

APPROVED
Candia's Virtual Selectmen's Public Session Minutes
May 24th, 2021 at 7:00 pm

Note: Individual roll call has been taken after each motion.

Pledge of Allegiance

7:00pm Chair Brock opened the Public Session.

Attendance: Chair Brien Brock, Selectman Patrick Moran, Selectman Russ Dann, Selectman Sue Young, Selectman Boyd Chivers and Administrative Assistant Linda Chandonnet

Approval of Minutes: Non-Public Session Minutes for April 26, 2021. None noted.

Selectman Moran made a motion to accept the April 26, 2021 Non-Public Session Minutes as presented. Seconded by Selectman Chivers. Opened for discussion. Selectman Young added that she would like the Non-Public Minutes to be approved in a non-public meeting. Chair Brock replied saying that they have never done this before. Discussion ended. All in favor. Motion carried by a vote of 5-0-0.

Selectman Moran made a motion to seal the Non-Public Minutes for April 26, 2021. Seconded by Selectman Chivers. All in favor. Motion carried by a vote of 5-0-0.

Approval of Minutes: Public Session Minutes for May 10, 2021. Correction noted; Page 3, first paragraph, council to counsel.

Selectman Chivers made a motion to accept the May 10, 2021 Public Session Minutes as amended. Seconded by Selectman Dann. All in favor. Motion carried by a vote of 5-0-0.

OLD BUSINESS

Recycle Center – New Hire: Selectman Dann announced the Recycle Center has hired a new part-time Attendant Richard Arsenault effective immediately.

Selectman Dann made a motion to approve the new hire Richard Arsenault as a part-time Attendant effective immediately with a starting pay of Grade 1, Step 11, and earning an hourly rate of \$14.08. Conditional upon a clean back-ground check and he will be eligible for a step increase in 90 days, in keeping with the Town's compensation policy. Seconded by Selectman Young. All in favor. Motion carried by a vote of 5-0-0.

Accepting Donations: Chair Brock read the attached donations the Town of Candia received from: Mary Clark, Candice Anne Cyr, Candia Community Women's Club, Pinkerton Academy, Michael Ryan and Robin Steiner, Hannaford-Fight Hunger Bag Program, Deborah Emerson Dekkers, Linda Bessette & Maggie Johnson, and Betty Sabean for a total of \$3,117.00.

Selectman Young made a motion to accept the Donations the Town of Candia received totaling \$3,117.00. Seconded by Selectman Chivers. All in favor. Motion carried by a vote of 5-0-0.

Candia Crossing - LUCT: Chair Brock explained that they were waiting for additional information from Town Counsel as the Board had requested in their previous meeting in order to make their decision.

Selectman Chivers stated they proposed a (LUCT) Land Use Change Tax with owner Gerry Tanguay of T & M Development. In return the Board received a letter from Mr. Tanguay's Attorney Tom Pappas asking if they could negotiate. Some of the LUCT bills were then given to Mr. Tanguay, and that was when a formal request for an abatement was given to the Town.

Selectman Chivers stated at this point the Board needs to decide if any errors were made in that proposed LUCT, because that would be the only basis in which to grant further consideration in the abatement request. The first question the Board would need to ask is, are they confident in their Assessor and his basis for the LUCT? If it does meet with the statute, then the Board would not have a basis to consider for an abatement request. The taxpayers remedy is to go to the Bureau of Land and Tax Appeals in Concord, N.H. to appeal the LUCT request. At that time, it would be settled on the basis of the actual facts of evidence and the laws, and it is the only fair way. For this Board to come up with valuations that are at odds with what our Assessor proposes, we would be setting up the Town, and because we would be expected to follow this in the future. In looking at other recently developed lots in comparison, the values are consistent with Candia Crossing. It would be hard to explain to the residents that they have already been assessed for their lots and it would show Candia Crossing with a lower amount. He noted that all the land in Candia that will be developed in the future is in current use. When these lots come out of current use, it will be expected for the Town to use the same math for them and from the LUCT in years to come that we have applied for Candia Crossing.

Selectman Chivers urges the Board to use Town Counsel's analysis of evidence that is available to the Town to defend its proposed assessment. Town Counsel has assessed the evidence that the Board has to refute T & M's claim that the Town should have assessed the LUCT in 2007 and was barred from statute from doing so. T & M Development's first claim indicates the work that was performed on this project in 2007 disqualified him from current use and the Town was obligated to assess the LUCT at that time. The Town has evidence that refutes this, and information was provided to Town Counsel, and they are satisfied that the evidence will support this case if it goes to appeals. If the Board grants the abatement request and can identify the error that the Town made of the valuation that were on the lots, and the timing or errors committed justify this abatement request. Selectman Chivers feels that if the Board cannot identify any errors, that the Town or Assessor has made, that the Board is obligated to send this case to Appeals.

Selectman Young commented the Mr. Tanguay came into the Town Office requesting his tax bills and then he submitted an abatement. He has followed everything the Board asked him to do. Now the Board has changed their minds and are telling him that he has to go to the State to file an Appeal. He was told in the last meeting that the Board was going to give him a decision. She does not think the Taxpayers should be punished for something the Town did incorrectly. From what she understands the Town should have taken the land out of current use in 2007, as there was some knowledge of roads going there and it is one of the excuses being used. Town Counsel asked the Board to try compromising and work with them for an agreed amount and now it seems like Town Counsel is saying not to. It is not fair that T & M Development does not receive an answer from the Board.

Mr. Tanguay stated that he did not want to fight with the Board about the new rules that went into effect two days after he closed on the project. His argument is that this project should have been taken out of current use earlier. He feels that they should not set precedent against their new rules and this should be handled separately. This is about the Bulldozer Rule and feels this is what he falls under.

Chair Brock noted that an additional piece of information that Town Counsel had provided was from the previous Town Assessor as they had stated that the work that was done in 2007 was not enough to pull it out of current use.

Selectman Chivers agreed and mentioned that there were meeting minutes for whomever was pushing for a road there to find water. It was made clear at that time that it was not a pre-construction meeting and it had nothing to do with the development or the project itself. It was just to allow them to go there and move dirt around. There was no work missed from 2007 to 2019. The issue will be what they did in 2007, if it was qualified for removal of the project for current use and payment of the land use change tax. By not taking the property out of current use in 2007 T & M Development's tax liability was \$97 a year. It would have been significantly more if it would have went out of current use. For over the last 13 years they have paid \$1,109 to the Town for property taxes for the forty-three acre piece of land in current use. Thirteen years later T & M Development states that the property came out of current use. Selectman Chivers questions if they would be willing to pay the Town for the taxes for the thirteen-year period? Their taxes would have been over \$20,000 a year and for a thirteen-year period it would calculate to over \$260,000. This is why he feels it should go to the Board of Land and Appeals to determine the values.

Selectman Young added that it is not T & M Development's responsibility to determine when it was out of current use. She feels the amount should be what it was when the property was bought and when it transferred hands.

Selectman Chivers remarked that the work T & M Development was going to preform there was not in compliance and believes it had a conditional use permit. They should not have done any work there until they satisfied with each of the requirements on the Conditional Use Permit. When Selectman Young asked who was responsible for making sure the requirements were met, he replied that it could be the Town and the previous owners.

Selectman Young emphasized that in her opinion the Town made the mistake and the proper thing to do is stop the legal fees, and to come up with a compromise with T & M Development.

Chair Brock stated that initially Town Counsel did recommend for the Town to try and negotiate with T & M Development, however after they received additional information they changed their decision.

Selectman Chivers made a motion to deny the abatement request submitted by T & M Development and advise them of what their appeal rights are. Seconded by Selectman Dann. All not in favor. Motion carried to deny the abatement by a vote of 3-2-0. Selectman Dann-yes, Selectman Young-no, Selectman Chivers-yes, Chair Brock-yes, Selectman Moran-no.

Selling of Donovan Road – Town Property: Chair Brock stated they have done a lot of research, and it was concluded that the Town does have the right to sell the lot on Donovan Road Map 404 Lot 118. Town Council has advised the Town they may proceed with a sealed bid process and they have had the two public hearings that were required. He read the letter (see attached) he received today from the Conservation Commission which sites a few of their concerns. Chair Brock stated the Blevens who want to purchase this parcel made it perfectly clear on why putting an easement across it, is not what they are looking for. The Blevens are looking to manage this property as much as any other property they own, within the confines of the conservation easement. The fact that the Blevens need to ask their neighbor for permission to access their other piece of property, he can understand where it can be an ongoing issue. As far as developments, there is no access off of Donovan Road to that piece of property, and the only thing that abuts this property is the railroad

bed which is part of the Rail Trail. He feels protecting this property by having the Bleven's owning it with a conservation easement would be a win for the Town.

Selectman Young added that if other landowners nearby purchase this property, and since it has some frontage on it, this might allow other future generations to possibly develop this land.

Selectman Chivers mentioned that the same warrant article that allows the Town to sell this parcel to the Bleven's, gives them the authority to sell forty other acres in that vicinity. If the Town agrees to sell this parcel for \$500 to \$1,000 an acre to the Bleven's, then the Board should be prepared to sell to the next person who wants to buy the forty acres for \$40,000. He asked the Board if they would want 50 acres next to a Class VI Road to be available for a development? The other point the Board would need to consider is the Conservation Commission's objection. He would like to see a written confirmation or minutes from the Planning Board that supports the Town selling this parcel.

Chair Brock confirmed the 2015 Warrant Article vote after the Deliberative Session specifically included this lot as well as others which gave the Town permission to sell the properties.

Ryan (resident) questioned the distribution of the proceeds and if they had been figured out? Chair Brock replied back that the previous owner would be entitled to the amount. The Town would need to place on a price value of what the sale is. The previous owners would then be notified, and they may be entitled to some of the revenue. The Town would need to calculate the difference that the previous owners are entitled to.

Judi Lindsey explained that this piece of land is pristine with habitat and that they have indicated everything in their letter to the Board on why the Town should not sell this lot.

Selectman Moran noted that he understands why the Bleven's want to purchase this land as it connects to their other parcels. However, it is Town owned property, and no one can stop them from using it, therefore if the Bleven's wanted to access this land, they would have the option.

Selectman Chivers made a motion to explain to the Bleven's that the Town will not entertain their request to purchase the property of Map 404 Lot 118. Seconded by Selectman Dann. Open for discussion. Selectman Dann asked if they would be able to add in that the Town will give them an easement to go on the land? Selectman Chivers confirmed that they are allowed to go on the property, but they cannot cut any trees. Discussion ended. All not in favor. Motion carried by a vote of 3-2-0. Selectman Dann-yes, Selectman Young-yes, Selectman Chivers-yes, Chair Brock-no, Selectman Moran-no.

NEW BUSINESS:

Recycle Center: Selectman Dann announced that the Recycle Center will be close on Sunday, May 30th and Monday, May 31st in observance of Memorial Day.

Residents should call the Recycle Center if they have items to bring such as shrubs because they have not been able to do any burning due to the dry conditions.

Selectman Young questioned if they received Covid-19 updated guidelines for the Town Office. Chair Brock stated, everyone who is vaccinated - does not need to wear a mask, and everyone not vaccinated - are asked to wear a mask and no one would be in charge of enforcement.

Selectman Young asked about the status of the Town receiving Credit Cards. Chair Brock stated Accounting and Payroll Specialist Donna Becker is still waiting for additional information.

He asked Fire Chief Young what the limit amount would be what he needs. Fire Chief replied no more than \$5,000.

CPR Training: Chair Brock stated that in their last meeting they had discussed the Town Office Employees taking CPR Training and the Board wanted to know how many of them were interested. He received a list of 9 people who were interested and 2 people who were not. The employees can work with Emergency Director Bob Panit to schedule a time and date. Employees should have one person at a time per department take the training class. Selectman Moran left the meeting.

Selectman Young asked the Board members if they heard back for the status of the Cares Act Grant from the State? Fire Chief Young replied stating that the Town will receive \$391,944.33. The State has thirty days to send the Town their share of 50% around June 10th, 2021. The remaining 50% would be sent out a year later, in which the Town receive the other half amount of \$195,972.16. He explained that the funds would be used for Covid related projects and asked the Board if the Fire Department may have some of the money, so it could be used for their radio work in the future. It could be considered as communications under the Covid related project.

Dick Snow (resident) asked if the Town owned the Communications Tower on Tower Hill in Deerfield? Fire Chief Young replied back that the Town does not own it. Mr. Snow asked where two lots on Donovan Road of Map 405 Lot 42 -1 and Map 405 Lot 42-2 are located. Chair Brock replied that he did not know where these lots are located.

Selectman Chivers stated that he received a request to site RSA 91-A: 3 for Non-Public Sessions and that the person stated we are required to put a code section in rather than the general RSA 91-A: 3. Administrative Assistant Linda Chandonnet stated she had reached out to NHMA and that they instructed her to put RSA 93-A: 3 as this can be used on the Agenda. When the Non-Public Session minutes are written it can specify the exact RSA.

The next Safety Facility Committee Meeting is scheduled for Tuesday, June 1st. 2021 at 5:00 pm.

Board to authorize the payments of payroll and payables. Selectman Chivers announced the payroll for the week ending May 20th was \$17,889.00, for week ending May 27th was \$17,657.19 Payables for week ending May 20th was \$50,634.78, for week ending April 27th \$17,140.29 for a combined total of \$103,321.26.

Selectman Chivers made a motion to approve the accounts payable and payroll checks for the total amount of \$103,321.26. Seconded by Selectman Young. All in favor. Motion carried by a vote of 4-0-0.

Cemetery Trustee Beth Chalbeck stated they recently had a meeting and discussed the computers. Selectman Young asked the Board if Mrs. Chalbeck may have a key to the Town Office. Chair Brock responded back that she may have a key.

Calendar:

- The Town Offices will be closed Monday, May 31st, 2021 in observance of Memorial Day.
- The next Board of Selectmen's Meeting is scheduled for Monday, June 14th, 2021.

Candia Selectmen's Public Session Minutes of 05/24/2021

Fire Chief Young confirmed that the new Fire Truck is here, and everyone is invited to come look at it.

8:32 pm Chair Brock made a motion to adjourn the Public Meeting. Seconded by Selectmen Young. All in Favor. Motion carried by a vote of 4-0-0.

Respectfully submitted,
Linda Chandonnet, Recording Secretary