

Chairman Dick Wood called the meeting to order at 7:00 p.m. at the Raymond High School Media Center. Members present: Greg Bemis, Jack Barnes, Frank Bishop and Timothy Auclair. Also present: Town Manager Bates.

Chairman Wood led a salute to the flag and held a moment of silence for our departed citizens.

New Business:

Ex-Officio Appointment to Cemetery Advisory Board – Action

Chairman Wood stated that there are only two items on the agenda for tonight's meeting. The first one is something that was missed the other night. The appointment of the ex-officio member to the Cemetery Advisory Board. The Cemetery Advisory Board meets the third Monday of the month at 2:00 p.m. at the Town Office Building. Chairman Wood asked if anyone from the Board of Selectmen was available at that time. Greg Bemis stated that he would be willing to do it.

Review Board Ex-Officio appointments to the Planning Board – Discussion

Chairman Wood stated that he had received a request after Frank had been appointed and he forwarded that request on to our attorneys. The attorneys not only have contacted the Local Government Center and NH Municipal Association and Tim Bates, all agree with this letter.

Chairman Wood gave a synopsis of the legal opinion. When Jonathan was elected to the Planning Board the law is silent on the issue of also have him on the Conservation Commission when there already is an ex-officio member of both the planning board also on the Conservation Commission. Only one member of the planning board may be on a any other committee. When the Board of Selectmen opened up nominations, at that point in time, Jonathan was legally the duplicate member of both boards and there was nobody else from the planning board, therefore Jonathan was the Conservation Commission member and an elected planning board member. At that point in time the Board of Selectmen should not have appointed a second member to be a duplicate or duplex member. Frank Bishop volunteered as the alternate for the Conservation Commission, however, because that made him the second one in from the planning board, that was not a legal appointment. The Board of Selectmen at that point violated RSA 673:7I because the appointment was a duplicate member from the planning board. Chairman Wood then read some letters that were sent to him from people not available to attend the meeting. (Letters on file with the Town Clerk's Office).

After reading the letters into the record Chairman Wood opened it up for discussion.

Selectman Bishop stated that due to family medical reasons he has been out of town for the past two weeks and asked for additional time to look into this matter and have his attorney look into the matter. Selectman Bishop's attorney suggested that the Board of

Selectmen postpone making a decision tonight to give him time to review the statute and this matter. Gloria Carney asked if the Town Attorneys have looked into this issue? Chairman Wood stated that yes, they have and the synopsis he provided above was from them. Chairman Wood went on to state that there is no case law on this issue. The law is silent as to what should happen in this instance. The bottom line is that there are four attorneys (Local Government Center, NH Municipal Association, AG's Office and Donahue Tucker & Ciandella) saying that the appointment of Frank as the alternate to the Conservation Commission was not legally done by the Board of Selectmen because of the election of Jonathan Wood to the Planning Board. Norm Weldy asked when Jonathan Wood's reappointment date? Chairman Wood stated April 30, 2006. Norm then asked what makes this any different from when they were trying to see what to do about Mr. Buckingham and the attorneys came back and said no. Town Manager Bates stated that it comes down to the question of making the appointment into the conflict. The Board can't make the appointment and create the conflict. With Mr. Buckingham, by making the appointment to the Conservation Commission, they would create the conflict and that was the opinion then. It has to do with the same thing, it is about "can the Board create the conflict by their appointment?" and all the counsels say no. There is not a position to make the appointment to, because there is already a planning board member and conservation member. In that brief moment in time at that organizational meeting where none of the Board of Selectmen were on the planning board and they can't put someone in and create the conflict. Norm Weldy suggested that since it is in legal hands right now that Mr. Wood and Mr. Bishop both not make any decisions. Chairman Wood stated that it is not either of their decisions to make. It is the Board of Selectmen's decision. Norm Weldy clarified that he meant not to make any decisions on the board until the decision is made as to who will be where. Chairman Wood stated that Jonathan is an active member of the Conservation Commission until April 30, 2006. Chairman Wood stated that there are four attorneys right now who agree that the Board of Selectmen erred when they appointed Frank Bishop as alternate on the planning board. Selectman Bemis stated that he agrees with what the attorneys have been saying. Jonathan Wood was elected to the planning board prior to the Board of Selectmen appointing Frank to the planning board as alternate. Selectman Bemis stated that the Board of Selectmen created the problem, not Jonathan. Frank Bishop stated that he was appointed to the conservation commission and up until the work session, Mr. Weldy lost his election and the vice chair was in charge. No appointments changed because in the absence of the chair, the vice chair takes the position. When Mr. Wood was sworn in, Frank Bishop was still a conservation commission member. Chairman Wood agreed. The period of time that is being referred to here is a matter of minutes because the vote for chairman came first. Then the chair asked for volunteers and the board responded and Chairman Wood accepted the fact that Selectman Bishop was on the conservation commission. There was not a vote of this body, it was accepted that Selectman Bishop was reappointed to the conservation commission, so the time frame that is being discussed here is only a matter of minutes. Selectman Auclair made a comment addressed to Selectman Bishop in trying to understand what benefit the Town will gain for Selectman Bishop to keep his position as alternate as opposed to somebody that the Conservation Commission wants on their Board full time for every meeting and they are already short. Mr. Auclair went on to state he doesn't understand the advantage of Selectman Bishop being an alternate versus

having a volunteer and asked Selectman Bishop to explain his rationale. Selectman Bishop stated that he doesn't believe the issue is with the Town. He was not elected to get into these skirmishes like this. Selectman Bishop stated that it was not his choice to have this conflict. Selectman Barnes stated that this meeting started out with Frank asking for more time to get his legal opinion, and he felt that the Board needs to vote on that request.

Selectman Barnes made a Motion to place this matter on hold until Selectman Bishop can get his legal opinion before a decision is made, no one seconded it. Chairman Wood stated the motion dies for lack of a second.

Selectman Barnes wanted to clarify that this Board refuses to allow Selectman Bishop more time to get his legal opinion before a decision is made.

Selectman Bemis stated that the Board made a mistake and it is trying to be corrected now.

Selectman Barnes stated that the Board did not make this mistake. The Town Manager made the mistake because he didn't tell Dick Wood what to do about it. Selectman Barnes stated that the Board of Selectmen did not vote Frank onto it. He was a volunteer and the Chairman of the Board of Selectmen was the one that accepted it. Selectman Barnes asked for a correction in who was responsible. He stated it was the Chairman and the Town Manager took the blame because it was his responsibility. He knew what he was supposed to do and he forgot to do it. Selectman Barnes stated "those were the words of the Town Manager". Chairman Wood then stated that he would take the responsibility of making the appointment illegally. However, it was an illegal appointment. Chairman Wood believes that at this point in time, as four separate legal firms have looked into it and provided a decision that says that the appointment was illegal, will the fifth one say something different? Possibly. Maybe not. Chairman Wood stated that the Town hired Donahue, Tucker & Ciandella and they have spoken with their direct competition who agrees with them and from the Local Government Center who agrees. Chairman Wood does not believe that the Board needs to wait for two weeks for another opinion when so many all agree.

Selectman Auclair made a Motion to nominate Dick Wood for alternate on the planning board, seconded by Greg Bemis. Motion passed 2 for -1 opposed -1 abstention and Frank Bishop recused himself.

Chairman Wood stated that he doesn't believe the Board of Selectmen needs to pursue this matter any further.

Wayne Welch stated that he objects to the fact that the Board did not give time to Frank Bishop to have his attorney look into this matter. He stated it is just like going to court and only hearing one side of the story.

Chairman Wood stated that the Board can certainly reverse itself in the future if needed.

Joyce Wood asked if the document providing town counsel's opinion is of public record. Town Manager Bates stated it was not. Joyce Wood asked if a redacted version could be made available to the public. Town Manager Bates stated that he would check into that.

Chairman Wood stated that the Historic District Commission will be meeting on Tuesday, May 9th and Thursday May 29th, both are 6:30 p.m. at the Depot.

Selectman Barnes asked Chairman Wood to clarify that he was the alternate member on the planning board and asked if Frank is still on the conservation commission? Chairman Wood stated that yes, he is the alternate for the planning board and that yes, Frank is a full member on the conservation commission.

Town Manager Bates stated that there is nothing saying that the alternate appointment to the planning board has to be made tonight. If you leave the alternate position open tonight, it gives Frank the ability to contact his attorney and have his attorney review it. According to town counsel he is not a member now and there is no conflict.

Chairman Wood then asked for a motion reflecting this.

Selectman Auclair made a Motion to reverse the previous decision appointment Dick Wood as alternate to the planning board, seconded by Selectman Barnes. Motion passed. Selectman Bishop recused himself.

Selectman Auclair made a Motion to leave the alternate position on the planning board for the Selectmen's rep open until further action by the Board of Selectmen, seconded by Selectman Barnes. The Motion passed. Selectman Bishop recused himself.

The Town Manager gave his report.

The Board of Selectmen gave their report.

Minutes

The Minutes of 3/20/06 and 4/3/06 were reviews.

Selectman Auclair made a Motion to approve the Minutes of 3/20/06 as drafted, seconded by Selectman Bemis. The Motion passed unanimously.

Selectman Auclair made a Motion to approve the Minutes of 4/3/06 as drafted, seconded by Selectman Barnes. The Motion passed unanimously.

Town Manager Bates stated that there is an upcoming meeting with the Board of Selectmen and representatives to meet with George Bald, the new head of DRED.

Selectman Bemis made a Motion to adjourn, seconded by Selectman Auclair. The Motion passed unanimously.

The meeting adjourned at approximately 7:00 p.m.

Respectfully submitted,

Kathy L. Cramer
Recording Secretary