

**TOWN OF NEWFIELDS SELECT BOARD
MEETING MINUTES
TUESDAY DECEMBER 8, 2020**

Select Board Present: Chris Hutchins, Michael Sununu & Jamie Thompson

Others Include: Jeff Buxton & Jeff Feenstra

Virtual Attendees: Matthew Broadhead – NH AG’s Office; Colonel Nate Noyes – Division of State Policy & Dept. of Safety & Director Bob Quinn – Dept. of Safety

Virtual Attendees: Jeff Couture, Drew Fessenden, Chris Griffith, Jai Kells, Bobby Kelly, Kelly & Shawn McGowan, Kathleen O’Brien, Debby Pawlencio, Lesley Steinhauer & Keith Walker & two others not identified

Call to order at 7:04 pm.

The Select Board reviewed and approved the following items:

Checks Dated	12/11/20:	Accounts Payable Manifest	\$25,428.02
Checks Dated	12/11/20:	Payroll Manifest	\$45,671.79

Chris called the meeting to order and opened the meeting by welcoming those attending in person and virtually. He continued, explaining the two ordinance items on the agenda. One is specific to an addendum to the Noise by-Laws; the other pertaining to residential picketing. He explained that they will do a first of three readings of the ordinances, with the second and third readings taking place on December 15th & 22nd

Chris read the following ordinances:

Residential Picketing Prohibited

It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the Town of Newfields.

Penalties:

Any act contrary to this ordinance shall constitute a violation and may be enforced by any law enforcement officer in accordance with RSA 31:39-d.

Any person violating any provision of this chapter shall be punished by a fine of not more than one hundred (\$100.00) dollars for each offense.

Chris then opened it up fellow Select Board members for discussion.

Michael had no comment.

Jamie questioned whether the fine was large enough to prohibit the activity. He believes it to be Constitutional as long as people are allowed to march instead of concentrating on a particular neighborhood.

Chief Liebenow followed-up by saying the enforcement efforts, in regards to this, would be aggressive in nature. Violators would be first warned and informed of the ordinance, at which point, if they did not comply a fine would be issued in compliance with the ordinance. If they refuse to comply it would become an issue violating state statute of Disorderly Conduct and then would be subject to arrest. He believes the \$100 fine is appropriate but was not opposed to a higher fine.

Chief Liebenow then narrated what lead up to this situation. This ordinance is specific to Town picketing. As most people are aware, there has been a number of protest events on Hemlock Court targeting Governor Sununu and his family. At first, they were planned protests for which Newfields and State Police took necessary steps in managing that event. The initial event was 70-90 people who were describe as very boisterous and disturbing given this is a residence and not the State House. This was a very unprecedented event for a town. It generated a number of complaints by residents living in this area. It was discovered through the Police channels that these organizers intended to increase the frequency of the events to multiple times a week. They have had a total of four events thus far with one being held after dark on a weeknight. It has put a significant impact on the tranquility of the neighborhood and a strain on the agency as they are not prepared for events of this nature given the size of the Town. The department has been extremely grateful for the State Police's assistance. These events are planned to take place throughout the month of December and well into January. The intention of this ordinance is not to suppress or violate anyone's Constitutional Right to Free Speech. It is an effort to balance the peoples' right to live without disturbance and harassment in their own homes.

Jeff Feenstra stated his support for the ordinance and expressed his concern short term prior to the adoption of the ordinance. He presented the Board with a copy of the Disorderly Conduct statute. He also would like the ordinance enacted now instead of two weeks and believes the law would allow it.

Jeff Buxton also expressed his support to enact the ordinance as soon as possible.

Jamie stated that the current noise ordinance could be enforced especially when the protestors are using megaphones.

Jeff Feenstra added that the protestors are harassing the neighbors with rude, obnoxious behavior, shouting obscenities and are now blocking the path to the country store.

Chief Liebenow added the department is addressing the noise by utilizing the disorderly conduct statute which is more or less geared with the noise ordinance at this time.

Director Quinn respectfully requested the Board support and grant Chief Liebenow's ordinance request. Past events in Newfields has resulted in significant, unanticipated and unsustainable costs and the reemployment of State Police resources at a time when they are not only able to ensure the

well-being of all residents but asked to support the State's overall response to the covid-19 pandemic. He sees a clear sense of urgency to act on this quickly.

Colonel Noyes addressed the Board stating that the state police's mission is to provide safety to every community. One of their primary responsibilities is to provide safety for the Governor and his family. What the police are seeing is that protesters across the country are moving away from the public areas and going to elected officials the private residences. This causes a difficulty in preparing for these instances and an increase the likelihood of a violation of law. This has caused a significant impact on resources, staffing and budget. These protests are planned for the next several weeks during which the state police will continue to provide assistance to the Town. He also strongly encouraged the Board to pass the ordinance as soon as possible.

Attorney Broadhead, the chief legal counsel for the State police then spoke of his involvement in similar legal issues. With the events likely to recur, the bureau is in favor of this ordinance. It is tricky to use Disorderly Conduct statue in addressing first amendment protests. This ordinance will go a long way to provide a simple solution. It serves two important purposes. The first, preserving the tranquility of the homes of the residents in the area. The US Supreme Court recognized that one cannot weaponize the First Amendment to force your way into a home of another person. This ordinance is near verbatim to one that the Supreme Court had affirmed in a prior case. He went on to describe the verbal harassment endured by the Governor, his family and nearby residents.

Attorney Broadhead advised the Board that RSA 41:11 does not require three readings. This is a regulation of a town highway or public way. Under situations such as this, it does not require three readings. He informed the board of his discussion with Peter Walklin, who is widely regarded in this law. Per conversation with Peter, the Board could move on this ordinance right away. Attorney Broadhead continued, stating the second purpose of moving this ordinance is to avoid the expense of considerable resources. He believes there are other channels for people to express their message without standing in front of a residence.

Michael responded that he has serious concerns with passing an ordinance in one night, regardless of this ordinance, regardless of the people sitting in the room. As a citizen of the Town, I would be very concerned with the Select Board deciding to, in one night, read and enact an ordinance without giving the public sufficient time to address whatever the issue is in that ordinance. He understands the desire to move quickly on this issue but in his opinion, throwing out the opportunity for people in the public to go through the process, understanding what it is, how it will impact them, and their liberties in town is an undesirable move despite the desire of this entire Board to do something with respect to this matter. There are ordinances already on the books that address some of this. Michael is not sure how well they are being enforced but he certainly thinks the issue Mr. Feenstra has raised today, issues that he, himself, has raised with Chief Liebenow in the past, should be able to control what is going on until the proper process is completed to pass the Picketing Ordinance.

Jamie expressed that although the Town has always had three readings in the past, he does not necessarily believe there needs to be three readings in this case. Giving the information presented,

there appears to be flexibility for communities, and therefore, would be comfortable passing the ordinance after two readings.

Kelly McGowan wanted it on record that she sent an email to the Select Board regarding this situation.

Bobby Kelly asked what is considered reasonable time for the three readings.

Michael responded that the Board uses what is precedent for what has been established in this Town for the last 30-40 years as a process that the Board feels is appropriate, sufficient and legally defensible if the Town gets sued. The Town does not want to be in a position where they are trying to defend expediting this matter instead of following what has been the traditional procedure.

Michael pointed out that in the past the three readings occurred over three regularly scheduled Select Board meetings, which are usually at least two weeks apart. The fact that the Board is doing the readings weekly is their recognition that we are moving it faster but trying stay with the precedent that it is done over a three period process.

Jamie motioned to enact the ordinance after two readings. Chris stated that he was opposed. Michael concurred with Chris, and said that he understand the desire to move quickly, but also wants to re-emphasize the fact that there are ordinances on the books. There are state laws that can be enforced to address the issue. He does not believe it is appropriate to move quicker on this ordinance than any other ordinance in the past.

Chris then read the following Ordinance:

Addendum for Noise-by-Laws

Exhausts and Unloading: Loading, unloading, opening boxes: The Creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers between the hours of 10 PM and 7 AM.

Open Exhausts and Idling: The discharge into the open air of any unmuffled exhaust from any engine, mobile or stationary, or any compressor unit that emits a noise level at a distance of 50 feet or greater between the hours of 10 PM and 7 AM.

Chris then opened the floor up to those wishing to speak.

Jeff Feenstra asked if the ordinance needed to specify excluding emergency vehicles.

Chief Liebenow confirmed that emergency vehicles are excluded and also mentioned that he will notify the companies affected by this ordinance to ensure the owners have an opportunity to comment.

Chris announced the next reading to take place on 12/15 at 7:00 pm, thanked everyone for attending and then ended the meeting.

Respectfully submitted,

Kisha Therrien