



APPROVED

Board of Selectmen Town of Gilmanton, New Hampshire

Meeting
June 18, 2018
6:00 pm. – Gilmanton Academy

Present: Chairman Stephen McWhinnie, Selectman Michael Wilson, Selectman Marshall Bishop, Town Administrator Heidi Duval and Assistant Town Administrator-Heather Carpenter
Also present please see attached sign in sheet.

6:04 pm Chairman McWhinnie opened the meeting, took attendance of those present and voting (Chairman McWhinnie, Selectman Wilson and Selectman Bishop) and led the Pledge of Allegiance.

Public Comment open at approximately 6:05p.m.

Mr. Bob McWhinnie-

- Bio-solids issue-He would like to know why every meeting we have to listen to the Guarino's and their friends the Swanson's on the issue of Bio-solids.
- The Planning Board meeting that he attended, said point blank that the zoning article would not affect any one currently using them. The farmers were told that it only affects new people from using it.
- He would like to know why the Guarino's thinks bio-solids are a health hazard. He thinks a dump 1000 ft away from his well is a health hazard. Sandi should not be speaking to it because she wasn't there, he was there and he saw Don do it. EPA/DES should come inspect both properties in order to put it to rest
- Dumping- multiple unregistered vehicles, oil tanks in the yard, that is a health hazard
- Following the rules through DES for bio-solids is grandfathered in this Town and whatever else they say, they are just making stuff up. We have had enough, they should go get a lawyer. They got the vote, it's banned for new people and the people that have been using it are grandfathered.
- NHMA-also agrees that it is grandfathered
- Town Counsel- Walter Mitchell, which was the one Don tried to hire to find loop holes at the Town's cost to ban bio-solids, agrees it is grandfathered.

Mrs. Janice McWhinnie-

- Residents for over 50 years and she is here representing her husband who is 100% disabled and she is here to speak on his behalf. Their family is being maligned by a few dissenters in Town.
- Use of Bio-solids on their property has posed no issue for her family, friends and neighbors.
- What others are suggesting is reprehensible, that anyone feels that for any amount of money or nepotism that we would allow any harm to their family and also live much closer than the complaints. If they think we would allow any harm to come to them it's like calling us murderers and is very slanderous.

- To continue in this manner is going to cost all the tax payers town money, larger septic system cost and lawsuits.

Mr. Ralph Lavin-

**see attached*

- Insurance would have paid the legal fees for the Winery, payout unnecessary.

Mr. Barbara Swanson-

- Bio-solids- Stockpiling and Spreading
- Zoning ordinance that was voted in March; Amendment to article #4 of the Gilmanton Zoning Ordinance
- Delivery on Friday to Hayshaker Farm confirmed
- Complaint that she submitted on Friday; would like to know if any action has been taken
- June 17th Facebook conversation of grandfathering of bio-solids
- Citing court case- Thayer vs Town of Tilton- Case # 2003-421 (*number may be incorrect*).
- March vote left no room for grandfathering.
- ZBA- possibility of variance; abutters should be notified if they are going to allow spreading.
- This is about her health, her family and the future, additionally she believes it would affect the resale value of her home.
- The vote should count

Mr. Don Guarino-

- Bio-solids
- His believe is the petition warrant article for bio-solids was not defective.
- Existing farms and the issue with grandfathering, it was voted to ban bio-solids from Gilmanton
- Health Ordinance
- Warrant Article like this one is an enforcement issue
- He has been told that DES will not interfere with what the people voted on

Mrs. Sandi Guarino-

- Bio-solids
- Health Issue
- She spoke with RMI- Shelagh Connelly, also a director on the Board for NHMA.
- Ned Beecher with Nebra published article through NHMA is biased.
- Has anyone from the Town reached out to DES, RMI after the vote.
- The Town should be enforcing it and the farmers should be contesting it.
- Studies done by Cornell University and the EPA.
- The majority of the Town who voted against bio-solids should not have to contest, it should the farmers.

Mr. Michael Teunessen-

- He would like clarification on the process of the bid for the fire pump.
- Calls for the resignation of the Chairman due to lack of communication

Mrs. Kristie Laurendeau-

- Questions about ongoing projects at the Town Hall;
- Front Steps- time frame
- Glass for front counters for Town Clerk /Tax Collect side and Selectmen Office side
- Front Door will still be locked but with a buzzer

Mr. Richard Bakos-

- Definition of Budget Freeze, what does it mean to the Chairman and he has never heard the term before and believes that the Town votes on a budget and the Selectmen froze the spending, not the budget.

Mr. Bob McWhinnie-

- Clarification needs to be made on the Planning Board meeting he was speaking about, he was present at a Planning Board meeting prior to the last election and the discussion on bio-solids and grandfathering was discussed.

Mrs. Barbara Swanson-

- Rebuttal about the information heard at the Planning Board meeting that Mr. Bob McWhinnie was speaking about. She believes it was never stated that the farmers had no problem due to grandfathering.

Mr. Don Guarino-

Rebuttal- He doesn't care what the Planning Board said they could have been wrong, the voters voted.

Mrs. Sandi Guarino-

- Why was the budget frozen?

Chairman McWhinnie- The budget was frozen to find out where we are at.

Public Comment closed at 6:55p.m.

Chairman McWhinnie- Reads the statement based on legal counsel advise.

Town Counsel & NHMA both advise that any existing operations using biosolids as a fertilizer prior to the adoption of warrant article #4 would be protected by Article VII, NON-CONFORMING USES, LOTS & STRUCTURES, A of the Gilmanton Zoning Ordinance.

This provision provides that any lawful use of lot in existence when a revision of the Ordinance is approved may be continued **"A. Any lawful use of a lot, or of a structure, or of a part of a structure, which was in existence when the Ordinance or any revisions were approved may be continued."** Therefore, a farming operation already using biosolids in conformance with the NH Dept of Environmental Services Regulations (Env-Wq 800; Env-Wq 1600), and best management practices would be allowed to continue. Subsequent permit renewals with the State are also a separate issue, which would not change any farming operations existing lawful non-conforming status, if they are considered protected at the time of the adoption of this article and continue the use as they were lawfully prior to the amendment, they continue to have lawful non-conforming status. Administration has confirmed with the Town of Belmont that this is also how they have interpreted their ordinance.

Additionally, Town Counsel clarifies that the warrant article was written and adopted as a Zoning Ordinance and is not a Health Ordinance. While there are situations when a Town Health Officer and Board of Selectmen may jointly adopt a health regulation that may take precedence, this is **NOT** one of those instances (further in one of

those cases the Town would need to establish to a court that the land use was a clear danger to public health, which may be a challenge on a matter such as this considering the differing scientific opinions).

The Complaint Procedure for the Town of Gilmanton (2013). As we do not have a full time Code Enforcement Officer, we address violations on a written complaint basis. Complaint forms may be found on the Town Website or at the Selectmen's Office. Complaints shall be submitted in writing to the Selectmen's Office, where it will be date stamped and forwarded to the appropriate department to be addressed.

Approval of Minutes

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted to approve the minutes of May 21, 2018. (2-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -abstain, Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted to approve the minutes of June 4, 2018. (2-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -abstain, Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted to approve the minutes of June 8, 2018. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

Consent Agenda/Signature File

Move to open the consent agenda for discussion

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted to open the consent agenda for discussion. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

****Consent agenda expanded due to Budget Freeze***

- Amendment to the consent agenda- Old Town Hall event, Memorial scheduled for June 30th from 1-5p.m.
 - Intent to Cut: Map 413 Lot 95
 - Yield Tax Warrant: \$61.51, Map 421 Lot 18
 - Trustees Withdrawal Request: \$1,001.60 from FD Radio Replacement Capital Reserve, reimbursement for Radio Replacements (Ossipee Mountain)
 - Trustees Withdrawal Request: \$1,153.21 from Welfare Non-Capital Reserve, reimbursement for welfare voucher expense
 - Trustees Withdrawal Request: \$363.00 from Recycling/Transfer Station Facility Improvements Capital Reserve, reimbursement for monitoring well work for the new compactor site (Eastern Analytical)
 - Purchase Request, Fire Department: NH Fire Chiefs meeting, \$35.00
 - Purchase Request, Transfer Station: Materials to complete hopper cover, \$150.00
 - Purchase Requests, Police Department: Stamps \$50, Expandable Baton \$145, Boots \$140, Happy Cow Coupons \$200
 - Purchase Order Request, Executive: Adel Signs, Community Events sign replacement, \$600.00, 01-4220-610
 - Purchase Order: Kofile, Document Preservation, \$6,000.00, 01-4151-390

- Purchase Order: PrintGraphics of ME, Tax Bill Forms & envelops, \$1,369.40, 01-4151-390
- Purchase Order: Pro Quip, 1-month Excavator rental, \$3,750.00 +/-, 01-4312-390
- Purchase Order: Core & Main, Culverts, \$1,021.80 +/-, 01-4312-670
- Purchase Order: Core & Main, 5' Squash Pipe, \$5,600.00 +/-, 01-4312-670
- Purchase Order: Clark's Grain Store, Dust Control Calcium, \$678.00, 01-4319-731
- Purchase Order: Gilmanton 4th of July Association, Fireworks, \$3,250.00, 01-4583-615

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted to approve the consent agenda. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

New Business

- Mr. Joe Haas- Presenting to the Board of Selectmen his reasoning for his abatement request on Map/Lot 131-29, he believes he is being improperly assessed for a fireplace and a fixture. The second item brought forward by Mr. Hass is the unconstitutional school tax. Mr. Haas would like the Board to consider having candidates running for State Representative invited to the Town for a candidate's night.
- Bio Solids Zoning Ordinance – Leonard Swanson: Mr. Swanson requested the Board send a letter to all currently licensed Bio Solid permits in Gilmanton stating the regulations no longer allow the spreading or stockpiling of Class B Bio Solids.

The Board would like to reach out to NHMA and ask about the case law that was referenced in tonight's meeting. Given the information that the Board has received from legal counsel the Board does not feel they can send a letter like Mr. Swanson has requested. Mr. Swanson would like a written response to the Boards decision and he would like another meeting after the Board receives an answer. The Chairman would expect to have an answer for the following Board meeting and at that point has no issue with people discussing the issue.

- 805 Province Road Clean Up –

Town Administrator- As the eviction deadlines have passed for the previous occupant to clean their possessions, the Board may now remove personal property from the parcel. We have received a few verbal's and now a written complaint requesting immediate action be taken to clean up the property. It has been suggested a contractor may be willing to provide the labor to clean up the property at no charge for the opportunity to "pick/scrap" as they go, with the Town only paying for the dumpsters.

Discussion on complaints received after the property was deeded, scrappers prior to clean up, dumpster cost, making sure the person chosen to scrap the site will be insured and have additionally insured as a part of their policy and the bid process on the overall clean up that will be required.

Dumpster quote from Waste Management, who we hold a current contract with, is as follows; \$547 for a 30-yard open top, initial delivery fee of \$50.00 and \$98.00 for every ton above it.

MOTION: On a Motion by Selectman Wilson and seconded by Selectman Bishop it was voted to allow Stephen McWhinnie to contact some pickers, with proof of insurance, picking as much

as they can and to get additional pricing for clean-up. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

Old Business

- **Board of Selectmen Rules of Procedure:** Discussion on drafts provided at previous meetings.

Consensus of the Board was to table the item until the following meeting.

Select Board Items

None

Recess- Chairman called for a motion to recess for ten (10) minutes, seconded by Selectman Bishop (3-0). Approximately 7:56 p.m.

Reconvene from recess- Chairman called the meeting back in session, seconded by Selectman Bishop (3-0). Approximately 8:12 p.m.

(1) Non-Public Session per RSA 91-A:3, II (a)- Personnel

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to go into Non-Public Session per RSA 91-A:3, II (a). (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to come out of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, Selectman Bishop – yes).

(2) Non-Public Session per RSA 91-A:3, II (c) - Reputation

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to go into Non-Public Session per RSA 91-A:3, II(c). (3-0 Voice Vote – Chairman McWhinnie– yes, Selectman Wilson-yes, and Selectman Bishop– yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to come out of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie -yes, Selectman Wilson-yes and Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to seal the minutes of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, and Selectman Bishop – yes).

(3) Non-Public Session per RSA 91-A:3, II (c)- Reputation

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to go into Non-Public Session per RSA 91-A:3, II (c). (3-0 Voice Vote – Chairman McWhinnie– yes, Selectman Wilson-yes, and Selectman Bishop– yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to come out of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie -yes, Selectman Wilson-yes and Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to seal the minutes of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, and Selectman Bishop – yes).

(4) Non-Public Session per RSA 91-A:3, II (a)- Personnel

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to go into Non-Public Session per RSA 91-A:3, II (a). (3-0 Voice Vote – Chairman McWhinnie– yes, Selectman Wilson-yes, and Selectman Bishop– yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to come out of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie -yes, Selectman Wilson-yes and Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to seal the minutes of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, and Selectman Bishop – yes).

MOTION: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to seal all the minutes of Non-Public Session. (3-0 Voice Vote – Chairman McWhinnie-yes, Selectman Wilson -yes, and Selectman Bishop – yes).

The meeting room was opened to the public. The Board noted the Non-Public Session minutes were sealed.


Adjournment: On a Motion by Chairman McWhinnie and seconded by Selectman Bishop it was voted unanimously to adjourn at 9:56 p.m. (3-0).

Respectfully Submitted,

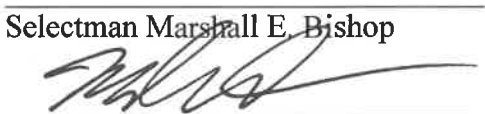


Heather Carpenter
Assistant Town Administrator

Approved by the Board of Selectmen


Chairman Stephen P. McWhinnie

Selectman Marshall E. Bishop



Selectman Michael J. Wilson

{Audio recordings are available at the Selectmen's Office and for free as a link on the Town website through SoundCloud}

To: The Board of Selectmen
Gilmanton, New Hampshire

Because Selectman Bishop and I frequent the same establishments, I had the opportunity to talk to Bishop about recent policy changes. I asked why town residents are now required to enter the town hall through the bottom floor, where they must first buzz in. Bishop said that a certain, petite, town resident, whose name I am withholding, came to the office four times in one day to ask questions. Subsequently, the town decided it would be appropriate to lock citizens out of town hall and require that they justify their reasons for entering.

It seemed that Bishop was suggesting that town residents would not be allowed in the building multiple times in one day. When I relayed Bishop's explanation to the participants of the Gilmanton Dump Run Café, where I volunteer, they indicated that the town was being inconsistent when defending its new policy. Regardless of his intentions, it is undeniably inappropriate for a town official to discuss individual town residents in a non-official context.

Recently, Stephanie Fogg has initiated an employment lawsuit against the town for her having been fired. Without a doubt, there is a question of if this firing occurred because Fogg was the sister-in-law of former Selectman, Don Guriano, who Selectmen McWhinnie openly disliked. McWhinnie even went as far as to suggest that firing Fogg was to give the town a "clean slate," as she was related to Guarino. Reverse-nepotism and immature grudges have no place in this town.

In addition to legal action by Stephanie Fogg and Chief Currier, I've also heard that other lawsuits are on the horizon. The administration is clearly not acting in the town's best interest. The only solution is for both Selectman Bishop and Selectman McWhinnie to resign, as they have both contributed to unrest in Gilmanton through litigation and disrespect of town residents. If these two truly want to do right by Gilmanton, and to alleviate rising tensions, they will step down from their positions. I know that I speak for more than myself when I implore McWhinnie and Bishop to do what is best for this town, and when I request that both of these men submit letters of resignation.

Please submit this letter to the Board of Selectman and have it posted with the town minutes.

Signed,

Ralph L. Lavin



SELECTMEN'S OFFICE TOWN OF GILMANTON

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ATTENDANCE SIGN-IN

PRINT NAME

SIGNATURE & DATE

June 18, 2018

Sandra Guarino

Amy Brown

Don Buppert

Bernadette Gallant

Ralph Lavin

Michael Tennessee

Jamie McWhinnie

ROBERT MCWHINNIE

Dustin Milliken

Barbara Swanson

Judith Bakos

RICHARD BAKOS

Leonard Swanson

Robert Caputo

KEISTY LAURENDEAU

Joseph S. Haas

Val Stille

Sandra Guarino

Amy Brown

Don Buppert

Bernadette Gallant

Ralph Lavin

Michael Tennessee

JAMIE MCWHINNIE

Bob McWhinnie

Dustin Milliken

Barbara E Swanson

Judith Bakos

RICHARD BAKOS

Leonard Swanson

Robert Caputo

Kristy Laurendeau

Joe Haas

Val Stille

