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Town of Grantham Board of Selectmen - Meeting Minutes May 13, 2016

The meeting of the Board of Selectmen was called to order at 8:15am on Friday, May 13, 2016 by Chairman Kimball. The meeting was held in the Grantham Town Building, Jerry Whitney Memorial Conference Room at 300 Route 10 South, Grantham, NH.

Present: Chairman Warren Kimball; Selectman Sheridan Brown; Selectman Constance Jones; Town Administrator Melissa White; Administrative Assistant Ann Jasper; and C. Peter James

OLD BUSINESS

- Olde Farms Road Bridge: Selectman Brown prepared a document titled Certificate of Substantial Completion to be signed by the Selectmen and the Contractor. Prior to reviewing the document, Brown recapped some relevant facts:

There is an opportunity for the Town to receive additional funding from NH Homeland Security and Emergency Management (HSEM). However, White has been informed by Beth Peck at HSEM that the Town must close out the bridge project, make final payment to the contractor, and submit a request for additional reimbursement by May 20, 2016 for that request to be considered.

The Town has been delayed in closing out the project due to an ongoing disagreement between its contractor, Northwoods Excavating, Inc., and its engineer, Erin Darrow. In a December 15, 2015 memorandum, Darrow reported a number of areas where she believes the work was not completed according to her design. An April 21, 2016 memorandum largely re-capped the same issues.

In response, Northwoods Excavating, Inc. Superintendent Zeb Jenks identified various alleged design flaws that required changes in the field and resulted in the conditions reported by Darrow.

Now the situation is that the contractor said the plans were deficient and the engineer stated that the work was not done according to plan and we're stuck in the middle trying to be the arbiter of who is right.

Still, in December Darrow declared the bridge substantially complete and we are now at the punch list phase of dealing with remaining minor items. We agreed previously that to remedy some of the issues alleged by Darrow would take a lot of money to tear things back up and redo them with very little if any benefit to

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the safety or durability of the bridge. Therefore, that was not a direction we wanted to go in.

Brown expressed that as the Town proceeds to close out the project, we want to ensure that our punch list is not construed as a waiver of our rights under the contract or the contractor's obligation to do the work correctly. He explained that the goal of this Certificate as it is written is to put the contractor on notice that we've limited our punch list items, but are not releasing them from their obligation to meet the terms of the contract; it allows us to try to get reimbursed from Homeland Security, get this project buttoned up and have something in place that protects the Town.

Brown went over the Certificate of Substantial Completion with attachments. The attachments are: Memorandum Re: Punch List for Final Completion of Olde Farms Bridge Replacement Project; Punch List items to be Completed for Final Acceptance of the Project; and the two above mentioned Memorandums from Bridge Engineer Erin Darrow dated December 15, 2015 and April 21, 2016. Brown noted that as part of the Punch List, he requested additional information from Northwoods regarding the side slope and the guard rail installation. He mentioned that they responded by email in December to Darrow's questions about the grading at the bridge.

Brown stated further that the other part of this is how to close this out with Darrow because she has been telling us that she can't complete the as-built plan set because of the issues pointed out in her Memorandums not being fixed. He said we need to ask her for an as-built plan set with whatever annotations she would like to add; Once we have the as-built, we will be better equipped to analyze the situation than now, when there have been multiple plan sets floating around. Selectman Jones pointed out that Darrow will say she wasn't there when this was done or that was done. Brown said she can put an annotation on the plans to that effect. If the Town was to hire another engineer to do the as-built plan set, that engineer could not certify what they didn't supervise and they would put an annotation on it.

Brown pointed out another problem which is that we allowed the engineer to help us, as part of her services, with the request for proposals. It is his understanding from White that our contract language for the project was provided by Darrow. When he recently reviewed it in preparing the contract for the Miller Pond Road Bridge, he discovered that the Olde Farms contract lacked a number of key standard terms for how to deal with things such as; if there is a problem with the engineer's plans, what's the line of communication, how do we change orders, all the things that you would use to determine your course of dealing. Brown noted that we do have a copy of Darrow's contract.

Brown suggested we let Darrow know that we are comfortable completing the remaining tasks on this project and the only remaining work we are seeking from her at this time is preparation of an as-built plan, with annotations if she wishes but at this point we are going to close the project out as is and we just need that plan from her, we do not need her to make further site visits. We also need a much more detailed invoice than she has given us if she wants to get paid for the items listed because we need to make sure they are not duplicative in nature. The Board set the deadline to receive the as-built plan by the end of May from Darrow.

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The Board reviewed the Certificate of Substantial Completion document. Brown stated that it is probably a little unusual to include a request for additional information from Northwoods regarding the side slope and the guard rail installation on the punch list but he thought it was important to have it as part of the record. Chairman Kimball emphasized that it's also important for Northwoods to identify the specific plan they are working with because we have a number of plans and we want to make sure we are all talking about the same plan. Brown added that to the punch list after the above mentioned request to Northwoods. The Selectmen signed the revised document.

OTHER

Resident C. Peter James informed Town Administrator Melissa White that he emailed her about Comcast because he saw in the minutes from the last meeting that they want to renegotiate their contract. He said when they make contracts with rural towns, they can pick and choose where they put the cable and in today's environment where high speed internet is a necessity, there are still a lot of places where Comcast chooses not to run cable because it may not be a big money maker for them but if you hold their feet to the fire, you can get them to provide much deeper access than they are now. White stated that when we get to that point, there will be opportunity for public comment.

NON-PUBLIC

In accordance with RSA 91-A:3 section II-b, a motion was made by Selectman Brown, and seconded by Selectman Jones to enter into a Non-Public session at 9:15am. Present were: Chairman Warren Kimball; Selectman Sheridan Brown; Selectman Constance Jones; and Town Administrator Melissa White

*A motion to leave Non-Public session and return to Public Session at 9:54am was made by Selectman Brown; seconded by Selectman Jones. **Approved by unanimous vote.***

ADJOURNMENT

There being no further business, Selectman Brown moved to adjourn, seconded by Selectman Jones; **by unanimous vote, the Board adjourned at 9:55am.**

The next Selectmen's Meeting will be held on **Wednesday, May 25, 2016** at 5:00pm in the Grantham Town Building; Jerry Whitney Memorial Conference Room at 300 Route 10 South, Grantham, NH.

Respectfully submitted,



Ann Jasper
Administrative Assistant