



APPROVED

Board of Selectmen Town of Gilmanton, New Hampshire

Meeting

February 22, 2016

6:00 pm. – Gilmanton Academy

Present: Chairman Rachel Frechette Hatch, Selectman Donald Guarino, Selectman Michael Jean, Town Administrator Paul Branscombe. Also present, please see attached sign in sheet.

6:04 pm Chairman Hatch opened the meeting, took attendance of those present and voting (Selectman Jean, Selectman Guarino and Chairman Hatch) and led the Pledge of Allegiance.

Chairman Hatch said the reason she called this meeting to order, which is out of the ordinary, and I have to admit out of the six plus years I have been on the Board we have never had to do this. We have received a Right-to-Know Request from Steven McWhinnie. When I looked at the Right-to-Know Guidelines it says we have to make the records available within five business days. The request for information was dated February 17, 2016. I will read the request as follows, because it is for public record. He asked for a copy of the recording of the February 16, 2016 Board of Selectmen's Meeting, transcripts of e-mails Rachel Hatch read at the February 16, 2016 Meeting, Board of Selectmen's Meeting from Walter Mitchell and what was submitted to Walter Mitchell by Don Guarino/responses etc., full conversation any documentation pertaining to the situation regarding bio-solids. The reason why I called this meeting to order, because we as a Board, and in the Selectmen's Office are not able to give Mr. McWhinnie all of the information that he asks, unless we take a formal vote as a Select Board. We do not have all of the information in the office at our hands and so I called this meeting to order tonight to see if I could have a formal motion and a second for discussion to request that Mitchell group supply Copies of materials that Mr. McWhinnie has asked for. There was conversation last Tuesday about the information that Attorney Mitchell was given for review. (as a side cap, I received phone call tonight and a couple of e-mails indicating that we were going to talk about the Gilmanton Year Round Library Funding). That is not on this Agenda, funding for the Gilmanton Year Round Library is not on this Agenda. The only matter at hand is that we need to legally fulfill Mr. McWhinnie's Right-to-Know request under RSA 91-A. I would like to entertain a Motion, and a second for conversation regarding the request that the Mitchell Group supply the Town with copies of materials hand delivered to the Town Attorney by Mr. Guarino regarding the biosolids as well as the three e-mails that responded to Walter Mitchell dated on February 3, 2016. Can I get a Motion?

Selectman Jean said he would make the motion.

MOTION: On a Motion by Selectman Jean, and a second for conversation by Selectman Guarino, regarding the request that the Mitchell Group supply the Town with copies of materials

1 hand delivered to the Town Attorney by Mr. Guarino regarding the bio-solids as well as the three
2 e-mails that responded to Walter Mitchell dated on February 3, 2016. (3-0)

3
4 Chairman Hatch said she did not know where this came from that we were going to talk about
5 the Gilmanton Year Round Library tonight, but we are not. I appreciate all of you coming out,
6 but this meeting is to only and specifically to fulfill Mr. McWhinnie's Right-to-Know request.
7 Can I entertain discussion on his request?

8
9 Selectman Guarino said that he had the Agenda for February 15, 2016, and I did not see anything
10 written in the Agenda that we were going to talk about the subject that we ended up talking
11 about, the discussion concerning if I had expended any taxpayers dollars on the bio-solids. But I
12 did happen to notice that there were only three people present at that meeting which happened to
13 be Mr. Ogni, Steve McWhinnie and Bob McWhinnie. So if I did not know that the biosolids
14 subject was actually to be discussed, how is it that the people in the audience happened to know
15 that that subject was going to be discussed?

16
17 Chairman Hatch said they did not know. I believe Mr. McWhinnie was here because he is
18 running for Selectman, trying to educate himself and the topic of conversation was under Select
19 Board Items.

20
21 Selectman Guarino said I have actually never seen Bob McWhinnie at a Select Board Meeting,
22 unless it was concerning bio-solids.

23
24 Chairman Hatch said I do not know what to tell you, I can't monitor who comes to a Selectmen's
25 Meeting. It seems to me that over the last eight months we have had a lot of people coming to
26 Selectmen's Meetings, which is great, I welcome that. A lot of times we have had to move
27 upstairs, and I am so glad that as I have been appointed as a Selectmen we have had an
28 outpouring of people attending meetings. However, the topic of tonight is we need to fill Mr.
29 McWhinnie's Right-to-Know request.

30
31 Selectman Guarino said I seconded it for discussion, we are in discussion right now. We are
32 going to continue this discussion. So the basis of your discussion was the fact that you on the
33 voter's guide, you were not willing to spend any money on taking a look at it. I have your e-
34 mails, and Mr. McWhinnie should be given this too, which says, "Stephanie, both Rachel and
35 Michael do not have a problem with the explanation of Article 3, also Don realize that he cannot
36 Be in the election area as he is running as Selectman, he should appoint someone else to cover.

37
38 Chairman Hatch and Paul Branscombe both said that is correct.

39
40 Selectman Guarino said I got the impression that you thought this was on the Petition Warrant
41 Article. The question was over the language in the voter's guide and in actuality, if you go to the
42 Gilmanton Website right now, you will see that it says voter's guide and it says Board of
43 Selectmen. You said in the meeting that we don't own this, you said it several times in the draft
44 minutes.

45
46 Chairman Hatch said we do not own Petition Warrant Articles.
47 Selectman Guarino said we own the voter's guide.

1 Chairman Hatch said we do not own the Petition Warrant Articles.

2
3 Selectman Guarino said I did not talk about the Petition Warrant Article, I said the voter's guide,
4 was electioneering.

5
6 Chairman Hatch said it was not electioneering.

7
8 Selectman Guarino said then how did it get changed?

9
10 Chairman Hatch said you did.

11
12 Selectman Guarino said no, I did not. So why did the language get changed?

13
14 Chairman Hatch said I do not know.

15 Selectman Jean said the day before....

16 Selectman Guarino said no, not the day before, this went through the Deliberative Session, with
17 it inaccurate.

18
19 Chairman Hatch said you got up at Deliberative Session and you addressed it as a resident,
20 which is ok, I'm fine with that. Don't ask me why it got changed, I don't know. I'm asking
21 you?

22
23 Selectman Guarino said you need to talk to the Planning Board Chair then to find out why it got
24 changed.

25
26 Chairman Hatch said she is going to recognize the Planning Board Chairman, Mr. Ogni.

27
28 Planning Board Chairman Wayne Ogni said the reason that was changed, I sent a thing to the
29 Town Attorney asking what the legality of the wording was, and it came back unfavorable.
30 So Mr. Branscombe said that he read the language that the Attorney sent back and he was going
31 to take out the last two sentences.

32
33 Selectman Jean said so it went to the Attorney from the Chairman of the Planning Board and got
34 changed.

35
36 Selectman Guarino said why would it be changed if it were accurate? That's what I said at the
37 Deliberative Session and it was inaccurate.

38
39 Chairman Hatch said you got up and you spoke as a resident.

40
41 Selectman Guarino said who are you representing?

42
43 Chairman Hatch (elevated voice) I am representing the people of Gilmanton that put me here.

44
45 Selectman Guarino said that when there is a question from the people that happen to be
46 interested in their Petition Warrant Article and they do not think the language is actually proper
47 and there is electioneering, you won't discuss it. It came forward unfavorably.

1 Chairman Hatch said both Michael and I...

2
3 Selectman Jean said it was corrected by the Chairman of the Planning Board, through the
4 Attorney, and it got corrected. And after that you went to the Attorney with some more
5 information and we are not sure what that information was that you went to the Attorney with.

6
7 Selectman Guarino said the information was because the section from the voter's guide that
8 hadn't been changed. I am going to hand this out so that the audience sees it.

9
10 Bio-solids, Article 3, this represents from the Town of Gilmanton Published this. We own this.

11
12 Article 3: Bio-solids,

13 "Bio-solids are classified as a fertilizer. (I don't actually even agree with that), Class A Bio-
14 solids do not require any permit, Class B Bio-solids require a permit from DES, Department of
15 Environmental Services. There is current Bio-solid use of both Class A and B in Gilmanton.
16 Should this Petition Warrant Article pass, the current activity would by right continue. The
17 proposed amendment would only apply to future users of Bio-solids and would create an
18 enforcement issue to the Town." Now I am going to read the change.

19
20 Article 3: bio-solids,

21 "Biosolids are classified as a fertilizer. (I still don't agree with that and I imagine that the
22 Petitioner's will not agree with it, this language was not written by the Board of Selectmen).
23 Class "A" bio-solids do not require any permit. Class "B" bio-solids require a permit from
24 NHDES (Department of Environmental Services). There is a current bio-solid use of both Class
25 A and Class B in Gilmanton." The two last sentences were dropped, but they were dropped after
26 Deliberative Session. So actually the stuff that I brought to, and I have no problem telling you
27 what I brought to Walter Mitchell's Office. I brought a letter from DES that said they are
28 required by law, that if somebody came forward to permit, which is actually meaningless,
29 because the Town's that have banned bio-solids, that I know of, and someone has come forward
30 for a permit application after the ban. I gave them a list of the Towns that have banned bio-
31 solids or have a restricted use, I wrote a question by hand and said "Walter, how is it that it could
32 be continued use, whereas the other Town's had banned it?" It was a simple as that. So it was
33 three pieces of paper. I had no idea that this had been changed.

34
35 Chairman Hatch said neither did I. You are alleging that Michael Jean and I knew, we did not
36 know.

37
38 Selectman Guarino said you were not willing to spend a single dime on fixing it prior to the
39 Deliberative Session, and I have the evidence right here, you did not correct it.

40
41 Chairman Hatch said I have a question for you. Did you sign this as a member of the Board of
42 Selectmen?

43
44 Selectman Guarino said I signed it as a resident.

45
46 Chairman Hatch, so for the record you signed this as a resident.

47
48 Selectman Guarino said yes.

1
2 Chairman Hatch, knowing that you are a member of the Planning Board as the Selectmen's
3 Representative.

4
5 Selectman Guarino said absolutely, and I stepped away.

6
7 Chairman Hatch said fast forward, the Planning Board gets a copy of this Petition Warrant
8 Article, that we legally have to put on the Ballot, that you signed, yes?

9
10 Selectman Guarino, absolutely.

11
12 Chairman Hatch said, so the Planning Board meets and what do they decide?

13
14 Selectman Guarino said not to support it.

15
16 Chairman Hatch said, and where were you?

17
18 Selectman Guarino said in the audience.

19
20 Chairman Hatch said, so you as a Selectman stepped away from the Planning Board meeting,
21 and went and sat in the audience, so you did not vote on this?

22
23 Selectman Guarino said absolutely.

24
25 Selectman Jean said I did, I voted.

26
27 Chairman Hatch said she just needed to know because she was not there.

28
29 Selectman Guarino said that when I read your draft minutes, you have absolutely no knowledge
30 about this. Anybody reading this, you say well I don't have any knowledge. All I was talking
31 about was the language in the Voter's Guide. We own the Voter's Guide.

32
33 Chairman Hatch said we do not own the Petition Warrant Article.

34
35 Selectman Jean said that the two Petition Articles that the Planning Board put forth, the Petitions,
36 they were drafted by the secretary for the Planning Board. The flood plains and the bio-solids.

37
38 Selectman Guarino said no, the bio-solids was drafted by the Petitioner's.

39
40 Selectman Jean said that the fact sheet was drafted by the Planning Board.

41
42 Selectman Guarino said that the fact sheet was drafted by the Planning Administrator.

43
44 Selectman Jean said it was not me, Rachel or Paul, it was the Planning Administrator. The
45 Chairman questioned the Attorney and got it straightened out and it got corrected.

46
47 Selectman Guarino said we are talking about the Voter's Guide.

1 Chairman Hatch said we are talking about Mr. McWhinnie's Right-to-Know request tonight.
2 Are we going to give him what he wants?

3
4 Selectman Guarino said I already seconded, we are in discussion.

5
6 Chairman Hatch, are you supportive of giving him what he wants.

7
8 Selectman Guarino, absolutely.

9
10 Chairman Hatch said alright then I am going to call the Motion to a vote then.

11
12 Selectman Guarino said well I am not done discussing.

13
14 Chairman Hatch said so what is there to discuss?

15
16 Selectman Guarino said so Rachel this was not about the Warrant Article, it was about the
17 Voter's Guide. To be honest with you, and I mentioned it last time.....

18
19 Chairman Hatch said the Voter's Guide is not on the Agenda for tonight Mr. Guarino. Mr.
20 McWhinnie's request is on the Agenda for this evening!

21
22 Selectman Guarino said how did it get on the Agenda, if we weren't talking about it at the
23 February 16, 2016 Meeting? The reason it was requested....

24
25 Chairman Hatch said it was under Select Board items and you brought up the Voter's Guide.
26 You are the one that brought it up and we beat it to death. You beat the Voter's Guide to death,
27 and you said let this be a lesson to the Board of Selectmen that next year the Board of Selectmen
28 need to approve the Voter's Guide, I don't disagree with that, I don't, I think it's a great idea.
29 The Agenda item tonight is Mr. McWhinnie's request for information, I need a formal vote
30 to be able to give this man what he has asked for legally. That's what is on the Agenda tonight, I
31 am not going to rehash the Voter's Guide. I am not going to rehash bio-solids. This Board did
32 not take an official position on bio-solids. I want to call this motion to a vote!

33
34 Selectman Guarino said that is fine.

35
36 All those in favor to give Mr. McWhinnie what he wants.

37
38 Member of the Audience asked could I ask a question? Chairman Hatch said I am going to give
39 you the latitude Sir.

40
41 Member of the Audience, you just said you do not do anything with the Voter's Guide, yet it
42 seems to me that it says on it that it is from the Selectmen's Office.

43
44 Chairman Hatch said it was. It was from the Selectmen's Office.

45
46 Audience member you do own this, the whole thing, everything in it.

1 Chairman Hatch said I did not say we do not own it, I am saying we do not own the Petition
2 Warrant Articles...

3
4 Audience Member, the Petition Warrant Article was not what was in the Voter's Guide, it was
5 edited to include more than what was in the Petition Warrant Article.

6
7 Chairman Hatch, do you know what they say about assume, I assumed that what was in the
8 Voter's Guide, was approved by the Planning Board.

9
10 Selectman Jean said for those two articles, that is what I assumed, that the Planning Board
11 approved those.

12
13 Chairman Hatch said and this Board of Selectmen are not in the business of micromanaging
14 Planning Board, Zoning Board or Historic District Commissions. So when I read that in the
15 Voter's Guide and Don sent the e-mail that Paul sent to us, "do you consider this
16 electioneering?" I asked verbally to Paul, who put that in the Voter's Guide? Paul said the
17 Planning Board has approved it. I was fine with that, he (Selectman Jean) was fine with that.
18 Does that make sense?

19
20 Audience member, no it doesn't make sense. That's politics as usual. You put in amendments
21 and everything ...(inaudible)... and says somebody must have put that in.

22
23 Chairman Hatch asked may I have your name for the record please?

24
25 Leonard Swanson.

26
27 Chairman Hatch said, Hi, you are Barbara Swanson's husband. I would encourage you next
28 year to run for Selectman. I really, really would, you would be awesome at it.

29
30 Chairman Hatch said, I am going to call the motion to a vote to give Mr. McWhinnie what he
31 wants.

32
33 All those in favor?

34
35 **MOTION:** On a Motion by Selectman Jean, and a second for conversation by Selectman
36 Guarino, voted unanimously to release information regarding the Right to Know request from
37 Mr. Steven McWhinnie, that the Mitchell Group supply the Town with copies of materials hand
38 delivered to the Town Attorney by Mr. Guarino regarding the bio-solids as well as the three e-
39 mails that responded to Walter Mitchell dated on February 3, 2016. (3-0)

40
41 Chairman Hatch said unanimous. Mr. McWhinnie you will be getting what you asked for, your
42 request was last Wednesday, so we have five business days, so we only have two days to give
43 you what you requested. I am going to, for the record, recommend that the Town Administrator
44 contact Walter Mitchell tomorrow and he will contact you when the information is ready.

45
46 Steven McWhinnie said thank you.

1 **Adjournment:** On a Motion by Selectman Jean and seconded by Selectman it was voted
2 unanimously to adjourn at 6:21 pm (3-0).
3
4

5 Respectfully Submitted,
6
7

8 _____
9 Stephanie S. Fogg
10 Administrative Assistant
11
12

13 **Approved by the Board of Selectmen**
14

15 _____
16 Chairman Rachel M. Frechette Hatch
17

18 _____
19 Selectman Donald J. Guarino
20

21 _____
22 Selectman Michael J. Jean