



Salisbury Board of Selectmen

Meeting Minutes

March 3, 2021

Approved

Selectman John W. Herbert, Chair	Present
Selectman Jim Hoyt	Present
Selectman Brett Walker	Present
Town Administrator April Rollins	Present
Municipal Assistant Kimberley Edelmann	Present

Attendees: Several citizens attended the meeting in person at Academy Hall. Some members of the public attended via Zoom.

1) Open Meeting

Chairman John Herbert opened the meeting at 6:00 pm.

2) Meeting Minutes

Selectman Walker made a **motion** to accept the meeting minutes of the Budget Committee / Selectboard joint meeting & public hearing of Monday February 8, 2020. Selectman Hoyt **seconded**. The **motion passed** with all in favor.

Selectman Walker made a **motion** to accept the Selectboard meeting minutes of Wednesday, February 17, 2020. Chairman Herbert **seconded**. The **motion passed** with all in favor.

3) Signatures

Chairman Herbert noted that the Board reviewed the Accounts Payable and Payroll Registers.

The Selectboard reviewed and signed a letter of thanks to the Church for the generous donation of a paper shredder for use at the Town Offices.

The Selectboard signed the 2020 Annual Facility Report for the Transfer Station.

Oath of Office - Gayle Landry was sworn in as Pro Tem Supervisor of the Checklist for the School District Meeting by Chairman Herbert.

4) Old Business

a. **March 9th Voting Preparations**

Town Administrator Rollins noted that everything was all set.

b. Updated on Garfinkle Lien

Tax Collector Gayle Landry reported that she had recently released 6 liens the Town of Salisbury had on the former Garfinkle Property. These liens were on 2 of the 3 properties owned by Mr. Garfinkle. One of these liens was for cleanup costs performed in 2018 under the direction of Building Inspector Chuck Bodien in the approximate amount of \$4,500. The total amount of the liens which have been satisfied to date is \$6,000.

c. Mutual / Interim Assistance Agreement - Webster Police

Chairman Herbert noted that there was confusion. The intent of the Town of Salisbury was to authorize the Webster Police so that if they were in town and saw someone blowing through a stop sign or a motorist broken down that they would have police authority in Salisbury. Somehow, the documents that the Selectboard tried to do this with were mutual aid agreements that got all confused. He was not clear how to straighten it out. It seemed like it would be a different agreement for the Selectboard to sign to authorize Webster to have police powers in Salisbury.

Chairman Herbert stated that the Town of Salisbury was not asking Webster to patrol in Salisbury. Selectman Walker clarified, noting that the agreement with Webster Police was just if they happened to be in Salisbury and witnessed criminal activity, they would have the right to take action. Webster PD would not be called if no other agency was available.

Selectman Walker noted that an invoice from Webster PD had been received recently. In that case, the State Police specifically asked for backup while responding to a domestic violence call. Since there was no additional NHSP cruiser available to provide backup, Webster PD was called in after Andover PD and Franklin PD refused. This particular scenario was unrelated to the Salisbury agreement with Webster PD.

Selectman Hoyt noted that Sunday night, Webster PD made an arrest at the Country Store in conjunction with Boscawen. Salisbury did not get charged for that.

Chairman Herbert noted that the Webster PD would not sign the agreement Salisbury as it was a mutual aid agreement and Salisbury did not have a police department which would provide aid to them. Another agreement would be needed. More research was needed. Selectman Walker noted that without an agreement, any stop Webster PD made in town could be contested in court. Selectman Walker suggested finding out what Webster would want in terms of an agreement.

Town Administrator Rollins noted that the agreement that had been received was over 10 years old and had Scott Hilliard's name on it. A new agreement was in the Selectmen's packet. Selectman Walker asked to table the discussion until he had time to review the agreement.

5) Department Reports

a. Fire Department

TA Rollins said that she had spoken with Rebecca Weldon, the Town's auditor at Plotzik & Anderson, who noted that the Town would need to write a Warrant Article to present that the 2022 Annual Meeting to deposit the ambulance billing funds into the capital reserve. Currently, the funds were being held in an ambulance billing account and it was not earning any interest. If moved into a capital reserve, the money would earn interest. To do this, a Warrant Article would be needed to close the ambulance revolving fund and take it out of the unreserved fund balance.

Chief MacDuffie asked if the funds could be moved to an account that did not get charged fees every month for lack of account activity. TA Rollins said that would be case.

Chief MacDuffie believed the fund's balance was approximately \$36,000.

Selectman Hoyt suggested a possible solution of moving the fund from a checking account to a savings accounts. Chairman Herbert noted that when he receives notices about some of the Church accounts being inactive, he would simply deposit \$5.00. Maybe the Town could do that instead of opening a capital reserve fund.

b. Transfer Station

Selectman Walker spoke about covers for the containers. He shared that at the previous meeting, he was leaning towards purchase of covers; he wasn't any longer. After March, trash frozen to the container shouldn't be a problem. Using covers would require that the Transfer Station employees remove the covers before hauling. If only one person tried to do it alone, Selectman Walker felt there was a high probability of cracking a cover, especially in cold weather. He did not feel it was worth spending \$1,000 on covers which really would only be used for the next few weeks. Chairman Herbert agreed that at 48 pounds each, the covers could prove unwieldy on a windy day.

Selectman Walker also explained that the uncovered container only gets dumped every other week. He learned that the NRRA could, for a small increase in the hauling fee, take the one container to the facility in Belmont where they can scrap the container. Chairman Herbert recalled that in the past, if the contents of the container were frozen and couldn't be emptied, the Town was paying to haul the container half full back to Salisbury. If the Transfer Station Manager wanted a container to be hauled to Belmont to be emptied and scrapped, he would have to call the NRRA ahead of time to request that.

6) New Business

a. Mike & Jessica Farrell - Regarding 863 Old Turnpike Road

As a follow up to an email sent to the Selectboard, Jessica Farrell addressed the board about trespassers on their property. This was one of the issues they were concerned about when Neuro Restorative moved into the adjacent property. On three occasions, Neuro Restorative staff members have driven onto their property even though there is a "No Trespassing" sign. Motorists have parked in the driveway and walked up to the door. One time Jessica was outdoors when this happened. The man asked where the facility was located. She pointed to the building next door; the spot light on the garage was visible. She had difficulty communicating with him; he didn't understand her and kept repeating his question. Two weeks later, a different man parked in the drive and approached the house. After Mike Farrell told him where the facility was and asked him not to return, the man flipped Mike off. The third trespass was at midnight. They were sure it was the same man who trespassed the first time. He was flashing his brights at the house while everyone was sleeping. He got out of his car, realized the driveway was too slippery, got back in his car and left. He then stopped in the middle of Route 4, got out of his car and started looking around. That's a safety issue. After he got back into his car, another car came flying down Route 4 which could easily have hit him. Jessica pointed out that these men were getting lost. She said they have a "No Trespassing" sign and yet the men drive in and knock on the door.

Jessica asked if it would be possible to have the facility put signs up so employees would know where to go. She felt that the facility probably didn't want people to know they were there.

Jessica also noted that in her email she pointed out that DHHS told her Neuro Restorative didn't have a license. DHHS was investigating. She also spoke to Chuck Bodien who said that their Occupancy Permit was not valid for their intended use. She also spoke with DOT who said that they needed to reapply for a Driveway Permit if they were not going to remain as a single family residence. There were all of these issues and yet they are still open.

Jessica felt there were being harassed by the facility and the employees trespassing on their property were very rude, flashing brights, honking horns and flipping people off.

Jessica didn't know what the Selectboard could do about this. Despite Zoning and Planning, Neuro Restorative managed to get in. She appealed to the Selectmen to contact the Town's lawyer. Jessica added that she knew the facility was open, occupied and in operation. She has seen staff members with residents outdoors.

Chairman Herbert asked about the "No Trespassing" signs. Jessica replied that she had two driveways; one shared with two other houses, the other was private. One sign is on the shared driveway. The other is on the private driveway, but that's not plowed in winter. Chairman Herbert said he had driven by and didn't see the signs nor a house number on the driveway. Jessica noted that on the private driveway "859" was on a tree, but not on the shared driveway as they were in the process of getting new signs. The other houses have their numbers on the shared driveway. The house number of Neuro Restorative is not shown on the shared driveway.

Jessica checked the GPS and found that it accurately identified the location of Neuro Restorative. Also, the number 863 was clearly marked on the mailbox of the property as well as the house.

Selectman Walker asked if anyone from Neuro Restorative was on the call. No one responded.

Jessica noted that Steve Miller from Neuro Restorative in Illinois said they should call him anytime. Mike Farrell has emailed and left voicemail messages for Mr. Miller and received no replies.

Selectman Walker shared that the Town could not compel Neuro Restorative to put up a sign identifying the residential facility. However, the Selectboard could write them a letter explaining the issues raised and suggest signage and that employees be given directions to the facility beforehand. Selectman Walker noted that if Neuro Restorative was not licensed, that would be a concern. The Town could confirm this with the State. Chairman Herbert added that they could check with Chuck Bodien about the Certificate of Occupancy.

Jessica requested that the Selectboard ask the Town's lawyer about the issues with licensing. Also, the contact at DHHS believed the Zoning Board should have had a say and jurisdiction. DHHS recommended that Jessica file a complaint.

Selectman Walker wanted to forward the letter to Town counsel. He added that the Selectboard did not have the authority to enforce the contract between DHHS and Neuro Restorative; that was an issue for DHHS to address. Chairman Herbert added that the Town had no leverage in the matter.

Selectman Walker made a **motion** to forward Jessica's email to the Town attorney and to ask them to take a second look at the case law and to provide the board advice on how to proceed. Chairman Herbert **seconded** the motion. The **motion passed** with all in favor.

Selectman Hoyt asked if the driveway was a dead-end road. Jessica confirmed it was a discontinued road formerly called Old College Road. He wondered if a "No Outlet" or "Dead-End" sign would help. Jessica shared that she was in the process of ordering a new sign which will say "Private Drive" with all of the house numbers on it as well as "No Trespassing".

Selectman Walker asked if the trespassing was during shift changes. Jessica replied that the first two times it was 5:15 pm and the third time was about 11:30 or 11:45 pm. Selectman Walker said they could ask the State Police to pay particular attention to the area at those times if they were in the area.

Chairman Herbert believed there wasn't a lot the Selectboard could do. Selectman Hoyt reiterated that they could send a letter to Neuro Restorative as discussed earlier, contact the lawyer, and let the State Police know. That was the limit of the authority of the Selectboard in the matter.

A member of the public asked if the Selectboard could contact DHHS directly. Selectman Walker confirmed that they would be doing that.

Ashley Langevin noted that not having an Occupancy Permit would mean Neuro Restorative would need to vacate. She believed there was a difference between an occupancy permit for a single family permit and what the facility was doing. She felt the Town had failed the Farrell's and that the Farrell's were doing research the Town should have done. She noted that no one was allowed to speak at the Zoning Board meeting. She suggested that the Selectboard should question the competency of the Town lawyer.

Selectman Walker noted this was the first time the issue had been brought to the Selectboard. It was a Zoning and Planning Board issue which the Selectboard had no authority over nor could interfere with. Within 6 hours of receiving the email from the Farrell's, Selectman Walker invited the Farrell's to the meeting. The Selectboard would be contacting the Town attorney, DHHS, the Building Inspector and Neuro Restorative. The Selectboard can request that the agencies to their job, but there was no authority to compel any of them.

Ms. Langevin asked if the Selectboard could request that the Zoning Board attend the next Selectmen's meeting. Selectman Walker and Chairman Herbert both replied, "No." Selectman Walker noted that no board had authority over another board; all decisions of a board had to be made by the board in an open public forum with proper public notice.

Ms. Langevin asked if the Selectboard did any research prior to the meeting. Chairman Herbert replied that they had contacted the Town attorney and the Building Inspector. Ms. Langevin felt that the people in Town should not be dealing with the problem, that the Selectboard should show some empathy, and that the Selectboard do due diligence.

Chairman Herbert noted that they had done due diligence. The question for the Zoning Board was a question of regulations on 3 beds versus 5 beds. That was the only decision the ZBA made. It was not a public hearing; there was no public input; there was no opportunity for it.

Ms. Langevin felt there were many public hearings and at the last one, residents were allowed to speak. Town Administrator April Rollins noted that the last meeting was a procedural meeting to decide on whether or not to even consider it again. Ms. Langevin was disappointed, especially since residents had petitioned the board. Selectman Walker iterated that the issue needed to be taken up with the Zoning Board of Adjustments; the Selectboard had very little power to compel anyone to do anything.

b. 2020 Town Annual Reports

Town Administrator April Rollins noted that the Annual Reports were out. People could pick up copies at Cross Roads or they could call and make an appointment to pick one up at Academy Hall. They would also be available March 9th at the Safety Complex for voting and on May 1st for the business meeting.

TA Rollins added that considering it was her first year, Municipal Assistant Kimberley Edelmann did an excellent job on the Annual Report.

Chairman Herbert complimented the write-ups in the Annual Report by TA Rollins for Ken & Anne Ross-Raymond and Jim Zink-Mailloux. He noted that the write-up about Steve Wheeler was also worth reading.

7) Selectmen's Reports

a. Resignation

TA Rollins noted that Treasurer Donna Nickerson submitted a letter of resignation with 2 weeks notice given. Chairman Herbert made a **motion** to accept the resignation with regret. Selectman Walker **seconded**. The **motion passed** unanimously.

b. TDS Broadband Project

The Selectboard received an email from State Representative Louise Andrus asking questions about the TDS project. Selectman Walker noted that he had been speaking with Louise since the last meeting, asking if there were any State funds available for broadband. At the time, there was not. Ms. Andrus had reached out to the offices of Senator Jeanne Shaheen and US Representative Annie Kuster. In responses, there was information about USDA grant that Selectman Walker was looking into. It was noted that the grants were tricky with difficult applications. While not optimistic, he would pursue them. The most promising was a Northern Border Regional Commission grant. Selectman Walker would be attending a webinar about the grant on Monday. Ownership of the broadband (TDS versus the Town of Salisbury) may be an issue. The other grant was a Rural Digital Fund which the vendor would need to apply for.

Chairman Herbert noted that the reason the Town had not applied for a grant in the past was because they did not have an amount to work with. Once the amount was known, application would be possible. There was still money coming out of Washington DC.

Selectman Hoyt said that he had spoken with Sandy Miller and Gail Henry who both told him that they had internet on Flaghole Road. Chairman Herbert believed only part of the road had it. Kimberley Edelmann asked if they had fiber or copper; there was a big difference.

Selectman Hoyt did get a letter from TDS that if funds were approved, they could probably get the broadband in before the snow flies.

Cindy Romano asked if there was a contract between TDS and Salisbury for the broadband in the North Road area. Selectman Walker noted that a signed contract would not be possible until funding was approved. She asked why the Town would be paying for broadband when it was originally installed in the rest of Town for free. Town Administrator noted that the reason the Town would be paying this time was because the area in question was not within the TDS territory. Ms. Romano asked if Comcast or anyone else would be releasing the territory to TDS. Selectman Hoyt confirmed that Consolidated Communications was letting TDS into their territory. It took a couple years to get to that point. Ms. Romano didn't believe the public understood that point.

Cindy Romano understood that there was a petition that went around and only had 27 signatures. Selectman Hoyt noted that that was long before the Selectboard got involved. Ms. Romano asked if TDS knew how many new customers they would be picking up after the installation. Selectman Hoyt said it was between 32 and 40.

Ms. Romano was concerned about the impact on taxes. Selectman Walker said for a \$10,000 annual loan payment, the estimated tax impact would be 7 cents per \$1,000. For a \$300,000 property, the estimated tax increase would be \$21.

Ms. Romano asked how much would be paid in total over the life of the loan. Selectman Walker noted that an amortization schedule on a 2% loan, expect \$3,000 interest on the first year, less the next, less the next. Selectman Hoyt stated that the information would be provided at Town Meeting in May. The final interest rate needed to be known. Also, there would be more information provided before Town Meeting.

Ms. Romano asked if the loan would be earning interest. Selectman Walker noted that if the Town gets a grant after Town Meeting, the numbers would change. He shared that the Town also looked into getting a municipal bond but the associated costs to higher a bond attorney were high.

Ms. Romano commented that she had been attending meetings via Zoom and found it hard to hear. That was why she decided to attend in person.

Ms. Romano asked if there were grants which would cover the full \$156,000 for the broadband. Selectman Walker noted that some towns did get CARES funds, but their projects had already been approved by their citizens and the projects could be completed by the December 31 deadline. Salisbury's broadband project was not yet approved. Selectman Walker was hopeful about the webinar he would be attending.

Ms. Romano asked how the \$156,000 was being raised. Selectman Walker noted that the Town would not be raising \$156,000 in taxes. They were seeking approval to apply for a loan.

Ashley Langevin agreed with Cindy Romano that it may be hard to pass a Warrant Article that impacts a small number of residents. She wondered if there was a way to add a special assessment to the lots that would be benefited. It sounds like a capital improvement to those properties. Selectman Walker noted that special tax districts are possible but don't apply. Kimberley Edelmann added that there was an RSA which allowed Towns to set up special village districts, such as water districts, sewer districts, even ornamental tree districts. Several Towns have them. However, broadband was not included in the list of allowed districts. There was another RSA specific to communications districts for installation of broadband, however, it states that 2 or more Towns must be in the district. Salisbury's situation falls between the two RSAs.

Ashley Langevin was concerned that \$21 per household may not be much to working people. However, she works in health care and knows that many seniors and people on fixed incomes were struggling to pay for their medications. She wanted the Selectboard to be sensitive to that.

8) Public Comments

a. Dora Rapalyea

Ms. Rapalyea reading from a prepared statement which was she kindly shared with the Recording Secretary:

"I have been thinking about the Town budget and the Board of Selectman. As I recall, the Selectmen strongly requested all

departments to hold the bottom line on their budget. To the credit of the department heads, they have complied.

The Selectman, on the other hand, haven't complied to their own request. Requesting \$60,000 to purchase and install a trash compactor will benefit the tax payers of the town in future savings, as the cost will come from Capital Reserve Funds, not from taxes and will not increase the tax rate.

However, asking for an increase of \$156,000, plus approximately \$16,000 interest, for high speed internet on North Road, benefiting 20 to 30 homes, seems a little irresponsible in this time of COVID-19. People are struggling to put food on the table and keeping a roof over their head. This warrant article will only benefit the people on North Road and TDS.

How can the Selectmen justify even the slightest increase in the budget when you have asked all the departments to hold the bottom line and then ask the tax payers to pay for something that only a small percentage of the homes will benefit from?

I sympathize with the plight of the people on North Road, some are friends of mine, but I disagree with the notion that the Town tax payers should shoulder the burden of this increase with no benefit to them.

I understand these articles are already on the warrant and was now up to the voters of Salisbury."

Selectman Walker respected Ms. Rapaylea's opinion. He felt that the Selectboard should not make the decision about broadband; voters deserved to make the decision. Chairman Herbert recognized that Selectmen Hoyt and Walker had done a lot of work to get this longstanding issue presented to the voters.

Selectman Walker commented that Marcia Murphy has noted that the school assessment was dropping. If true, even if the Warrant Articles pass, they would still see a drop in the overall tax rate. This was due to the way each Town was assessed. Marcia Murphy noted that the number of students had dropped. There was a two year lag.

Chairman Herbert commented that the MVSD Voting and Annual Meeting were both on Friday.

b. Marcia Murphy

Ms. Murphy asked how much the invoice was from Webster. TA Rollins noted it was \$288.

Marcia Murphy asked the Selectboard to ask the Town attorney if there was an actual RSA which makes it so that a Neuro Restorative kind of facility did not have to abide by Zoning or Planning Board, but they do have to apply to other stuff, but do have to get approval from Zoning and Planning. She was referencing a Supreme Court case from 1980 where the Supreme Court considered the facility a single family residence because they consider the people who live there to be a family. That was why it didn't fall under assisted living. Was it an RSA or just the count ruling? She found it all very interesting reading.

c. Gayle Landry

Gayle Landry addressed the board. She noted that Selectman Walker did not anticipate having a contract with TDS. She said that Selectman Hoyt had been waiting on a contract. She requested clarification regarding a contract. Selectman Hoyt believed there would be some sort of agreement between the Town of Salisbury and TDS when the installation was done. He added that at the time, the Town did have a letter of intent from TDS stating that TDS will put in broadband if the Town votes to raise the funding.

Ms. Landry asked if the Selectboard had had any recent contact with TDS representative Scott Brooks. Selectman Hoyt noted that he had. As of the current time, there was no commitment from TDS to contribute to the cost of the installation.

Ms. Landry asked Chairman Herbert and Selectman Hoyt if they would be attending the Northern Border Regional Commission webinar Selectman Walker was going to be attending on Monday regarding the USDA grant. Chairman Herbert noted he was out of town. Selectman Hoyt said he would be.

Ms. Landry asked about progress on other grants. Selectman Hoyt said he was talking to Senator Harold French as well as TDS Rep Scott Brooks. At the time, there were no grants available that he was aware of.

Ms. Landry asked if TDS was contributing funds towards the broadband installation. She requested that the Selectboard continue to be transparent about the cost to taxpayers.

Ms. Landry noted that in past meetings the Selectboard said that the relationship with Webster PD would not cost the Town anything. Selectman Walker said that was what they had been told and that the invoice had nothing to do with the agreement. Instead, it was in response to a request from the State Police for backup during an emergency call. He noted that domestic calls present a high level of risk and danger to police officers. Instead of waiting for another State Police officer to arrive, Webster was brought in. Ms. Landry agreed that was the right thing to do in that situation and urged the Selectboard to make that clear.

Chairman Herbert had seen invoices in the past, sometimes only one per year, where Webster PD was called in to assist the State Police with a call in Salisbury. In this case, it was a volatile situation which required additional officers.

d. Rob Garland

Rob addressed the Selectboard regarding the Webster PD agreement. He suggested a memorandum of understanding was needed. He also felt an MOU would be handy to have regarding the business at Neuro Restorative. Selectman Walker said it was unlikely Webster PD would be called in for trouble there; the Town had made it clear they don't want that to happen. However, if they require backup State Police may call Webster PD. Rob felt the MOU could specify that.

Rob stated that he was a firm believer that if he wanted to put up "No Trespassing" signs, that was his right. However, in the case of Jessica & Mike Farrell, where the State created a problem that they have no control over. Maybe the Town could meet in the middle with the State and have them put in proper signage for the facility. Maybe the lawyers could make that happen.

Selectman Walker said the first step was to make a request for signs. Rob didn't feel they would be responsive. He felt that the State chose Salisbury as a location as it was "out of sight, out of mind", a little Town in NH with no local health care facility, no police force, few job opportunities and no public transportation. He felt people living in that type of facility need those things to function and recover to move on and become productive citizens. Chairman Herbert didn't believe the residents there would be rehabilitated and turned out; it was not a short-term rehab facility.

Rob reiterated that pushing the State to get signage may help the Farrell's get sleep at night.

In regards to reengaging Zoning and Planning, Rob felt referencing definitions from a Supreme Court case of 41 years ago was outdated, noting that there must be better definitions to use for 2021.

9) Sound Quality

A member of the public commented that it was difficult to clearly hear the meeting when attending via Zoom. Use of masks don't help.

Selectman Walker commented that the sound system (microphones and amplifier) that were in use were coupled together from a selection of older equipment along with some newer equipment. The quality was mixed.

It was also noted that Chairman Herbert needed to get closer to the microphone as his voice was often muffled and difficult to hear for those attending via Zoom. The board asked staff to purchase a camera and speakers to see if that helped with the Zoom meetings' clarity.

10) Town Administrator's Report

TA Rollins had no additional updates to provide.

11) Adjournment

Chairman Herbert made a **motion** to adjourn the meeting. Selectman Walker **seconded**. With all in favor, the meeting was adjourned at 7:47 p.m.

Respectfully Submitted,

Kimberley Brown Edelmann
Recording Secretary

These meeting minutes were reviewed and accepted on March 17, 2021.

Selectmen, Town of Salisbury