

~~Unapproved~~Approved
Candia Selectmen's Public Meeting Minutes
Thursday February 2, 2012

Attendance: Chairman Fred Kelley, Vice-Chair Carleton Robie, Selectman Joe Duarte, Selectman Amanda Soares, and Selectman Richard Snow.

5:00 p.m. Chairman Kelley called the Public Meeting to order and immediately followed with the Pledge of Allegiance.

Chairman Kelley noted that Selectman Snow had requested this meeting because the petition warrant article for the CYAA didn't have enough signatures to be on the warrant. The Town Attorney suggested that they just move forward and there is nothing you can do about it. He explained Selectman Snow called the Town Attorney and was told the Board could hold a quick meeting to discuss this. Selectman Snow clarified he wanted the meeting prior to the time that the warrant had been posted, so that we would be able to make that decision. Chairman Kelley said Atty. Mayer didn't get back to him until the day after he talked to him. It ended up that this article will not be on the warrant to be voted on. The problem lies with the fact that they didn't get enough signatures. Bob Jones of the CYAA asked if there was any way around this and was there nothing the Board can do. He acknowledged that they waited until the last minute. Chairman Kelley replied the deadline for the warrant articles was January 10th so they did get it in on time. Mr. Jones thought it wasn't enough time for the Supervisors of the Checklist. He asked if the signatures were verified before or after the Board approved the warrant. Chairman Kelley explained the Board met on January 11th and approved the articles for the warrant. Mr. Jones replied at that point the Board had approved this article. Chairman Kelley said they voted to move it to the warrant but not to support it. Mr. Jones stated he wasn't asking about support. They know where they stand as far as support, but was the warrant moved forward as it was written. He wanted to know the process for a warrant article that is brought forward. He questioned who would have notified the CYAA that they didn't have enough signatures, that the warrant didn't pass, and that there was going to be a special meeting to discuss this. Chairman Kelley replied we weren't going to have a special meeting. Mr. Jones said we are at the point of the special meeting and now we can backtrack to the other two questions I asked. He would like to know how we address this and what the process is. He understood they needed a certain number of signatures and they needed to get the petition in by a certain date. What happens from this point forward if we don't have all of the signatures? Does the Board of Selectmen choose to not move this warrant forward? Chairman Kelley explained if you don't have the correct amount of signatures on it than it can't go on the warrant. Mr. Jones asked who notifies the people when something isn't going to go on the warrant that has been brought to the Board of Selectmen for approval. Chairman Kelley thought it would be up to the person who submitted the warrant to call the office to find out what happened. Mr. Jones replied we wouldn't know until the warrant was already published. Selectman Robie thought the Supervisors of the Checklist would notify them and let them know the warrant didn't have enough

signatures. He would make sure that he didn't send it over with 25 signatures on it. Mr. Jones replied that we already acknowledged that we made a mistake. Selectman Robie understood and it's a difficult situation. He thought it would be the Supervisors of the Checklist that would be responsible for notifying somebody that submitted a petition warrant that didn't make it. Mr. Jones replied when he talked with Supervisor of the Checklist Candy Stamatelos she said that it wasn't her responsibility. He felt there was a gap in the process as far as trying to make sure someone is notified in due time. Chairman Kelley said you would have to do this before the deadline. Mr. Royer noted you said this wasn't reviewed until after the deadline. Mr. Jones asked how do we find out. Chairman Kelley explained all warrants are turned in by a certain deadline and need a certain amount of signatures that have to be registered voters. Mr. Jones asked if the Board of Selectmen are willing as a group to say they don't want the voters to decide on this, then maybe the Board should take a vote on this tonight and say we're not going to move this forward. He would question it and didn't know what town council would say about this. He said it was his understanding the Board has the option to say they want this to go forward. Selectman Snow noted we passed this on the 23rd prior to the time that he asked for the meeting of the Board to consider it. We had from the point in time on Friday when he was called by Selectmen's Assistant Eastman to say they had a warrant article that wouldn't fit. The Selectmen could have put it on the warrant if we had a meeting and voted on it. Chairman Kelley noted when they voted on this on January 11th the vote was 3 to 1. Selectman Snow said that was to not recommend it, but that was because we thought we had enough signatures. The Board didn't put any condition on the motions that they made to move them forward to the warrant, we just said moved them to the warrant. We didn't say based on the fact that we're going to have to get signatures on the petition. Then again on the 23rd when we met we reviewed them and he suggested that they open it up so they could see if Selectman Duarte could give his input. The appearance is that the Board approved them twice up until the 23rd and then there wasn't a meeting after that. If the Board had chosen they could have in that time window put it on the ballot. The vote might have been different then the 3 to 1 to recommend it, because Selectman Duarte wasn't there and somebody (on the Board) could have changed their mind. He thought they should let the Town decide on this and that would have been legal. He doesn't see how legally they can do this now. Chairman Kelley noted they can't put it on now. Selectman Snow replied when the warrant is posted its dead. Mr. Jones questioned why they didn't find out about this sooner and why didn't they have an opportunity in this time window to come to a meeting and have that vote with every member of the Board present. Chairman Kelley explained they had a meeting on January 11th and Selectman Duarte was the only one that didn't show. Selectman Duarte replied don't say I didn't show I'm a State Representative and was up in Concord. He couldn't attend the meeting and it wasn't because he didn't want to be here. He would have loved to be here to express his point of view. It wasn't that he was trying to avoid the issue he has responsibilities up in Concord as well. Selectman Soares stated you have responsibilities here too, you were a Selectman first. Selectman Duarte replied you don't seem to understand young lady I'm also in the House of Representatives and we usually work on State issues. We're talking about taking a vote and its imperative that he is there (at the State House) for the vote. This is one of the reason you can't even arrest me when I'm going to vote, because I'm

representing a Town. The problem he has is that there are some issues. He questioned did they have enough time when those signatures were turned in to check them to see if there were the correct amount required. Is this something they could have corrected? Selectman Snow explained that is a function of the Supervisors of the Checklist. After all of this happened we got the call Friday morning to tell us that there was a problem and until midnight January 30th Chairman Kelley could have called us to vote on this. Then they could have posted it then, but anytime between that Friday morning and midnight on Monday we could have had a meeting. Selectman Duarte said he wasn't sure that everyone is going to vote for this, but the point is the community should have had the chance to vote for or against it. We have 23 people that got their names on a petition to say we want this as a warrant article. We should have honored the community's request. He doesn't understand why we couldn't have done this in time and he also thought that it was the responsibility of this Board to notify anybody who has time to get 25 signatures. If there was a problem we should have notified them. He felt this was the Selectmen's responsibility and they shouldn't put it on the Supervisor of the Checklist. Selectman Snow had concerns with the whole process. Someone should have looked at it and said there is only 25 signatures and that may be a problem. There should have been a process that said we have a problem and we could have addressed it as a Board. Mr. Jones said he was a little shocked they are pointing back at the Supervisor of the Checklist when everyone here has said there is no process around it. The fact they have voted on this twice without even confirming everyone on the petition. He felt they should go back and look at all of the other petitions and he hopes that something didn't slip through. Chairman Kelley explained any petition that came in has to have the right amount of signatures. The CYAA was the only petition that didn't have enough signatures. He explained it wouldn't have changed the vote after the January 10th deadline. The office couldn't accept any more petitions after the 10th. If it came back to the Board to be voted on the vote would have probably stayed the same. Mr. Jones replied you said probably and you didn't give us the opportunity by calling a special meeting in the timeframe that Selectman Snow described where we could have had an opportunity to put this back on. Chairman Kelley said he called the Town Attorney and asked the same exact thing. The Attorney told him that it didn't have the correct amount of signatures and to move forward. Mr. Jones replied it was strange that it was important enough for the Board to call this special meeting after the fact. Chairman Kelley said Selectman Snow wanted the meeting. It isn't our job to notify you of what fails and what doesn't. The Supervisor of the Checklist needs to. Mr. Jones thought they clarified that there wasn't a process around this and maybe as the Chairman this should be the next action you take. Chairman Kelley said he did call the Attorney to see what action to take. Mr. Jones replied you just said there is no process. Selectman Robie understood what Mr. Jones was saying and we're looking to point blame which he didn't think we should. The Selectmen voted 3 to 1 to not recommend this petition. Then we find out it didn't have enough signatures. We're looking to place some blame here and he doesn't like to place blame on his Board, but the ones who voted in favor are the ones who should be notifying you. If they saw that you had a problem that is the person who should be checking with the Supervisor of the Checklist and getting that information back to you immediately. Mr. Jones disagreed because there are specific people on the Board of Selectmen that are representing their specific needs not the needs of the community. Selectman

Robie replied we're trying to blame someone here and he didn't think there would be a resolve to that. Mr. Jones said he wasn't trying to place blame; he was just confused as to why it was the very last day that the signature check is being done. This leaves us no time if something doesn't pass. Selectman Robie replied that's when you brought it in, the last day and when is she supposed to check it. Mr. Jones replied probably sometime before you vote on it, because then we still have that window to make an update or the Selectmen could have the special meeting to vote on it. Chairman Kelley said there is a time crunch with the Deliberative Session and this was another factor. Citizen Fletcher Perkins asked what the cut off day was. Chairman Kelley replied January 10th. Mr. Perkins asked if he brought in a petition on the 11th you couldn't accept it. Selectman Snow clarified they are discussing two different cut off dates. The deadline for the petition was on the 10th which came in on time and it didn't have enough signatures which isn't the issue. Citizen Fletcher Perkins said the issue is it only had 23 registered voters' signatures and it didn't qualify. Selectman Snow replied at some point in time after the Supervisors of the Checklist certified the number of signatures and determined there wasn't enough. There is a window of opportunity until the warrant is posted and the warrant wasn't due to be posted until the 30th of January. There are two dates the 10th and the 30th of January. The warrant article was presented and voted on by the Board of Selectmen to pass it and put it on the warrant. It was then reviewed again on January 23rd. In his mind it is on the warrant and there should be a meeting to take it off the warrant. There was no meeting of the Board of Selectmen to take it off the warrant. He further explained Chairman Kelley talked to counsel and counsel said this is an administrative thing and you can go ahead and do it based on that Chairman Kelley moved forward. Selectman Snow said his argument is that he got the call on January 28th Friday morning. He was told that one of the petition warrant articles didn't have enough signatures. His response was immediate and he felt they needed to call a meeting. The meeting was never called until tonight, so between the 28th and the 30th there was a window of opportunity for the Board of Selectmen to take a vote. They could vote to take it off the warrant or vote for the Selectmen to move forward based on the fact that some of the members of the Board (a majority) believed that the Town should decide on this. Due to the large amount of time that took place on the 10th and the 28th the Board did things that were based on the fact that we presumed there was enough signatures. There weren't enough signatures and that issue is dead. The statute says the Board of Selectmen has control of the warrant. They can put anything they want on it right up until the point that they mail it out. He reiterated there was a window of opportunity where the Board could have met and discussed it and he has no idea what they would have decided. Mr. Jones asked when they talked to Town Counsel did he give you the option to move forward or did he say you must move forward. Chairman Kelley replied Town Counsel told him that this petition warrant failed and move forward. Mr. Jones asked if Town Counsel gave him the option to move forward or did he say you have to move forward. Chairman Kelley replied he said to move forward and that is what they did. Mr. Jones asked if this was a requirement or an option and what are the legal options. He might have told you to move forward because there was only a couple of days, but in another situation and there is more time what are the options. He would like to clarify if Town Counsel told the Chairman to move forward as is and not call that special meeting. You still had the opportunity to have a vote of the whole Board to say whether or

not they want it on the warrant. This is regardless of the fact that they didn't have enough signatures. Chairman Kelley reiterated Town Counsel told him to move forward and that is what he did. Selectman Duarte said he would accept responsibility for this problem. He thought when they voted as a Board to move this forward we should have checked if all of the requirements had been met before we approve it. When we turn around and approve it twice how are they going to know that they don't qualify until the last minute, unless before we start approving things we take a look and see that what we need is there and have met the requirements. We need to take responsibility for this and he apologized. We dropped the ball when we voted on this. We should have taken a closer look and when it didn't meet the requirements we should have notified you. This would have given the CYAA a chance to take some corrective action. He reiterated in the future we need to look at this a little closer as a Board before we vote on it. He understood why you wouldn't go out and get additional information that is required. He felt as a Board going by Town Counsel and we met that deadline it created a double problem. He will accept responsibility for not checking things before we go ahead and approve things. The CYAA has made a good point and he'll make sure it never gets repeated again as long as he is on the Board. The Chairman was just trying to address the issue because he is in the middle too. Sometimes we get advice from Legal Counsel and he can't always say it's the right answer. The Board has dropped the ball and we could have resolved this before we go approving things. He guarantees in the future if we do this as a Board and don't approve anything until we have the correct figures in front of us. He feels really bad when we have 23 citizens' signatures who want something on the ballot and because of errors on both sides it's a shame. This should be in front of the voters of the community and now it won't be there. The Board tries to do a good job, but we make mistakes and aren't perfect. He thought this may have resolved a problem for the future. Mr. Royer stated clearly we bear a lot of responsibility. There was no way we should have turned in a warrant article with 25 signatures. The one piece that is disappointing to him is knowing you had the option in a certain window of time. The Board of Selectmen could have chosen to put that out to the community regardless if the Board supports the warrant article. He said Selectman Snow clearly explained there was an opportunity for this to happen and you didn't have that meeting. You have taken away the right of the voters in Town to have the option to decide whether or not they want to support it. The warrant article might not have passed, but now the citizen's don't have the opportunity to vote on it because we missed the window of opportunity. This was an option for at least a couple of days. It seems like an opportunity was taken to use this technicality to squash this instead of letting it get to the voters. Chairman Kelley said Mr. Royer was absolutely wrong. Mike Mailloux clarified this is an article the Selectmen don't support, but what if it was an article they did support and it didn't have enough signatures. He questioned if they would be going through the same thing. Chairman Kelley said the checklist reviews the numbers and it's up to them to decide when they are going to check them. Mr. Jones asked if it was a warrant article the Selectmen were going to support that didn't have enough signatures would you have found the time to call that special meeting before the window of opportunity had passed. Chairman Kelley replied no he would have done the same thing he did this time. He would have called the Town Attorney and followed his advice. Mr. Jones replied he would have told you that you had the option. Chairman Kelley said he didn't tell me we had an

option at that point. The only reason this came up is because Selectman Snow called the Town Attorney and talked to him about this option. The way he understood it was that the vote was already made at a Selectmen's meeting. The vote was 3 to 1 that the Board was not going to support this warrant article. Frank Reczkowski asked how the Board bases their vote and do they go and ask the people of the Town. Chairman Kelley replied no and felt Mr. Reczkowski was off track. Selectman Robie stated he voted what the people voted on over the past two years. The citizens didn't support the CYAA's warrant article. He knows the community doesn't support it by the number of votes. Mr. Jones replied they are getting closer and closer every year. Selectman Robie said he sees the way people are voting and it's repetitious. This is probably why he is opposed as a Selectman. Mr. Reczkowski said there is a difference between the people voting it down by a wide margin and people barely voting it down. The Board is in a position to recommend this to the Town and sway their votes. Selectman Robie replied you asked me a question and I gave you an honest answer. He based his vote on the history. He was sorry if he offended anyone. Mr. Reczkowski wanted to understand the thought process and this is new to him. He noted last year the vote was 50/50 last year. Selectman Duarte noted last year he co-sponsored a bill with Senator Barnes. There were a lot of concerned citizens that thought people were messing with the warrant articles and putting "To see if..." on them which really destroyed some of the things they were trying to get on the ballot. This got passed and the "To see if..." went away. He didn't think the Board could make a better decision than all of the voters in Candia. We will make sure in the future we try to eliminate this and no one gets disenfranchised again. Sometimes when the Chairman runs into a headache he has to call the Attorney and he doesn't always get the top advice but he has to follow the rules that are given to him. He understood their frustrations and felt they should let the Town decide. Just because something was rejected 10 times before, it doesn't mean you shouldn't bring it up again. Things can change if you have a different prospective. Selectman Snow asked Chairman Kelley if Atty. Mayer got back to him the morning of January 27th. Chairman Kelley replied he got back to me on Tuesday January 31st.

Chairman Kelley motioned to adjourn at 5:45 p.m. Seconded by Selectman Snow. All were in favor.

Respectfully submitted,

Andria Hansen

Transcribed by tape and Selectman Soares' notes