

Town of Embden

Minutes of the Board of Selectmen

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April 4, 2011

7:00 PM Meeting held at the Embden Town Office

In attendance was: Joe Creamer, John Duff, Robert Dunphy, Jeffrey Edes, Pamela Graf, Jack Kaplan, Mary Keenan, Terriann & Julien Lamontagne, Tracy Lesperance, Leo Mayo, Wayne McLaughlin, Frank Nile, Elizabeth Pratt, Charles Taylor, John Vartanian, Sam White Jr., Michael & Wendy Witham, and Bonnie Baker.

- 1 Charles Taylor called the meeting to order at 19:09.
- 2 The meeting began with the Pledge of Allegiance.
- 3 **Consent Agenda:**
 - 3.1 Approved the minutes of the Board of Selectmen dated March 21, 2011. Accepted as written. (3-0) Later in the meeting, they were amended to read, "R. Dunphy stated he would rescind his application." (3-0).
 - 3.2 Approved Warrant #7 totaling \$42,428.59. Approved (3-0).
- 4 **Community Relations, Announcements, and Open Public Forum:**
 - 4.1 **Open Public Forum :**
 - 4.1.1 J. Edes asked that the minutes from Emergency Management be read. C. Taylor stated that he had spoken to J. Mullin and was told that J. Mullin had not rescinded his application, and was in fact interested in the position. He added that J. Mullin could not attend this meeting, however would try to make the next meeting. C. Taylor read the minutes for section 5.8 (3/21/11) Discussion continued (See 3.1)
 - 4.1.2 J. Vartanian asked whether the Selectmen had gotten the hours from the "state wage thing." B. Baker & P. Graf copied the state wage schedule and passed out. J. Vartanian asked if people would find out about the wages when the Selectmen did. C. Taylor said he anticipated that would be the case. E. Pratt agreed that that was public knowledge. F. Nile asked whether the paper the Road Commissioner stated he had been here for him to see. E. Pratt said that in the town report the only thing in article 39 was labor only, not equipment. She added that it was changed when Wendell was in and he elected to get rid of equipment, and it had never come back on. F. Nile replied, "In 2007, our Road Commissioner had been Road Commissioner for 2 years and he charged state wages. He started charging state wages because that was what our tax payers had always intended to pay." He added, "You can blame Wendell, but there was 3 Selectmen." E. Pratt stated, "Even if that was what you think people should do, it has to be in the warrant. It has to be in the warrant, and if it's not in the warrant then you can't assume. You cannot assume. We have to go by what's in the warrant." J. Vartanian asked whether this was a loophole to charge whatever he wanted because it was misworded. E. Pratt pointed out that on some of his stuff; he was charging less than state wages. C. Taylor stated that he sent a letter to M. Witham requesting that he attend this meeting. He read the letter. J. Edes said he thought that the Selectmen should consult K. Lexier to interpret the wording of the article. He stated he had consulted an attorney and had been told the intent was very clear. He added that he thought it should be within the Selectmen's power to say, "That is state wage, and that is what we are going to pay." R. Dunphy said, "Don't put the blame on me or him. You people are the fiscal officers for the town. If you went over the warrants and didn't see it, or didn't question it, you know, looking at something you're responsible for." Discussion Continued.
 - 4.1.3 J. Kaplan asked who the people/companies that worked on the summer roads were working for. C. Taylor replied that they were working for the elected Road Commissioner, who answered to the Board of Selectmen. J. Kaplan asked whether that meant that the workers were actually town employees whenever working on a town road or town property. C. Taylor said yes, unless you were working as a subcontractor. J. Kaplan asked whether the policies and procedures passed last meeting would apply in this case. C. Taylor said no, those were for appointed officials. J. Kaplan asked about a drug policy. C. Taylor stated that there was no drug policy at this time, but assured him that it had not been an intentional omission. T. Lesperance stated that she thought that all cbl drivers had to belong to a drug pool. J. Kaplan agreed that you were supposed to. J. Creamer replied that if you stay within a 100 mile radius then you can get out of that requirement. Discussion continued.
 - 4.1.4 J. Vartanian asked about the permits issued to Fortin. E. Pratt asked what road it was on. J. Edes answered Balsam Drive. C. Taylor stated that this board does not get the actual permits; it gets a copy of the minutes from the Planning Board, which were also posted at the town office. He said that the CEO goes out and does a site visit with the owner, makes the agenda and presents it to the Planning Board, who either approves or does not approve, and then the CEO does more site visits during the building process. R. Dunphy added that he kept a copy and the Planning Board gets a copy. J. Vartanian asked when he

would find out if something wasn't right. R. Dunphy replied that most people probably wouldn't find out unless he came before the Board of Selectmen with a violation. C. Taylor stated that this was a sensitive case because it had gone to the attorney, and a judgment had been issued of \$5,000. He asked B. Baker to check to see if the town had received the judgment amount. R. Dunphy stated that DEP was still in the enforcement phase. He stated that there was a stop work order put on the instance J. Vartanian was asking about, and the owners kept right on building. R. Dunphy promised to get a copy of the permit to J. Vartanian and each of the Selectmen, plus the Appeals Board chair. E. Pratt stated, "I think what he said when they had a stop work order, you know, if someone wants to say I'm going to keep going and pay the fine, that's the wrong thing to do because many people feel it is easier to get forgiveness than permission. And I don't think we should forgive. I think that should be absolutely unacceptable. No forgiveness when it comes to the lake, you know, any of the things that are wrong. If someone decides to keep going, well then guess what, tear it down." R. Dunphy asked to bring the issue back for the next meeting, and he would bring the paperwork.

- 4.1.5** J. Kaplan asked about the issues brought up at the last meeting. He asked for feedback on those issues. C. Taylor stated that some of those issues would appear later on in the agenda, and there were still some issues they were working on. C. Taylor stated that the sand shed was one of the items listed on a "to do list" that he had given the board as "potential topics for a special town meeting, along with: withdrawal/succession from msad74, repair state wages article, repair community building article for use of funds, sand from residents pile (not for commercial use?). These are the things that we need to work on and develop the warrant articles to present to the people. And we need to word it just right so we don't have to come back and do it again." Discussion continued. C. Taylor read the 4.1 section from the minutes of 3/21/2011.

5 Appointments & Resignations:

- 5.1 Planning Board Alternates:** C. Taylor stated that Alton McClamma was not present, but had made arrangements to attend the next Selectmen's Meeting to be appointed as an alternate. He said that anyone else who might be interested should speak to Leo Mayo.
- 5.2 Appeals Board Members:** C. Taylor stated that 2 of the 3 Appeals Board members were here tonight, and asked whether the 3rd, Mona Gagne was still interested. J. Duff replied that he had not heard back from her yet. C. Taylor stated that the applications were available at the Town Office. He added that the Selectmen would table appointment of the 3rd seat on the Appeals Board until the next meeting. Selectmen reviewed applications. C. Taylor stated that each applicant had been given a copy of the job description. He then read aloud from the job description. W. McLaughlin made a motion (2nd –E. Pratt) to appoint John Duff & Mary Keenan as members of the Appeals Board. (3-0)
- 5.3 Deputy Animal Control Officer:** P. Graf stated that Brandi is interested in the Deputy ACO position, but had not yet been available to attend a Selectmen's meeting. C. Taylor asked that she get an application to her.

6 Department Officials Reports:

- 6.1 E-911 –** No Report
- 6.2 Winter Roads Contractor -**
- 6.2.1** C. Taylor asked whether S. White had a report for the board. S. White replied no. C. Taylor read from the 9/07/2009 minutes. S. White stated that he agreed with that.
- 6.2.2** W. McLaughlin asked whether S. White had received a call from someone on the Getchell Road about the road not being plowed. S. white said that he had, but that they were trying to be "tender." He added that they were trying to pick the right time. He said he had talked to the gentleman and apologized, but that he seemed okay with that.
- 6.3 Animal Control –** C. Taylor asked whether P. Graf had a report for the Selectmen. She replied that it needed to be given in Executive Session. Discussion ensued. Straw poll was conducted of those present. Executive sessions were postponed until the end of the meeting.
- 6.4 Board of Assessors –**
- 6.4.1** B. Baker submitted abatements. Selectmen reviewed and signed.
- 6.4.2** T. Lamontagne stated that they had been working.
- 6.4.3** B. Baker said that the Assessors were getting ready to send out a sample batch of 200 randomly selected accounts; these would be sent to the owners to be reviewed for accuracy. She stated they should go out within the next week or so.
- 6.5 Planning Board –** L. Mayo stated he had spoken with DEP, and Embden was 3rd on the list to check. He added that it should be done this week or next. C. Taylor asked whether they were still expecting to be ready for a June special town meeting.
- 6.6 Plumbing Inspector –** L. Mayo stated that once the snow goes he would be checking on some trailers and campers.
- 6.7 Board of Appeals –** J. Duff stated there were not currently any appeals.
- 6.8 Code Enforcement Officer –**
- 6.8.1** R. Dunphy stated that there was not much to report. He said that he was waiting for the snow to go.

- 6.8.2** He stated that the Fortin & Gibson issues were in the process.
- 6.8.3** He stated there were 2 applications this month.
- 6.9 Health Officer** – R. Dunphy stated he had nothing to report.
- 6.10 Road Commissioner** – No report.
- 6.11 M.S.A.D. #74** – B. Baker stated that the vote on the school budget would be held May 10th.
- 6.12 Recreational Director** –
- 6.12.1** W. Witham asked whether the Selectmen had gotten a copy of her tentative plan, and whether they had any questions. She stated that she was continuing some programs that had been done before, as well as planning some new programs.
- 6.12.2** She stated that there was currently a 6-8 year old Embden sponsored co-ed team, as well as an 11-12 year old district team for baseball. She stated that the director in Anson will share the costs depending on participation. She added that they would play and practice on our field, and would be in the Cal Ripken league.
- 6.12.3** She said that she wanted to come up with a survey and a sign-up and have it be approved by the Selectmen.
- 6.12.4** She stated that she had a guide who was willing to come and do classes & programs with kids. She said that in the past there was the ability to travel with these kids, and she was thinking about busing. She said she wanted to know what the insurance would cover. C. Taylor stated that usually the board referred to E. Thebarga with insurance questions.
- 6.13 Town Clerk/Treasurer** –
- 6.13.1** B. Baker submitted a list of Tax Acquired properties. C. Taylor stated that he had spoken with one owner, and left a message for the other.
- 6.13.2** B. Baker submitted the Expense-Revenue report.
- 6.13.3** B. Baker stated that she had to attend a mandatory training in Skowhegan tomorrow morning on the EDRS (Electronic Death Registration System) from 8:30-10:30. She added she would be about an hour late.
- 6.13.4** B. Baker stated that she was requesting to be out Tuesday, July 26th through Tuesday, August 2nd for vacation. She said that she would return to work on Wednesday, August 3rd. C. Taylor said, “Ok.” And asked that it be noted in the minutes.
- 6.13.5** C. Taylor asked whether there was a way to cut & paste a quarterly report from TRIO on each account. B. Baker replied that that could already be printed from the system.
- 6.13.6** C. Taylor stated that he would like a report on 2009 amounts for the next meeting.
- 6.14 Tax Collector:** No Report
- 6.15 Withdrawal from MSAD#74 Fact Finding Group** –
- 6.15.1** C. Taylor stated that this was a group rather than a committee because if it was a committee it only had 30 days to act, then the selectmen would have 90 days to hold a yes-no vote to succeed.
- 6.15.2** J. Creamer stated that they were waiting to have a meeting with Paul Frederick from Starks, and would then probably have a meeting with Madison.
- 6.15.3** J. Creamer stated the whole process would take about 3 years.
- 6.15.4** E. Pratt asked whether J. Kaplan knew how much the town pays. J. Kaplan replied, “I realize that, but I also have two kids at school too.” He asked whether the town would still have to pay on the loan for the new school. C. Taylor answered that the town would have a \$28M debt service.
- 6.15.5** C. Taylor asked whether the group was encouraged by the meeting with Ken Coville. J. Creamer said no.
- 6.16 Community Center** -
- 6.16.1** W. McLaughlin read from to do list.
- 6.16.2** B. Baker said that the Community Center already had voicemail; she was just waiting on the password from TDS.
- 6.16.3** W. McLaughlin asked about wireless internet.
- 6.16.4** C. Taylor stated someone had suggested posting a “Play at your own risk” sign on the playground. E. Pratt stated that that wouldn’t accomplish anything.
- 6.16.5** W. McLaughlin said Scott Leahy was getting a hold of the Fire Marshall to have him come inspect the building.
- 6.16.6** He asked about the group having its own checkbook. W. McLaughlin said, “If I’m not mistaken, that a year or so ago when the town gave us that building it was said that the selectmen had the say of what was done and how it was operated.” C. Taylor read from Special Town Meeting 2010 warrant. He then read Article 14 from 2011 Town meeting. W. McLaughlin stated, “I guess my feelings are, that there’s 2 selectmen on that committee, then it’s directly supervised by the Selectmen. I don’t understand why there is such a problem with letting us do our own thing. Everybody seems to be against it, you know, us having our money and doing what other groups in town have been able to.” C. Taylor replied that he had done what was asked of him by emailing MMA. J. Creamer said that the Bicentennial Committee had its

own check book and wrote its own checks, and then turned the money back into the town afterwards. C. Taylor replied, "That is false. They kept it and bought a memorial up here. I remember there was a heated discussion and Raymond and I disagreed. He wanted them to give it back to the town. They worked hard for that extra money." He said that this was different because this wasn't a separate entity; it was a town building to be operated and run by the Selectmen and those that are appointed by the Selectmen. W. McLaughlin replied, "Where do you get off saying that it was appointed by the Selectmen. It's not. The committee over there is not appointed by the Selectmen, they were voted by the people that were there. It had nothing to do with the Selectmen. It just happens that two of us are on it." E. Pratt added that the original committee was appointed by the Selectmen, but her understanding was that at town meeting the townspeople gave the "club" two years to produce money to give back to the town. She added that the group's hands were tied, because everybody was running to get stuff and none of them were getting paid for it. She said she knew that there had been discussion of a charge card, but felt that was not appropriate, because you couldn't put 15 people on a charge card. She stated she felt Ruth Blake, who was "bonded by the town" & was the group's treasurer should be trustworthy enough to hold the checkbook. C. Taylor asked about a list of members. E. Pratt stated they would have one the next night. R. Dunphy stated that all that was needed was accountability. Discussion continued. T. Lesperance asked, "Where do you stop? Should Wendy also have her own checking account for Rec. money, should Mike have his own personal checking account for the road commissioner funds? Should all of these people be able to have a checkbook to put out money as they see fit? What's good for the goose is good for the gander." E. Pratt replied that they had been a town committee, but now had been given a chance as the Embden Community Club to do something for 2 years. T. Lesperance said that this was different than the Snowmobile Club because the expenses of the Community Center were paid for by the town. She added that the town did not pay for the Snowmobile Club to fix their trails. E. Pratt stated that the Snowmobile Club and the Embden Community Club both used the same building. W. McLaughlin stated that the town gave the Snowmobile Club a check each year from money received from the state. T. Lesperance argued that the Snowmobile Club didn't come to the town and ask them to pay for example if their groomer were to break; they were a complete separate entity, whereas the Community Center expenses would be paid by the town. She said the Community Center was a town-owned building, and the Community Club was not self-sufficient. F. Nile asked who controlled the money for that building now. W. McLaughlin stated that they didn't have one now, they had to come in and get a check from "her". C. Taylor said that the Selectmen then controlled the funds because they appeared on the warrants. F. Nile asked, "So what's the difference if you come in here and ask her to write you a check for Sam's Club or you go in the next room and ask Ruth? You don't trust her?" E. Pratt stated that that was not the issue; it was that if they needed something, for example the upcoming flea market and supper, they had people getting stuff. She said that tomorrow night if people had already bought stuff then R. Blake could write them a check right then. R. Dunphy asked whether this would be an audited account. W. McLaughlin said, "We have a problem too with it, when we take it all in, the way it is now we have to turn all our money in to Bonnie. We're not allowed to keep any. So we go over there and we open up to have something we have no money to make change with or nothing." E. Pratt added, "So we're scrounging. Jeanelle Creamer will gather up money quickly, and bring it over because we don't have enough when we begin something." F. Nile She stated the idea was to offset the cost to run that. R. Dunphy said that they had 2 selectmen here, so vote. E. Pratt made a motion (2nd – W. McLaughlin) that a check be issued to Ruth Blake (Treasurer of the Embden Community Club), in the amount of the \$5,000 that the town voted on, for the purpose of having its own checking account and writing checks for the Center, thus enabling the group to have the opportunity to use that money as the need arises. J. Kaplan asked whether MMA had advised against this. C. Taylor said yes, and stated that he could not go against the advice that MMA had given him. He stated that he was not against the Center, and wanted it to succeed. J. Kaplan said it seemed like MMA advised you against doing what you are about to do. T. Lesperance asked W. McLaughlin why they thought the advice would have been different if the group had been called a "club" instead of a "committee." Discussion continued. Motion passed 2-0, C. Taylor abstained from voting.

7 Old Business:

7.1 Petition for Withdrawal from RSU/MSAD#74: Tabled until fact finding, and more information.

8 New Business:

8.1 Request to allow the Community Center owned by the Town of Embden to be designated as a Red Cross Shelter: C. Taylor made a motion (2nd – W. McLaughlin) to let R. Dunphy look into having the Embden Community Center be designated as a Red Cross Shelter, and report back to the Selectmen at the earliest convenience. E. Pratt asked whether the building could still be used as a shelter if the townspeople voted to get rid of the Community Center. R. Dunphy said yes because it was originally a school.

8.2 Training Request: C. Taylor requested to attend the April 26 Labor & Employment Law workshop. Selectmen approved 2-0.

9 Executive Session (Non-Public) (ME §405)

9.1 C. Taylor made a motion (2nd – E. Pratt) to move into executive session pursuant to 1MRSA §405(6) (A), to discuss a town animal control issue. (3-0) Selectmen entered executive session at 21:35. C. Taylor made a motion (2nd – E. Pratt) to come out of executive session. (3-0) Selectmen came out of executive session at 21:49. W. McLaughlin made a motion (2nd – E. Pratt) to accept the ACO report, and stated that no action was necessary. (3-0)

9.2 C. Taylor made a motion (2nd – E. Pratt) to move into executive session pursuant to 1MRSA §405(6) (A), to discuss the Road Commissioner's road repair & maintenance practices. (3-0) Selectmen entered executive session at 22:00. C. Taylor made a motion (2nd – E. Pratt) to come out of executive session. (3-0) Selectmen came out of executive session at 22:16. C. Taylor made a motion (2nd – E. Pratt) to accept the DOT 2011 Labor & Equipment Reimbursement rates for all summer roads work. F. Nile asked who determined the rate all equipment hired by the town would be paid at. He stated that the Road Commissioner was elected and he would hire the contractors/subcontractors to do the work at the prevailing DOT rate. E. Pratt stated that from this point on the Selectmen would make sure this was followed, rules are rules, and people would follow the rules. Extensive, heated discussion continued.

10 Next Meeting Announcement & Adjournment

10.1 Next Regular Selectmen's Meeting – Monday, April 18, 2011

10.2 Motion to adjourn made by C. Taylor (2nd- E. Pratt). Adjourned 22:52 (3-0).

Minutes submitted by:
Bonnie A. Baker