

BOARD OF SELECTPERSON'S MEETING
January 10, 2107 6:00 p.m.
Rumford Falls Auditorium

PRESENT: Chairperson Jeffrey Sterling, Vice-Chairperson Mark Belanger, Selectperson Michael Peter Chase, Selectperson James Windover, Selectperson Christopher Brennick, Town Manager John Madigan, Jr.

ATTENDEES: Kim Sequoia, Jon Starr, Brie Weisman, Linda Macgregor, Len Greaney, Walt Buotte, Virginia Todd, Eric Davis, Candice Casey, Bruce Wotton, Patty Gautreau, Gina Hinckley, Maureen Cook

1. Meeting Call to Order at 6:00 p.m. by Chairperson Sterling
2. Pledge of Allegiance to the American Flag

** A Moment of Silence was held for Mexico Fire Chief Gary Wentzell who passed away on January 8, 2017.

3. Discussion on Petition to Request Special Town Meeting to Allow Rumford Citizens to Vote on Water Rights Moratorium

Chairperson Sterling informed those present that the Board will discuss the petition that was presented at the Board meeting of January 5, 2017. Twenty-eight signatures were verified on the petition. Our Town Attorney recused herself from this matter as she felt there was a conflict of interest for her regarding the Rumford Water District. She then referred the Town to the law office of Boothby Perry that has also been working for the Town on the Hotel matter.

Chairperson Sterling read the legal opinion provided by Attorney Kendall Ricker from Boothby Perry.

Len Greaney noted that the Rumford Water District Charter was changed without going to the Town Manager or Select Board letting them know they were having conversations with Nestle and thought this was an ethics violation. He asked the Board if the voters had a right to vote.

Mr. Brennick noted they must act within the law and only have so much authority in this matter and must decide whether this is a critical circumstance. It is not a personal opinion, it must be a decision made within the laws.

Mr. Greaney noted that the attorney's opinion that was just read states that there is no connection of authority between the Select Board and the Water District Board. He disagrees and said he has read legislation that says there is a connection.

Mr. Chase believes we do not have direct say over other quasi-municipal entities. He does not believe the Board should attempt to do something illegal and cited the attorney's opinion that was read.

Mr. Windover believes the voters should have some say in this matter. The Select Board appointed the Water District Board members and can remove them. If we had a bottling plant here that provided jobs to local people that would be different than just selling water and not getting anything out of this.

Mr. Belanger does not believe the system is correct and that people should have a say. He has heard many concerns and believes the 2-3 member Water District Board should get input from the people to consider before they make this decision. He feels some laws need to be changed in Augusta so the people in Rumford can have a say.

Mr. Brennick asked Mr. Greaney where it says in the law that the Board has the authority.

Mr. Greaney read an excerpt from an Annual Town Report.

Mr. Chase took exception that the Water District Board members were called names by others in the community.

The Town Manager noted that the opinion of Attorney Ricker explained that the Select Board does not have authority over the appointed Boards. Regarding rights to vote, the people voted to create the Rumford Water District in 1911 and voted in the Charter at the time that set up the three person Water District Board with the appointments made through the Select Board. He understands that the users of the Water District made this vote.

Len Greaney said the Water District Charter refers to the Water District Board members being responsible to the inhabitants of Rumford.

Cliff Harding feels the Town is disconnected and this matter is about water and he feels it is serious. It may not be a problem in 5-10 years, but we are connecting to an artificial vein in this town. He anticipates long term problems in the future and that the contract Nestle proposes will have 5 year extensions and to up their volume of water extracted. This is a billion dollar corporation. We should be ashamed that we have no control as to what is happening here.

Chairperson Sterling believes we should be talking about the request for the Special Town Meeting. We are not able to tell the Water District what they can and cannot do and have not since this was set up back in 1911. He does not see that the Water District has done anything wrong and have made their meetings known to the public.

Mr. Greaney said the Water District Board should not have gone to the legislature to make the changes in the Charter. Chairperson Sterling said they have the right to do so and have done so several times since 1911. Mr. Greaney said it does not make it right.

Chairperson Sterling noted that the Water District has the right to negotiate with Nestle. Going forward people can tell the Water District Board members what they think, but if they are called names or have their integrity questioned, they may not want to work with them. They should find a way to work together.

Candice Casey said Water District ratepayers can address this by calling for a meeting to hold a vote. The Town Manager or Select Board for example, cannot do this. She said the rate payers have been very happy and are not looking to make any changes. The obligation of the Select Board is to follow State law and Town ordinances and our paid attorney has given an opinion.

Bromley Cook noted that the Charter regarding Mexico was amended, not revised as the Town Manager stated. If an amendment, it is a vote by the Water District Board and then it goes to the Legislature. If it is a revision, it is supposed to go to vote to the Water District Board, then the Select Board, then the voters, then the Legislature and these things did not happen in the process, nor does anyone want recognize this or to look at the law and see what it says. He thought it would not hurt anyone for the Select Board to approve a Town Meeting for a moratorium.

Jon Starr expressed concern for the weight of trucks hauling water and the possibility of accidents and cited some that occurred recently. He also repeated the moratorium language that had been read earlier from Attorney Ricker's opinion by Chairperson Sterling, "...because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, are inadequate to prevent serious public harm to residential, commercial or industrial development in the affected geographic area." That is what they are contending is happening. The Select Board may not deem the affect serious, but as citizens they would disagree and take a petition to bring this to a vote of the town.

Chairperson Sterling asked Attorney Ricker to answer some of the questions that had been addressed thus far.

Attorney Ricker explained that the opinion regarding the moratorium request that he gave to the Select Board, was to look at the sufficiency of the particular moratoria and if it met requirements. This moratoria was asking to amend the Charter of an independent entity. Moratoria are not allowed to infringe upon the rights of others to go about their business as opposed to a moratoria presented as a land use type of issue.

Unidentified people spoke from the audience.

Mr. Belanger noted that the petition to the Select Board was requesting a Special Town Meeting asking for voters to vote on a moratorium.

Richard Scagliola said he heard a lot of public opinion and scare tactics that our water might go dry and asked for further information about the issue.

Brie Weisman responded that this issue is important to people who are not rate payers, whose wells may go dry. She believes it would be hard to get out of a contract with Nestle in the future. She said it was never announced publicly that Nestles was thinking about coming to town. The Rumford Water District Board meetings were held at 3 p.m. and many could not attend at that time until they changed the time to later in the day a few months ago. They also have a lawyer on hand and almost never answer questions themselves. It does not seem like they are representing the citizens.

Mr. Chase and Mr. Brennick expressed that the PUC is the place that has the power to make changes; the Select Board does not have any authority in a quasi-municipal entity.

Tony DeSalle believed that Nestle's geologist report was flawed.

Walter Buotte noted that this group is frustrated because they feel they have no voice with their concerns and that no one wants to hear them or cares about what they think. He suggested the Select Board take an advisory vote that they should convene a meeting where residents can express their concerns.

Seth Carey asked if a critical circumstance exists and noted that elected members should reflect the will of the people. He has heard some worries from some Select Board members regarding if this is legal or will the Town be sued. He is concerned about our natural resources and about Nestle who he said has a track record world-wide and some major problems have arisen. He believed the Town Manager hired the attorney handling this case.

Chairperson Sterling noted that Town Attorney Jennifer Kreckel recused herself from this matter and referred the Town to the legal firm of Boothby Perry. The Board and Town Manager did not hire a firm that would back any opinion.

Mr. Carey asked why the Town Attorney recused herself from this matter. Chairperson Sterling noted that she had some prior business dealings with the Rumford Water District and is required to follow a code of professional ethics that discourages and prohibits attorneys from these types of situations.

Mr. Carey believes the Board should consider calling a critical circumstance and not rely only on a letter from an attorney and let the voters vote on a moratorium.

Mr. Belanger believes the people should have a say in this matter. He is concerned that if the people pass a moratorium and the Water District does what they want anyway, it might mislead the voters to think the moratorium would make a difference. Is there case law that this moratorium would be binding on the Water District?

Chairperson Sterling read an excerpt from the attorney's opinion that noted this could open the Town up to a lawsuit or injunction.

Attorney Ricker explained that the way the citizen's request was presented does not involve land use and is not within the authority of a moratorium. If there was a Town vote, and the Town voted for the moratorium, it could not reach what this is requesting. It could be a mandate for the Select Board to seek an injunction from the Court as the Court has much more latitude on what could be considered an injunction.

Bromley Cook believes they met the requirements of the Charter in submitting their petition for a Special Town Meeting.

Mr. Windover asked how many law offices are in the area and why the Town Attorney would not refer to a local law office.

Mr. Brennick asked why he would ask such a question, rather than ask the Town Attorney herself.

Mr. Brennick made a motion, Seconded by Mr. Chase, to reject the Citizen's Petition because a critical circumstance does not exist.

Mr. Belanger asked if the request could be re-written in order to be considered.

The Town Manager noted that for subsequent petitions, they should start with reading the Town Charter that specifically says, "when 25 or more qualified voters are of the opinion that a critical circumstance exists..."

Kim Sequoia noted that it has been frustrating for ratepayers as they feel they are getting roadblocks to their concerns.

On a side note, Len Greaney stated that Gary Wentzell agreed with John Madigan and himself, to work as a combined Fire Chief for Rumford and Mexico. During that time there was a big fire in the Norway area and Gary took his troops to the area and he was considered the leader in that group managing the whole fire scene. Something to be proud of and God Bless him.

Vote: 3-2, Mr. Belanger and Mr. Windover opposed.

4. Discussion to take any Necessary Action Concerning Petition Request

The action was taken above.

5. Adjournment

Mr. Belanger made a motion to adjourn at 7:40 p.m. Vote: 5-0

John E. Madigan, Jr.
Town Manager

JEMJr/tp