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**Town of Henniker
Board of Selectmen Meeting
Tuesday, June 22, 2021
Henniker Community Center**

Members Present: Vice Chair Tia Hooper; Selectman Peter Flynn; Selectman Scott Osgood; Selectman Leon Parker

Member's Excused: Chairman Kris Blomback

Town Administrator: Joseph R. Devine Jr.

Recording Secretary: Wendy Baker

Guests: Bill Marko, Lori Marko, Heidi Aucoin, Joan O'Connor, Doreen Connor, Marc McMurphy, Arnie Huftalen, Ruth Cox, Melanie Connor, Patrick Connor, Mark Mitch, Ross Bennett, Jan Seavey, Tom Seavey

Call to order/Pledge of Allegiance

Vice-Chair Hooper called the meeting to order at 6:15pm

Consent Agenda

Item 1: Consent Agenda for June 22, 2021

Selectman Parker moved to approve the consent agenda as presented. Selectman Flynn seconded. Motion carried 4-0.

Public Comment #1

Ruth Zax representing the Henniker Concert Committee asked the Board to give them permission to have a rain date for the concerts that are cancelled due to weather. She suggested having a rain date on the day after the original concert on Wednesday.

Selectman Flynn moved to allow the Concert Committee to conduct a rain date at the park, barring any conflict on the evening after or any evening they choose. Selectman Osgood seconded. Motion carried 4-0.

Public Hearing

Item 2: 19 Rush Road – RSA 79E Application

Joe Devine explained that at Town Meeting 2020, the town passed RSA 79E, which is a tax relief program for development in the downtown. The structure must be within .6 miles of Proctor Square and the cost of the rehab must be at least 15% of the rehab, assessed value or \$75,000, whichever is greater and to qualify for the tax relief, the project must provide one of the following public benefits: 1. Enhance the economic vitality of the Town Center. 2. Enhance or improve the cultural historical importance on a local, regional, state or national level. 3. Promote development of a professional residential or Town Center zoning district. 4. Increase residential housing diversities and opportunities.

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Joe said the applicant has given a brief description of what he is planning at a previous meeting and this is a public hearing for the public to weigh in on what they feel is in the public benefit or not for this application.

Marc McMurphy said the property on 19 Rush Road was a two-family and he went through the Zoning and Planning Boards to change it into 3 units. He said this project has taken substantial work to make this change, they have rebuilt the entire center of the house and have made 2 one bedroom apartments and 1 two bedroom apartment with enough parking for the 3 units.

Vice-Chair Hooper opened up the Public Hearing to questions from the public.

Heidi Aucoin asked if the Board has set any parameters for vetting these type of applications?

Vice-Chair Hooper said it was her understanding that the Board has 45 days from the date of application to make a decision and the Board will discuss the decision under item 8 of this meeting.

Seeing no other public comments, Vice Chair Hooper closed the Public Hearing.

New Business

Item 3: Conservation Committee – Clean Water Revolving Fund RFP

Mark Mitch spoke to the Board regarding implementing the project on Keyser Pond and thereby choosing a consulting firm. He said they initially had three firms that were interested but only ended up with one response on the Request for Qualifications. Mark said the firm that responded is Gomez and Sullivan and their response is very thorough, which leaves him with no reservations but they do have to make sure it meets the criteria for NH DES.

Selectman Osgood said in the proposal Gomez and Sullivan suggested bringing together a team to help with the studies and he asked if that meant towns people or engineers? Mark answered he thought it would be members of the Conservation Commission and different land owners involved. Selectman Osgood asked how long the project would take? Mark answered they hoped to start in July and it would take about 16 months and that he has already started the data collection. Mark said the next deadline is submitting the loan application to NH DES. He said this is a \$60,000 loan that upon completion of the project the loan is forgiven. Mark said they have been working with NH DES every step of the way for this project.

Selectman Parker moved to authorize the Town Administrator to sign the paperwork to contract with Gomez and Sullivan for the French and Keyser Ponds Project to be funded by the Clean Water State Revolving Fund. Selectman Flynn seconded. Motion carried 4-0.

Item 4: Sale/Disposal of Surplus Equipment

Joe said he would like to reach out to St. Jean Auctioneers to have an online bidding for a 2013 sedan, police cruiser with estimated mileage of 140,000 and a John Deer riding lawn mower that

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has 656 hours on it. He then said the Transfer Station also has a broken utility trailer and snowblower they would like to scrap.

Selectman Flynn moved to authorize the Town Administrator to use St. Jean Auctioneers to sell the 2103 Ford Sedan and John Deer riding mower and also dispose of the utility trailer and snowblower. Selectman Parker seconded. Motion carried 4-0.

Item 5: Highway RFP

Joe said the Highway Department sent out three RFP's that they would like to award. They are:

1. 200' of guardrail for Bennett and Old Hillsboro Roads for the cost of \$45,900 with CWS Fencing being the only bidder.
2. Crushed Gravel – received bids from the following, Henniker Crushed Stone \$5.75/cubic yard, Fuzzy Brothers was \$5.00/cubic yard and Northeast Earth Mechanics \$7.17/cubic yard. Joe said the Road Agent would like to award the bid to Henniker Crushed Stone even though they came in a little high he feels because they are a local company and they make the stone readily available and it can be retrieved easily in an emergency.
3. Roadside mowing of all Class V Town roads, approximately 80 miles. Fieldworks, who did the bid last year and was the only bid this year is \$245.75 per mile.

Selectman Parker moved to award the Guardrail Bid to CWS Fencing in the amount of \$45,900.00 and to authorize the Town Administrator to sign all paperwork. Selectman Flynn seconded. Motion carried 4-0.

Selectman Parker moved to award the Crushed Gravel Bid to Henniker Crushed Stone in the amount of \$17,250.00 and to authorize the Town Administrator to sign all paperwork. Selectman Flynn seconded. Motion carried 4-0.

Selectman Parker moved to award the Roadside Mowing Bid to Fieldworks in the amount of \$19,660.00 and to authorize the Town Administrator to sign all paperwork. Selectman Flynn seconded. Motion carried 4-0.

Item 6: Old Police Cruiser

Joe said there is another police vehicle coming off line, a 2014 Ford Explorer that he would like to have the Building Inspector use and the costs associated with it would be putting a Town Seal on the door.

Selectman Parker asked what kind of expenses can we expect and which budget will it come from? Joe answered the Building Inspector's budget has a mileage line item which would be used for gas and maintenance would have to be dealt with as it comes since that was not budgeted for. Vice Chair Hooper asked about the condition of the vehicle and remembered there might have been rust issues. Joe said that was a different vehicle and the Chief has assured him this vehicle is in good condition. Vice Chair Hooper asked what the long-term plans were for having a vehicle for this position, if it would have to be an expense later and be replaced? Joe said he doesn't anticipate needing a new vehicle since the miles going on it would be substantially less. Joe also said in the case of inclement weather, it would be moved to a different location so the Town Hall parking lot can be plowed.

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Selectman Flynn moved to authorize the Town Administrator to use 2014 Ford Explorer from the Police Department and transfer it to the Town Hall. Selectman Parker seconded. Motion carried 4-0.

Old Business

Item 7: 2nd Reading – Ethics

Joe said currently the Town does not have an Ethics Policy that governs the employees and he feels it is good for the public to understand what the expectations of the employees are and that it creates an atmosphere of trust and standards of professionalism.

Selectman Parker stated Section 4 Procedure Item 6 should state “the employment should also not create a conflict with or impair without the ask of the proper discharge of their official duties”. Selectmen Parker also found under penalties the second line “Violate any of the code of ethics provisions shall face disciplinary consistent...” the word action should be inserted after the word disciplinary.

Vice Chair Hooper opened up the meeting to public comment on the Code of Ethics. There were no public comments.

Selectman Parker moved to waive the requirement for a third reading and adopt the policy as presenting and to become part of the Town of Henniker’s Personnel Policy. Selectman Osgood seconded. Motion carried 4-0.

Item 8: 19 Rush Road – RSA 79E – Discussion/Decision

Vice Chair Hooper asked what happens when submission of the application happens after work has started. Joe answered the provision is that construction should commence after the application has been approved.

Marc McMurphy stated that he didn’t know and some work has already been done. Joe stated an assessor should go out at time of application to get a true value prior to any new work being done and after the project was complete the assessor would go out to verify what has been done and confirm if it met the requirements.

It was discussed whether this situation should be consulted with town legal council.

Vice Chair Hooper moved to table the 19 Rush Road application until the next Selectmen’s meeting to get a legal opinion and next steps. Selectman Osgood seconded. Motion tied 2-2

Selectman Parker said he feels there is enough documentation to make the determination contingent upon legal opinion. Vice Chair Hooper disagreed and feels a legal opinion is still needed first. More discussion ensued. Vice Chair Hooper suggested to get legal opinion and if they say the town can still accept the application with work started then Joe can have the assessor go to the property immediately to assess it and then if can be discussed at the meeting in July.

Marc McMurphy expressed his frustration with the process.

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Selectman Parker moved to move ahead with consideration and make any approval contingent upon getting approval from the Town Attorney. Selectman Flynn seconded. Motion carried 3-1 (Hooper)

Joe reminded the Board they need to go through the criteria and also list the reason for approval in their motion.

The Board went over the criteria for the application which only needs one to be met. Vice Chair Hooper read the criteria and the applicant's answers to each.

1. **Enhances the economic vitality of the designated areas.** Applicant's answer is Yes, the house needs structural and aesthetic upgrades which will improve values in the neighborhood. The project will add another rental unit to the downtown area. The project will add 3 high quality rentals for downtown living. Selectman Parker, Selectman Osgood and Selectman Flynn all stated they agree with the applicant.
2. **Enhances and improves a culturally or historically significant structure.** Applicant's answer is No.
3. **Promotes preservation and reuse of existing building stock by rehabilitation of historical structures per energy efficiency guidelines established by the US Secretary of the Interior's Standards for Rehabilitation.** Applicant's answer is Yes, many updates to energy efficiency of appliances and heating will take place. Also we will be modernizing the insulation. Not sure about the interior standards for rehab, going by local codes. Selectman Parker, Selectman Osgood and Selectman Flynn all stated they agree with the applicant.
4. **Promotes development in the designated areas, providing efficiency, safety, and a greater sense of community, consistent with RSA Chapter 9-B.** Applicant's answer is Yes, this is the primary benefit of this project, bring high quality rental opportunities to downtown. This promotes local commerce and enhances the vitality of downtown. Selectman Parker, Selectman Osgood and Selectman Flynn all stated they agree with the applicant.
5. **Increases residential housing in the designated areas.** Applicant's answer is Yes, will increase quality of the existing housing stock in downtown.

There was a discussion on how many years to grant the tax break for.

Selectman Parker moved to authorize the Town Administrator to sign a covenant with the applicant for seven years of tax relief to Marc McMurphy at the property of 19 Rush Road per the terms of RSA 79E contingent upon a finding by the Town Attorney that it is legal to do so with the timing of the submission. The public benefits of this project are enhancement of the economic vitality of the designated area and promotes development of the designated area and increases residential development of the designated area. Selectman Flynn seconded. Motion carried 3-1 (Hooper)

Item 9: Selectboard discussion Noise Ordinance Update

Joe stated at the last meeting there was a first reading of a proposed noise ordinance and after doing more research into what was being proposed, I found that Article 1 of the ordinance that was passed in July of 1990 by the Board of Selectman after having a public hearing, then in March of 1992 an amendment was made as Section 2 and put before Town Meeting and tabled. In March of 1993 town meeting it passed as Article 2. Joe said the piece of the ordinance that

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was proposed to be amended is Article 2. Joe said legal council has advised that because that Article went through town meeting, it cannot be acted upon by the board and should be going to town meeting instead.

Vice Chair Hooper stated the board received a letter from Atty Connor regarding this finding and also cited Chapter 133-51 whereas the Selectmen have the duty to enforce the provisions in that Chapter.

The board discussed having the Planning Board review this and conduct a site plan review or have the new Building Inspector/Enforcement Officer take a look at it and give insight of any potential zoning violation.

Vice Chair Hooper moved to have the Town Administrator engage our current Building Inspector to look at the zoning violations that have occurred on 104 Temple Road and report back to the Board of Selectmen in order to take action. Selectman Parker seconded. Motion carried 4-0.

Past Meeting Minutes

Item 10: Acceptance of Board of Selectmen Minutes June 1, 2021

Acceptance of minutes was tabled until next meeting for the following amendments to be made:

1. Page 1 the motion for the Consent Agenda, insert "Selectman Flynn seconded"
2. Page 2, 5th paragraph down, change accommodation to commendation
3. Page 4, change the title of Doreen Connor from Chair of the Zoning Board to Atty Connor
4. Page 4, listen to the recording and fix the first motion according to the correct participants that motioned and seconded
5. Page 5, listen to the recording and fix the first motion according to the correct participants that motioned and seconded
6. Page 6, 7th paragraph change "her" to "he"
7. Page 6, 8th paragraph insert the word tight between very and right, to read "very tight right now"
8. Page 8, 1st paragraph, change reprehensible to unacceptable
9. Page 8 2nd paragraph, add the words "to schedule a meeting" in between members and, to read "members to schedule a meeting and"
10. Page 8, 4th paragraph, listen to recording and add missing statements.
11. Page 9, motion to adjourn, change Vice Chait to Vice Chair.

Item 11: Acceptance of Board of Selectmen Non-Public Minutes May 11, 2021

1. Add vote to leave non-public

Selectman Parker moved to approve the minutes as amended. Selectman Flynn seconded. Motion carried 4-0.

Item 12: Acceptance of Board of Selectmen Non-Public Minutes May 26, 2021

1. Add vote to leave non-public

Selectman Parker moved to approve the minutes as amended. Selectman Flynn seconded. Motion carried 4-0.

Communications

Item 13: May Department Reports

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No questions or comments.

Item 14: Town Administrator's Report

Joe gave a COVID 19 update. Tax bills have been mailed with a due date of July 12th. The Town is involved in open enrollment for health and dental for its employees. We are having a meet and greet on Thursday to meet the new Building Inspector. Regarding the manhole raising on Route 114, this is a state road and they are planning on paving on Friday. Western Ave will have daily road closures beginning again and Patterson Hill, Bennett Road and Elm Street have gotten their final top coat.

Item 15: Selectmen Report

Selectman Parker stated that Elm Street and Bennett Road have been rebuilt by a different contractor and completed the paving and are doing shoulder work as well and he would like to commend the quality of the job and he is very happy with the progress. Joe stated that the asphalt this year is different than in the past and in future years we plan to bid asking for this formulation.

Selectman Flynn let everyone know that he has given his notice in New Boston as Town Administrator and he will begin to have more time to attend the regular Athletic Committee meetings and focus more on Henniker. He also said he is pleased to hear about the inspection process for the road materials. Selectman Flynn said he knows a Safety Committee meeting is coming and the Historic District Commission does not have anything planned at the moment.

Vice Chair Hooper asked Joe to have the Chair of the Records Committee schedule a meeting in the near future. She also stated that she attended a ZBA meeting this week and has seen that there is other frustration with applicants and she asked who is responsible for reviewing the applications before they are getting to the Boards to make sure they are complete and that the applicants understand fully what is required of them. Joe answered it typically is the Town Planner that does all of that.

Selectman Osgood said he attended the most recent Conservation Commission meeting and most of the discussion was about the water sampling they are doing. He said Azalea Park Riverwalk Committee is continuing to put together the Shoreline Permit.

Public Comment #2

Marc McMurphy publicly thanked Scott Dias for putting together the Golf Tournament for the Food Pantry.

Arnie Huftalen commended Leo Aucoin for doing a fantastic job as Road Agent.

Ross Bennett said he is happy with the work that has been done with Bennet Road as well as the drainage work Leo and his crew have done. He also said he hopes that the Town will do something about the noise ordinance to make it more enforceable because it's not just an issue with Temple Road.

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Heidi Aucoin said the vetting of the application process should be looked into and fixed.

Vice Chair Hooper moved to go into Non-Public Session under RSA 91-:3, II (a) personnel. Selectman Flynn seconded. Motion carried 4-0.

Selectman Flynn moved to adjourn the meeting. Selectman Parker seconded.

Meeting adjourned at 8:45 pm