TOWN OF GOSHEN
BOARD OF SELECTMEN
REGULAR MEETING MINUTES
Tuesday, July 2, 2019

PRESENT: Robert P. Valentine, Dexter S. Kinsella, Steven M. Romano
OTHERS: John McKenna – Republican American; Chelsea Fann- Staff Assistant, for Congresswoman, Johana Hayes, 5th Dist. House of Representatives; Jon Carroll; Alan Rothfeld, Lynette Miller; Philip Olivetti; Bernice Olivetti; James P. O'Leary

1 Robert P. Valentine called the meeting to order at 5:02 p.m.

2. Approve the minutes of the June 25, 2019 regular meeting:
In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to approve the minutes of the June 25, 2019, meeting as corrected. (The name of John Garvey was spelled incorrectly.) Voted unanimous.

3. Matters Arising out of the minutes: None

4. Approval of Payroll and Warrant of July 3, 2019:
In a motion made by Steven M. Romano, seconded by Dexter S. Kinsella, it was **voted** to approve the total warrant and payroll for July 3, 2019 in the amount of $1,392,993.33 Included in this warrant were the payroll in the amount of $17,016.55, and warrant in the amount of $1,375,976.78 Voted unanimous. Included in this warrant was first 1/6 payment for Region 6 assessment - $1,339,267.00; Torrington Area Health District – $15,826.24; Yucatech- $5,662.00.

5. Public Comment: First Selectman, Bob Valentine recognized Chelsea Fann, Staff Assistant to Congresswoman, Rep. Johana Hayes, who represents the 5th District. Ms. Fann stated her mission was to make visits to towns in the 5th District to hear their concerns so that Rep. Hayes can address those issues/concerns. Bob Valentine mentioned an issue the Woodridge Lake Sewer District, experienced concerning reductions of USDA grants and loans for their line that would run to Torrington. Ms. Fann said she would make the Congresswoman aware.

Ms. Lynnette Miller, stated that she recorded with the Goshen Town Clerk, her comments concerning the Goshen Housing Trust and documents.

6. First Selectman's Report:

From a request from the BOS meeting of June 25th, Bob Valentine directed everyone to the letter from Town Attorney, Chip Roraback (copy distributed to everyone in attendance) regarding the ability of the Board of Selectmen to hold a town vote concerning affordable housing. Attorney Roraback's legal opinion outlined the powers a municipality and it's legislative body have to regulate land use within a town's boundaries. "These regulatory powers may be exercised only by those commissions holding specific statutory authorizations such as zoning commission, planning commissions, combined planning and zoning commissions or inland wetlands commissions." (See attached)

Bob reported that officials from the "Black Bear Music Festival" will be applying for a Special Event Permit for use of the Goshen Fairgrounds for their event to be held in October of this year.

Bob reported that a power outage occurred at the Goshen Firehouse. The emergency generator was put to use. The power line from the pole outside failed and a contractor is scheduled to come and make necessary repairs. *Eversource* will be responsible for the cost of repairs.

The transition of the Goshen/Cornwall Bus scheduling over to Geer Village Dial-a-Ride has been successful and is going very well.

The bid documents for the construction of the *Litchfield Hills Animal Facility* (Goshen, Litchfield and Torrington) are available on the City of Torrington Website. Bids are due July 24, 2019.

The Yellow Book Appraisal regarding the town-owned property on the end for East Street North has had the modifications (federal requirements) completed. Grant application will move forward. The intent is to preserve the property for passive recreation using a Highlands Grant.

The rotary in the center of Goshen will be milled to eliminate cracking on July 8th and on July 9h paved and re-striped. Resident should avoid the center if possible. Appropriate signage along with police presence will be in place to aide traffic flow.

In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to add to the agenda under item 8. Old Business, 8b. Lease Agreement –Solar Array. Voted unanimous.

In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to add to the agenda, under item 9. New Business, 9a. Jim O'Leary Presentation. Voted unanimous.

In a **motion** made by Steven M. Romano, seconded by Dexter S. Kinsella, it was **voted** to add to the agenda under item 10. Any Other Business, 10a. Executive Session for 1. Pending Litigation, 2. Personnel Matter. Voted unanimous.

In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to forward the *Property Use Agreement pertaining to the Region 6 Solar Array* to the Planning and Zoning Commission for a §8-24 referral, at thier next meeting.

7. Correspondence: None

8. Old Business:
8a. Appointments:
In a **motion** made by Robert P. Valentine, seconded by Dexter S. Kinsella, it was **voted** to appoint Patrick Lucas to the **Planning and Zoning Alternate** position, expiring at the next municipal election, November 5, 2019. Voted unanimous.

9. New Business:
9a. Bob Valentine presented James "Jim" P. O'Leary with a framed certificate of appreciation from the Goshen Board of Selectmen. Jim was lauded for his volunteer service not only for Goshen but the northwest region. On Thursday, June 27th, Jim was presented with the 2019 Community Leader award from the Northwest Connecticut Chamber of Commerce.

10. Any other Business:
10a. Executive Session for discussion of Pending Litigation and Personnel Matters.
In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to move into executive session at 5:34 p.m. Voted unanimous.

The Board of Selectmen returned to open session at 5:55 p.m. No action taken.

11. Adjournment:
In a **motion** made by Dexter S. Kinsella, seconded by Steven M. Romano, it was **voted** to adjourn the meeting at 5:56 p.m. Voted unanimous.

Respectfully submitted,

Lucille A. Paige

Lucille A. Paige, First Selectman's Aide

Received July 3, 2019 @ 2:23 P.M.

Attest Barbara L Blen
Goshen Town Clerk

RORABACK & RORABACK

ATTORNEYS AT LAW

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WILLARD A. RORABACK (1883-1928)
CHARLES P. RORABACK (1923-1964)
JAMES W. RORABACK (1927-1964)

July 2, 2019

Mr. Robert P. Valentine
First Selectman
Town of Goshen
42A North Street
Goshen, CT 06756

RE: Land Use Regulation

Dear Bob:

At your request, I write to clarify how a municipality may legally exercise its power to regulate the use of land within its boundaries. It is a fundamental precept of municipal law that towns may only exercise those powers granted to them by the legislature. In the area of land use, the regulatory powers may only be exercised by commissions with specific statutory authorizations such as a zoning commission, planning commission, combined planning and zoning commission or inland wetlands commission.

Judge Robert Fuller explains the jurisdictional issues very clearly in his treatise Connecticut Land Use Law and Practice, Fourth Edition, Volume 9 of the Thomson Reuters Connecticut Practice Series. I have abstracted the pertinent language from his treatise in the quotes set forth below:

> The common law established the concept that a property owner could use his own property as he chose as long as it was not detrimental to the property rights of others. The established remedy in the common law of nuisances provided some remedy for injuries resulting from use of property, but this was considered inadequate to resolve land use conflicts arising from increasing land development and population growth. ... A Connecticut municipality as a creation of the State has no inherent powers of its own. Zoning authorities can only exercise such power as has been validly conferred upon them by the General Assembly. As a result, towns have no inherent powers to regulate zoning under the police power. The State has inherent power to regulate in the interest of public health, safety, and welfare. The state legislature can delegate the authority of the state to municipalities, particularly for local matters and including land use. ... All of the land use

> statutes are based upon the policy power, which allows regulation of use of property because uncontrolled use would be harmful to the public interest. ...Municipalities can obtain zoning powers by establishing a zoning commission and adopting Chapter 124 of the General Statutes, and establish subdivision and other planning controls by creating a planning commission and adopting Chapter 126. Once this occurs, these commissions exercise their powers independent of the town government itself... There are other municipal powers which may be exercised by ordinance and which are given to municipalities in Title 7 of the General Statutes. ...General Statutes §7-148 contains a comprehensive list of municipal powers and allows municipalities to adopt ordinances and regulations to implement them. General Statutes §7-148 specifies the type of ordinances that may be passed, and some of them concern regulating of buildings, sewers, property, and nuisances, but this general grant of authority does not allow a municipality to adopt ordinances which duplicate the powers given to zoning commissions, planning commissions, and inland wetland agencies by statute.

If you have any further questions regarding the subject matter of this letter please feel free to contact me.

Sincerely,
Roraback & Roraback

By: _____
Charles E. Roraback

CER/bjw