



Town of Hermon

Public Safety Meeting Room

August 20, 2020

Town Council Meeting

7:00 PM

MINUTES

Council Meetings may be viewed live online and are archived after the meeting has taken place – check hermon.net for link.

ALL ITEMS ARE SUBJECT TO APPROPRIATE COUNCIL ACTION

I. CALL TO ORDER BY CHAIRPERSON

II. PLEDGE OF ALLEGIANCE

Chair Thomas led those in attendance in the Pledge of Allegiance

III. ROLL CALL

Members Present: John Snyder III, Douglas “Doug” Sinclair Sr., Ronald “Ron” Murphy, Anthony “Tony” Reynolds, Charles Lever IV, Steven “Steve” Thomas and G. Stephen “Steve” Watson

Members Absent: None

Others Present: Town Manager Howard Kroll, Town Clerk Kristen Cushman, Attorney for the Town of Hermon Ed Bearor, Deanna Leach, Adam Leach and Ron Bouchard

IV. REVIEW CONSENT CALENDAR: REGULAR BUSINESS, APPOINTMENTS, SIGNATURES, And APPROVAL OF MINUTES:

SIGNATURES. –APPROVE

MINUTES. -APPROVE 8/6/2020 minutes

WARRANTS. –SIGN 8/21/2020 warrant

RESOLVES. -SIGN

Councilor Snyder moved to approve the Consent Calendar as presented. Councilor Reynolds seconded the motion. Motion passes 7-0.



V. NEWS, PRESENTATIONS AND RECOGNITIONS:

VI. PUBLIC ITEMS OR COMMENTS: *(Items Not Already on Agenda)*

VII. PUBLIC HEARINGS:

VIII. COMMITTEE REPORTS:

IX. SCHEDULED AGENDA ITEMS:

A. OLD BUSINESS:

B. NEW BUSINESS:

FR20-21-04 Consider authorizing purchase of engineered wood chips for Recreation playground

Councilor Snyder moved to approve FR20-21-04. Councilor Watson seconded the motion. The motion was accepted. Motion passes 7-0.

R20-21-04 Consider accepting the extension to Amberside Drive

Councilor Snyder moved to approve R20-21-04. Councilor Lever seconded the motion. The motion was accepted. Motion passes 7-0.

R20-21-05 Consider accepting the extension to Nye Lane

Councilor Snyder moved to approve R20-21-05. Councilor Murphy seconded the motion. The motion was accepted. Councilor Lever – abstains. Motion passes 6-0.

C. WORKSHOPS:

Stoneybrook/Stone Farm discussion continued.

Ron Bouchard: Think my pictures did all my talking.

Doug Sinclair: Howard did you get any place with discussing this with the developer on the hill?



Howard Kroll: I corresponded back and forth, four or five times with Mr. Wicklow and I never got a yes or no response. At this stage I would take that as a not interested response and for the time involved I think it's time we move on and make a decision to do something or nothing or a combination of both. I have a Special Town Meeting Warrant prepared for your consideration and we do have the Town's Attorney in the audience to give you some advice on what moving parts are involved in this. The Special Town Meeting Warrant is dated for September 3, 2020.

Steve Thomas: Should we wait that long?

Howard Kroll: You have to wait 7 days for a posting. That would put us into the week of the 3rd on Monday, Tuesday or Wednesday and we have a regular meeting scheduled for 9-3-2020.

Doug Sinclair: I think this is a hard one to decide on because I don't feel the town should be held responsible. And if the town is going to pay then I feel the landowners should be part of the pay. They should have their share.

Steve Thomas: I believe last fall Mr. Wicklow would be willing to help.

Howard Kroll: He (Mr. Wicklow) indicated he would be willing to help in October 2019. I did not get a yes or no to my question. I sent him every piece of documentation the town has paid for such as the hydrology report and CES's design. With the essence of time, I don't think it's appropriate to wait for a private party to be involved in this.

Steve Thomas: If this does go to a Special Town Meeting we would be asking for \$32,000.00?

Howard Kroll: The purposed warrant is written for \$35,000.00 because I can't predict what costs will be. See if there are some options that the homeowners could be involved in this process? Mr. Bearor is here to see if this is something that could be pursued. There are legal documents that would need to be prepared for the Town to go onto private property. Mr. Bearor is here tonight to give you advice on what steps you could or could not take. This is a unique situation that I feel you should get legal advice on.

Steve Thomas: Ed, could you address access rights to the property and how that would work going forward.



Ed Bearor: In my estimation, the Town doesn't have any legal liability i.e. responsibility. There is enough Town involvement with the acceptance of the road and ditches to say you are solving a public problem. I think you have the authority to do this and I don't want anyone to think you have an obligation to do this. As to the rights we will need, the article I drafted for the Special Town Meeting if you choose too, would not only authorize the appropriation of up to \$35,000 but it would be on the condition that we obtain from the landowners easement rights to both install and maintain. It would be an ongoing easement. Town of Hermon would have an easement for that portion of the property and depicted on the plans for both the construction and maintenance.

I am disappointed Mr. Wicklow is not following through but that makes the decision for the Town a little more difficult. I would not suggest you have any legal rights against him. I don't think you can force him to. You can't make people do the right thing. But it's unfortunate. And there is nothing the town can do to force him to participate.

Doug Sinclair: The way I am reading it, this is no fault of his (Mr. Wicklow). Am I correct?

Ed Bearor: You are correct. Don't believe it to be any fault of his. I suspect he has benefited in some manner that neither the Town or downhill abutters have benefited. So to that degree I thought that was premise he had singled some willingness to participate. But that report as I understand it, no I think this is more of a ground water coming to the surface or being somehow affected development. All of the reports given to the Planning Board were accurate in terms of where the water is going to flow. Those engineers were hired to determine where the storm water was going to go and the increases in storm water. Could the purposed development handle that? Engineers who peer review that said yes. The problem was not with the engineering of that project.

Doug Sinclair: The way I understand it, the problem they have is between them and God. It's not going to go away.

Ed Bearor: It's not going to go away on its own is absolutely right.

Doug Sinclair: This was not something created by any individual.

Ed Bearor: I don't know if it was not created but it was not foreseen.

Charles Lever: The way I understood it, it was created by the new wells being dug above the hill.

Ed Bearor: In the review process that is not taken into consideration. What you are looking at is the amount of roads being built, any pervious areas and where the additional run is going to go and how is it being handled so not to cause an adverse affect. It was not the storm water run off calculations that were wrong it was simply no one anticipated when this work was done. When drilling the wells not anticipating it would change the ground water movements.



Steve Thomas: The easements that would be required, would there be any challenges to putting those in place? How it might impact the property owners?

Ed Bearor: It will be up to the property owners to grant those easements. I don't know why they would possibly object to it. We would need to have those easements in order to do the work. And if the work is to their benefit I would dare say they would grant them. A right to be on a 30' strip of land to install and maintain it in the future, if necessary. They would be in the drivers seat at that point. It would be a standard easement that any municipality would have to maintain a drainage ditch.

John Snyder: Would it be wiser to give them the money to them and they hire their own contractors? So we are not involved in bids and easement process.

Ed Bearor: Yes that would be simpler. Let me give you an example....when we widened or configured work on Billings Road a few years ago we got 50 or 60 easements from people because we had to scoop out a little of their front yard. Easements are everywhere. The notion you have to put it out to bid I don't know the mechanics with that. I am hesitant we can raise money to give to someone. It suggests it's a damage award.

Adam Leach: Like to draw attention to the minutes from 8-6-2020. Mr. Whitten was here to describe what was in the report regarding what is causing the damage to our properties.

From 8-6-2020 meeting: Doug Sinclair: Is this a result of the new development?

Jon Witten Jr: The short answer is yes.

820/2020 Meeting: Adam Leach: So the clearing of about 20 acres of land that drains through our property. You have eliminated a canopy which in turn eliminated ground cover and the interaction between ground water and surface water is significant.

Tony Reynolds: I would like to point out that God did not cut down those trees on the side of the hill. If you cut the trees on the side of a hill and with a development below that hill anybody that wouldn't think that the water is not going to get soaked up by the trees and vegetation and not go down on the property would have to be quite naive.

Ron Bouchard: The pictures I sent were before the wells were drilled and from storm water. The Town's Attorney said last meeting you can not force water through someone's property. I just want it fixed.



Chair Thomas asked for a motion to set up a Special Town Meeting to consider the expenditure of up to \$35,000.00 to fix the water flow issues.

Councilor Lever motioned to set up a Special Town Meeting. Councilor Reynolds seconded the motion. The motion was accepted. Motion passes 6-1. Councilor Sinclair voted no.

D. OTHER ITEMS: (from Table Package)

Councilor Reynolds moved to waive council rules. Councilor Snyder seconded the motion. The motion was accepted unless doubted.

Councilor Snyder moved to accept the table packet. Councilor Watson seconded the motion. The motion was accepted unless doubted.

B. NEW BUSINESS:

FR20-21-05 Consider using reserve accounts for Sand/Salt Storage shed repairs

Councilor Snyder moved to approve FR20-21-05. Councilor Murphy seconded the motion. The motion was accepted. Motion passes 7-0.

X. APPOINTMENTS:

XI. MANAGER STATUS REPORT:

Special Town Meeting will be on 9-3-2020, the same night as your regular council meeting.

Thanked Clerk for the minutes from the last meeting. Appreciate her going second by second to capture things discussed at that meeting.

We just ended our summer program with recreation. Numbers weren't as great as they historically were but gave an opportunity for some kids to have a little bit of a summer. Some leagues have played on our recreation fields. Little League has taken some opportunity to play in the next few weeks. Thank the volunteers for giving the kids a summer they are otherwise not going to get back.

MDOT just awarded the contract for the project on Miller Hill/Route 2/Annis Road to Sargent Construction. This project is estimated to be a fall project 2020.

XII. FINAL PUBLIC ITEMS OR COMMENT: (Items Not Already on Agenda)

Adam Leach and Ron Bouchard thanked the council for working with them through this process.



XIII. COUNCIL ITEMS:

Tony: On the resolve for the sand shed it says “grant” total and should say “grand” total.

Howard: Ya, Kristen....

Tony: Was it Howard that did it? Sorry Kristen I should have known better.

Charles: Thank and congratulated the school for all the work they have been doing to get ready for the kids to come back to school next week. It’s been a daunting task. Doing a really good job with what they have to work with.

XIV. EXECUTIVE SESSION:

XV. ADJOURNMENT:

Councilor Reynolds moved to adjourn the meeting at 7:30PM. Councilor Watson gave seconded. With no objection the meeting was adjourned at 7:30 PM.

Respectfully Submitted,

**Kristen Cushman
Town Clerk**

Explanatory note #1: All items in the CONSENT CALENDAR are considered routine and are proposed for adoption by the Town Council with one motion without DISCUSSION or deliberation. If DISCUSSION on any item is desired, any member of the Council or public may request the removal of an item for it to be placed in the regular agenda prior to the motion to approve the Consent Agenda.

Explanatory Note #2: In the interest of effect decision-making: At 10:00 p.m., the Chairman shall poll the Council and Town Manager to identify remaining items which shall be carried forward to the next Regular Meeting.

Explanatory Note #3: A Councilor who feels the need for the Council excusing his/her absence will make the request to the Town Manager or the Town Clerk prior to the meeting.