient funds there to complete the project, it’s spent out of that fund. They are asking to eliminate a double appropriation. It would be by warrant article in the March 2017 Town Meeting process if they recommend it tonight.

Councilor Duschatko wanted to know what happens if there is a \$2 million project and then the project goes away, how they get the money back. Ms. Young stated that it could be put back in the general fund or reallocated to another capital project or equipment, which would be decided by the Town Council. Mr. Sawyer thought it would simplify the overall budget for everybody.

Councilor Schneller wanted to know if a project is approved and it’s a 10-year save when the project gets executed, at any time in the future do Town Councils have the right to head that project off the tracks and Mr. Sawyer responded absolutely.

Councilor Bandazian wanted to know if it impaired their ability to invest funds if they segregate \$4 million from \$14 million. Ms. Young stated that it’s already segregated; it sits with the Trustees of the Trust Funds and it would stay with the Trustees of the Trust Funds.

Mr. Sawyer stated that the motion would direct Theresa to prepare the language for the warrant article and they would prepare the budget in hopes that it would move forward in that regard.

MOTION by Councilor Bandazian that the Bedford Town Council authorize a change in accounting for the CIP projects and equipment in conjunction with the 2017 Budget. Further that a warrant article be developed that will permit the Capital Fund to account for the funding and expenditure of the CIP projects and equipment. Seconded by Councilor Aguiar. Vote taken – Motion Passed – 6-1.

8. Amendment to Town Council Rules of Procedure

Chairwoman Murphy explained that there has been confusion about paragraph #9 of the Town Council Meeting Protocol section of the Rules of Procedure specific to when they can take written emails and commentary from the public and whether or not they then become part of the meeting.

Councilor Bandazian explained the background on how that paragraph came about. Chairwoman Murphy understood, but didn't want to refuse valid input from the public simply because someone can't attend a meeting. Councilor Aguiar argued that it's ridiculously easy to impersonate someone and offer testimony from someone else digitally. Councilor Bandazian stated that a letter can be made part of the minutes.

Councilor Schneller asked that it be tabled to the next meeting, because he wanted to give it the appropriate amount of thought.

MOTION by Councilor Schneller to table this item to the next meeting. Seconded by Councilor Bandazian. Vote taken – Motion Passed – 6-1.

9. Appointments to Boards & Commissions

Chairwoman Murphy explained that the Council interviewed a number of extremely qualified individuals earlier for open positions in the Town. She stated that there were still open positions for volunteers. After appointments were made tonight, there would be two openings for alternates on the Historic District Commission. The workload is not overly intense and a great start for someone who has considered getting involved in Town government.

MOTION by Councilor Bandazian that the Town Council make the following Board & Commission appointments:

Appoint Bill Jean as an alternate to the Zoning Board of Adjustment with a term to expire in 2017; appoint Cathy Champagne to the Energy Commission with a term to expire in 2019; appoint Phil Bruno to the WBNH-LPFM Radio Board of Overseers with a term to expire in 2018, and appoint Rebecca Durrell to the BCTV Board of Overseers with a term to expire in 2017 and to the Historic District Commission as an alternate with a term to expire in 2017. Seconded by Councilor Aguiar. Vote taken – Motion Passed – 6-1.

10. Other New Business – None.

11. OLD BUSINESS

a. PFOA Update

Mr. Sawyer explained that regarding the Bedford landfill, they got results back from some of the nearby wells that were tested and they showed zero to very little contamination. Regarding the well testing in the Saint Gobain study area in Bedford where they are receiving bottled water, they are working on trying to find the appropriate solution for extending municipal water to those residents. Pennichuck has given them 11 options to consider and those range from just under \$4 million to just under \$19 million. The consultant is reviewing all of those options and has met with the Merrimack Village Water District, Pennichuck Water Works, Manchester Water Works, the Fire Chief and other officials and should be able to report their recommendations quickly. Regarding the other sites that have been of concern, the public water supply area, Greenfield Farms/Cabot Preserve; that remains steady with essentially no changes in the water that is coming out of Merrimack to that portion of Town. They continue to be under 16/ppt for the last 8 weeks. Regarding the Merrimack landfill study area, there has been no new information.

Dillon White, 29 Bracken Circle, wanted to know if there was any resident test that was being mapped that was outside of the initial study areas. Residents outside of that study area have had their wells tested, but there is no way to find out the results of those tests. Chairwoman Murphy agreed that there was no central place where residents can report their levels and will show up on some sort of online schematic. Mr. White thought that people were voluntarily reporting their numbers to the State and assumed that the State would compile that and distribute it to the Town or put together some kind of map showing at least some of the information that had been collected. Mr. Sawyer stated that it was his understanding that the State has just recently moved to a different type of mapping system where they've inputted all the data into a GIS system that covers the entire state and shortly they will be able to go in and look and see the results for all properties from around the state. He will make the request to the State that they add a link to their website.

Councilor Bandazian wanted to know when they will hear back from the consultant. Mr. Sawyer stated that they are waiting to hear from him, so he needs to find time to be able to meet with them hopefully next week. Saint Gobain and the State are moving forward with a program to put in point-of-use filtration on those residents that have bottled water and they are hoping to have some kind of meeting with those residents in September.

b. Council Retreat Items

c. Other Old Business

Councilor Bandazian mentioned a meeting he and Mr. Sawyer had with the School Superintendent and School Board Chairman to discuss some items including funding of the SRO, parking, and enrollment.

Councilor Schneller mentioned that the Employee Luncheon will be on Thursday, October 13th.

Councilor Bandazian mentioned that the municipal stormwater permit group that Bedford is a part of met with Congressman Guinta a couple of weeks ago. The draft permit that they thought would become effective September 1st has slipped a bit; it is now anticipated somewhere between tomorrow and the end of the year. They were encouraged to seek NH Municipal Association support. Mr. Sawyer stated that he would be attending the NH Municipal Association Legislative Roundtable next Friday so he will be sure and try and make that known to everyone.

12. APPROVAL OF MINUTES

b. Public Session – August 24, 2016 – tabled.

13. TOWN MANAGER REPORT

- 1) A software update to the town phone system is scheduled to take place in the very early morning hours on Sunday, September 18, 2016. The 911 system will not be impacted, but business lines may be down for a few hours.
- 2) September 24th – Olde Towne Day from 10:00 AM – 3:00 PM.
- 3) September 27th – Bedford Fire Department annual Blood Drive, 12:30 – 5:30 PM at the Safety Complex, 55 Constitution Drive.
- 4) Website - The new website went live on September 1st and work continues on special header pages for the Fire, Police, and Recreation departments and the mobile application.

14. COUNCILOR COMMENTS

Councilor Stevens commented on how great it was to see everybody at the polls and thanked everyone for coming out and voting. She mentioned the new development where Macy's was located and if anyone is looking for information about that, the Planning Board is going to be voting on that final site plan the end of the month, so you find all of the information on the Town's website under forms and documents and then scroll down to agendas. Public comment is welcomed and that meeting will be September 26th. She mentioned that Miss Bedford would be held at the Peter Woodbury School at 6:00 this Saturday. She hopes that people would come out and see them as they crown the new Miss Bedford 2017. Go Patriots!

Councilor Schneller thanked and congratulated Town Clerk Lori Radke and Moderator Brian Shaughnessy for conducting a very well run Election. He mentioned that the Men's Club is always looking for new members. It's an entirely charitable organization within Town. There is also a social aspect to it. All of the money that they generate gets donation within the confines of Bedford. He mentioned the Christmas tree sale that the Men's Club runs in front of Tek Nique at the Village Shoppes.

Councilor Bandazian mentioned that tomorrow Whole Foods is participating in the Bedford Education Foundation give-back day. They will contribute a percentage of their sales tomorrow to the Bedford Education Foundation, which is a non-profit in Town that

provides grants to educators and administrators in the school district to go above and beyond the services that are funded through taxes. On September 25th is the EFJH annual fall fair and they are very excited to have some food trucks there this year, which includes Bike and Bean, a gourmet coffee vendor, Todd's Side Street Grill from Lee, Jake's Od Fashion Ice Cream, and Gone Baking Cupcakes.

c. Non-Public Session – August 24, 2016

MOTION by Councilor Aguiar that the Bedford Town Council approve the minutes of the Non-Public Session of August 24, 2016. Seconded by Councilor Bandazian. Vote taken – Motion Passed –6-1.

Councilor Aguiar take time to make memories with your friends and family.

Chairwoman Murphy thanked everyone that worked so hard on the Election, Town Clerk Lori Radke and Moderator Brian Shaughnessy, the ballot clerks, assistant moderators, Supervisors of the Checklist, Bedford Police Department, Public Works Department, School District custodial staff, Town Councilors, and the student helpers. She mentioned out touching it was to watch the Facebook posts go up from the Police and Fire Departments on the 15th anniversary of 9/11. Many members of the community dropped off baked goods, gift certificates and cards that they had made to the Police officers and firefighters. She mentioned that the 2015 Youth Behavior Risk Study was now up and accessible through the Town website and also through a link the Police Department's Facebook page. She mentioned that September is Library card sign-up month and she mentioned some kids programs taking place and all of them can be found on the Library website, bedfordnhlibrary.org/events/kids. She mentioned that the Bedford Historical Society will be holding a live auction this Saturday to benefit the Stevens-Buswell Community Center and the Bedford Historical Society and will be held at their headquarters at 24 North Amherst Road, with viewing from 9-11am and the auction at 11am.

15. NON-PUBLIC – RSA 91-A:3 (if necessary)

16. ADJOURNMENT

MOTION by Councilor Aguiar to adjourn. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 6-1.

The meeting adjourned at 8:45 PM.

Respectfully submitted,

Dawn Boufford