



# **Town of Hopkinton, NH**

## **Office of the Select Board**

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### **SELECT BOARD PUBLIC MEETING MINUTES MONDAY, OCTOBER 30, 2017 APPROVED NOVEMBER 6, 2017**

#### **CALL TO ORDER**

Chairman Jim O'Brien called this regular meeting of the Select Board to order at 5:30 p.m. on Monday, October 30, 2017, in the large meeting room in the Town Hall. Chairman O'Brien introduced the members of the Board. Sue Strickford led those assembled in the Pledge of Allegiance.

**Members Present:** Jim O'Brien, Chair, Ken Traum, Vice Chair, Steve Lux, Jr. Bob Gerseny and Sabrina Dunlap.

**Staff Present:** Neal Cass (Town Administrator), Robin Buchanan (Administrative Assessing Assistant).

**Public Present:** Janet Krzyzaniak, Joyce Bossie, John Segedy, Eric Miller, Sue Strickford, Tina Hoyt, Al Wait, Denis Goddard, Melissa Courser, Police Chief Steve Pecora and members of the Hopkinton Police Department, Bob Lapree, David Dufault, Joyce Rose, Rebecca Whitely, Sara Mattson Dustin, Mark Newton, Janet Ward, James Stone, Jeff Donohoe, Arnold Coda, Don Houston, Jessica Scheinman, Dave Luneau, Susan Covert, Charlotte DeBell, Jack Ruderman, Kim Martel, Jeremiah Johnson, Lori Marron, Elizabeth Nolin, Bill Marko, and Patricia Shorter.

#### **POINTS OF PRIDE**

Mr. Cass highlighted the work of the Police, Fire and Highway Department during and after the storm on Sunday, October 29, 2017.

Mr. Traum stated that Hopkinton's Dial-A-Ride will be awarded the Spirit of NH award on Tuesday, November 7, 2017 at the Capitol Center for the Arts in Concord, NH.

Chairman O'Brien noted that Mr. Cass painted one of the rooms in the Town Hall office, stating that he often goes above and beyond.

**ADMINISTRATIVE****Consent Agenda**

The Board members reviewed documents for signature and approved (5-0) the Consent Agenda, taking the following action on a motion made by Mr. Traum and seconded by Mr. Lux.

**CONSENT AGENDA 10-30-17****ACCOUNTS PAYABLE MANIFEST**

\$45,738.57

\$1,341,325.84

**PAYROLL**

\$75,943.92

**PAF**

New Hire-Full Time Police Department

**Veteran's Credit**

Carol McCann

James Jordan

**Abatements**

Sandy Beach-camper removed Map 208 Lot 3 D-35

\$238.27

Sandy Beach-camper removed Map208 Lot 3 G-27

\$223.22

**Transfer of Funds**

Sewer Fund to General Fund

\$7,733.84

Special Revenue Fund Accounts to General Fund

\$2,481.25

Kimball Cabins \$1,357.26

Human Services Donations \$702.58

Hop FD Auxiliary \$85.00

Fire Dept Donations \$336.41

Special Revenue Fund Accounts to General Fund Slusser Center Rental Exp Deposit

\$300.00

Public Safety Revolving Fund 801 to General Fund

\$681.93

Recreation Revolving Fund 803 to General Fund

\$4,331.66

Town Facilities Trust Fund to General Fund

\$18,247.36

Town Hall renovations Capital Reserve Fund to General Fund

\$5,950.29

PW/HWY Vehicles-Spreader Capital Reserve Fund to General Fund

\$77.60

**Building Permits**

Bound Tree Realty 192 Bound Tree 30'x40' addition specialty welding Map 221 Lot 73

WOFO Invest 148 Drew repair damage to pillars/construct foundation Map 235 Lot 20

Peggy Baron 1261 Pine construct 8'x12' attd deck & remove screen house Map 106 Lot 52

Deborah Furst 245 Bound Tree renovate master bedroom Map 221 Lot 56

William Turner Bound Tree construct single family in B-1 District DENY

The Board reviewed the Select Board Meeting Minutes of Monday, October 16, 2017. Mr. Traum made a motion, seconded by Ms. Dunlap to approve the Public Meeting Minutes of October 16, 2017. Chair O'Brien called for a vote.

**VOTE:** O'Brien, Traum, Gerseny and Dunlap voting in favor of the motion; no votes against, Lux abstaining. MOTION APPROVED 4-0.

The Board reviewed the Non-Public Select Board Meeting Minutes of Monday, October 16, 2017. Mr. Traum made a motion, noting these Non-Public Minutes are now public, seconded by Ms. Dunlap to approve the Public Meeting Minutes of October 16, 2017. Chair O'Brien called for a vote.

**VOTE:** O'Brien, Traum, Gerseny and Dunlap voting in favor of the motion; no votes against, Lux abstaining. MOTION APPROVED 4-0.

## **APPOINTMENTS**

Larisa Djuvelek-Ruggiero RE: CAP Transportation:

Ms. Djuvelek-Ruggiero gave a history of the Mid State Regional Coordinating Council for Community Transportation and the need to provide transportation services to people who do not have access to reliable transportation options due to age, disability, or income. There are 9 regions and Mid State covers Belknap and Merrimack Counties (excluding Hooksett) and the towns of Hillsborough, Deering and Windsor, which are in Hillsborough County. Ms. Djuvelek-Ruggiero explained some of the services and programs that they offer and invited the Board to become members of the Council. The Board thanked Ms. Djuvelek-Ruggiero for coming in and stated they will check with the Human Services Director, to see if there is someone who would like to represent Hopkinton at the meetings.

## **OLD BUSINESS**

**Beaver Dam Update:** Mr. Cass stated the Conservation Commission discussed this issue and that the information is in your packet. Mr. Cass also met with David Dufault and an officer from the Fish and Game. Mr. Cass confirmed that the landowners can remove a beaver dam on their own land. As the dam is partially on the Class 6 road, no work or removal of the dam can be done without the Town's permission. There is no new information. Mr. Traum and Mr. Lux agreed to hold a meeting between the landowners, and the members of the Conservation Commission to see if a compromise can be reached, so that the road is accessible and preserve the wildlife habitat as well.

## **Patrol Officer Swearing-in Ceremony:**

Police Chief Steve Pecora introduced the newest member of the Hopkinton Police Department, Brian C. Morrill. Chief Pecora stated Mr. Morrill joined the Army and had received several awards and he is a graduate of NHTI. Chairman O'Brien swore in Mr. Morrill as a Patrol Officer.

The Board took a 15-minute break.

The Board came back on the record at 6:16 pm.

**Town Hall Parking:**

Mr. Cass presented the Board with the latest update from Hoyle and Tanner. It eliminates the need for any walls, and provides an entrance in the front of the building for everyone, which will eliminate the need for the wood ramp and door on the side of the building. It comes with a price tag of \$179,000, which includes renovation of the front of the building as the entryway is crumbling. Mr. Traum asked Mr. Cass if he had separate costs, between the parking and front entrance work. Mr. Cass responded he will have that available for the next meeting. Al Wait inquired if it was possible to have more than one handicap parking spot. Sue Strickford inquired why the Board is looking at parking. Chairman O'Brien replied we are looking at the parking situation for a variety of reasons, but to also clean up the entry way.

Budget Review: Mr. Cass stated the Department Heads will be presenting their budgets to the Board over the next two weeks.

**TOWN ADMINISTRATOR UPDATES:**

Mr. Cass stated that all Department Heads met on Thursday, October 26, 2017 to discuss all of their budgets.

Mr. Cass stated that Briar Hill Road will be closed for work on Tuesday, October 31, 2017.

**APPOINTMENTS CONTINUED:**

**Public Comment Re: Warner ZBA Regional Impact Gun Range:**

At 6:30 pm, Chairman O'Brien opened the Public Hearing. He gave a brief history as to how we arrived at this point in the process. He also noted that the Warner ZBA will be holding a meeting for public comment on Wednesday, November 8, 2017. Chairman O'Brien stated we are not the decision makers in this matter, however, because it has been declared to have regional impact, we have been provided with the opportunity to voice our comments. Chairman O'Brien stated the applicant, Dragonfly Holdings, LLC is seeking a special exception in this matter. The applicant must answer four questions with respect to his application before the Warner ZBA, and the Hopkinton Select Board asked for comment from Hopkinton residents with regards to two questions:

A. The requested use will not impair the integrity or character of the district or adjoining district, nor be detrimental to the health, morals or welfare.

B. The requested use is essential or desirable to the public convenience and welfare.

Chairman O'Brien stated this is not a debate, your comment should be addressed to the Board and not to each other. Chairman O'Brien went over the process, stating he will ask for comment from Hopkinton residents first and then to any other interested party that is present. He stated he will give everyone who wants to speak the opportunity to speak.

Janet Ward stated she believes there are better locations in Warner for this business; it is not an appropriate location.

Al Wait stated the property location is bordered by the State Garage and a tractor dealership. He believes it is a great idea.

Lori Marron stated that a gun range would impair our rural character and cultural. She further stated it is located too close to our middle/high school, and our students run by there.

Mark Newton stated he moved here nine years ago, because it was a beautiful community. Now he is nervous that the integrity of the town will change. He is opposed to the gun range.

James Stone stated he was in favor of the gun range. It will be safe; people are not going to be running around town with guns. It will be a place to train people in gun safety, it will have instructors. People are shooting in their backyards with no training, no safety measures in place that is dangerous. He further stated that he was not afraid to run the road, nor is he afraid to let his kids run in the area.

Jeff Donohoe stated he is not opposed to the gun range. Training and safety is the gun range's prime concern. It is not a negative aspect for the area. He further stated that during hunting season, he hears gunshots all the time. He supports the building of a gun range.

Denis Goddard stated that the Town of Hopkinton does not get a vote in this, it is not our town. He also stated it is important to have the environmental impact controlled. There are outdoor shooting ranges all over Hopkinton and there is no control over all the lead that is being put into the environment. He further stated that if the use is not desirable, they will not be in business long, it will fail.

Arnold Coda stated he is in favor of the gun range. He stated that in Lynn, Massachusetts, he was a member of a gun club and it was first housed in the basement of a business. Later the club acquired a building that was in a neighborhood, with schools within 1,250 ft. of the gun range. There was never a problem. He also referred to a gun range in Bristol, CT, which is an indoor range and is within 1,000 ft. of an adult education center and is within 650 ft. of a pediatric building. People that are concerned about a bullet coming through the walls, it is just not going to happen. He believes traffic will not be an issue as most drivers will use the highway.

Dave Luneau stated he hoped the Select Board would take the School Board's letter that was submitted as part of an earlier public hearing on this issue, and which raised specific concerns related to the proximity of this range to Hopkinton schools, into consideration, while making their decision.

Susan Covert is opposed to the gun range for environmental reasons. She asked that the Board consider the many reports she sent along to it related to the environmental and health hazards of lead, and noted there is not enough oversight for enforcement related to regulation of lead. She is concerned not only for the potential of lead contamination now, but also for what will happen 10 years from now.

Sarah Mattson Dustin reminded the Board there is no entitlement to a special exception, and the applicant has the burden of proof on each element. She said the risk of errant bullets is real, as we saw just this summer an errant bullet from the Sig Sauer range hit a car on 101 in NH. She noted the proposed range is in a commercial district and right next to the district in Hopkinton, which is an R4 district, zoned for low residential, agriculture, and open space use. The applicant has already irreparably and forever changed the nature of the property by clear cutting trees and

making changes with surface drainage. She reminded everyone that this is a commercial establishment, intended to bring people in from outside of our region, and there will be an increase in traffic.

Charlotte Debell stated she is in agreement with Sarah Mattson Dustin.

Patricia Shorter is opposed to the gun range, mentioning a suicide at the range in Belmont and a stray bullet at Sig Sauer. She is concerned that a commercial district (in Warner) is next to a residential district (in Hopkinton). She thanked the Board for the opportunity to voice their opinions.

Rebecca Whitely noted the Select Board's statutory role under NH law. She stated the project will impair the R-4 in Hopkinton. She believes property values will be affected. She believes you will hear the gunshots outside of the building, which will impact the character of the district, and she noted they will be renting guns. She also highlighted the environmental and health risks posed by a gun range, particularly the impact of lead.

Al Wait stated most traffic will be using the highway and he also reminded people that there used to be a gun shop in Contoocook Village.

Lucy Mink is opposed to the range.

Janet Krzyzaniak stated she is in favor of the gun range. She stated that people who purchased land in Hopkinton near the Warner line should have been aware that a commercial district was abutting them. She questions whether Hopkinton has the right to tell another town what they should do. She mentioned the gun range that was in Contoocook, noting that it did not ruin the town.

Janet Ward believes an indoor range will not reduce the outside shooters. She believes that young families will not want to move to Hopkinton. She also noted that Warner would have the same right to comment to Hopkinton if the roles were reversed under the regional impact law.

Jack Ruderman is opposed to the gun range, and said he is worried about potential gun violence. He noted guns are not inherently safe and firearms and people are not always a safe combination.

Ellen Everheart is opposed to the range because of the proximity to Hopkinton schools.

Mary Christy stated she has given the Board an e-mail from Kenneth Norton, National Alliance on Mental Illness. Mr. Norton urged the Board not to let mental illness and potential violence become factors that weigh into their decision. Mr. Norton also stated that NAMI has no official position with regard to the presence of a gun range.

Jeremiah Johnson is opposed to the range in this location, noted the proximity to Hopkinton schools, and also said this project is not essential.

Tina Hoyt stated that she greatly appreciates everyone's thoughts and hears their concerns, but she believes an indoor range may alleviate outdoor shooting. She is not opposed to the gun range.

Al Wait suggested that perhaps the Hopkinton Police Department could use it as their shooting range instead of using an outside one.

Kim Martel stated it is too close to the school.



Cam Houston asked why should this person get a special exception and noted that the proposed range is too close to Hopkinton schools.

Eric Miller, of North Sutton, Dragonfly Holdings, the applicant, stated the range is designed to adhere to all safety regulations. He stated that it is simple to address the lead issue, and said that his HVAC system is top of the line and will remove 99.9% of all airborne lead. He stated the rest will be swept up and disposed of. He gave a brief history, noting that he has been in the risk management field for 25 years. He stated that he has designed the gun range with the highest possible standards. He noted that the location is across from the State Garage, where there are police and law enforcement coming and going all the time. Mr. Miller stated the entryway to the facility will face Warner Road, so it will be visible. He stated that all firearms and ammo will be stored in a vault at night, although said there is no guarantee that this place won't be broken into. It will be an educational facility. Mr. Miller stated there are over 300 million guns in this country and people need to be trained on how to use them safely and to be responsible gun owners.

Elizabeth Nolin, Attorney for MadgeTech stated we have disputes with the design of the range, and the environmental issues. She noted that his proposals do not assure that there will not be environmental issues. She further stated it is not the correct location and she believes property values will be adversely impacted. This requires a higher level of care because guns are involved. She also noted the fire and explosion expert who said this is an H-1 hazard occupancy building.

Bill Marko (from Henniker) stated he is in favor of the range. He stated that he, his wife and two sons will utilize and support the gun range.

Jessica Scheinman stated her concern is not just for safety and kids, but for environmental issues. She also noted the applicant's comment that the lead issue is "simple" is concerning, and said it is not simple – lead reclamation is a very complex issue. She also noted that this is in fact a deviation from standard zoning, which is why it requires a special exception. She opposes the gun range. Ms. Scheinman thanked the Board for their consideration.

Chairman O'Brien closed the Public Comment at 7:45 pm. Chairman O'Brien thanked the public for their comments and civil conversation. He stated the Board will not be taking any further comments.

Ms. Dunlap asked Eric Miller to clarify whether this range would be members only or open to the public – he answered it will be open to the public, and is not members only. He noted that if this was a members-only gun range, he doesn't believe he would need a special exception.

Mr. Traum stated a concern for the hours of operation which are 10:00 am to 10 pm. Eric Miller stated he was asked by the Warner Planning Board for hours of operation. He stated that he is not planning on being open every night until 10:00 pm. However, he stated there would be tournaments and those could go until 10:00 pm, but expects his hours to be less than stated.

Discussion ensued, as to the best way to present the information to Warner. It was suggested to send all comments to Warner. Mr. Lux stated he does not believe that is an effective way to go and Hopkinton residents can attend the Warner ZBA meeting on Wednesday, November 8, 2017 and comment.

Chairman O'Brien read RSA 36:75 II which states:

**36:57 Procedures. –**

I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.

II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

III. At least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

Chairman O'Brien noted that we did receive the Decision, but not the Minutes of the Meeting.

Discussion ensued, as to whether the gun range will impair the integrity of our R-4 district which abuts Warner's commercial district, with note to hours of operation, the nature of the business and its possible risks to environment and health. Ms. Dunlap believes it is more about the location of the business, than the business itself. Mr. Lux asked how it was different and asked how it will impact our district. Discussion ensued, as to the environmental issues and the impact it will have. Chairman O'Brien asked if the conditions placed on Dragonfly were satisfactory. Ms. Dunlap stated it looks like they (the Warner Planning Board) did a good job when they considered the application last spring, but she still has concerns. She also noted that the Warner Planning Board conditions are not relevant to the current discussion. This application is back before the Warner ZBA, and we are not talking about site conditions, we are talking about this particular location in terms of zoning. Chairman O'Brien stated he has difficulty rewinding on the application and ignoring the Planning Board conditions. Discussion ensued, with long term issues, noting that restrictions are good for now, it is the unknown.

Mr. Traum voiced his concern that the range could be open until 10:00 p.m.

Discussion ensued regarding the wording of the language of the criteria which states "will impair", not "could impair." Mr. Gerseny noted that we don't know the long term, we are not the decision makers and we have to have confidence that Warner will do the right thing. Discussion ensued, as to an R-4 district, which is limited residential, rural. Mr. Gerseny noted that when an R-4 district abuts a commercial district there will be impact no matter what the business is. Ms. Dunlap noted that a lot of commercial properties do not require special exceptions, where this one does. If this was a candy store, the Board would not be having this conversation. She thinks that the proposed business presents certain risks that are inherent to this type of business and that are inherent to guns. That is not a comment on guns or on the merits of a gun range, it is merely acknowledging that this business, by its very nature, has inherent risks. Certain things are inherently high risk, and we treat those things differently. She noted that is why this business needs a special exception, and that is why regional impact was found. There



are real environmental concerns with this business. She said that not every commercial property is the same.

Ms. Dunlap said it is appropriate to say we have enough evidence in front of us that this proposed property could impair the integrity or character of our district and that it could adversely impact our health and welfare. Chairman O'Brien stated that it is not helpful to say this business "could" be detrimental, we need to be able to say it "will" be detrimental. Mr. Lux said he is comfortable that the potential lead exposure will be dealt with properly, and he does not think the presence of a gun range will impair our R4 district. Mr. Gerseny noted that we do not know how long lead abatement will be done properly. It may be ok now, but we may be sorry later.

Ms. Dunlap said from a 10,000-foot view, our role is to let Warner know certain things have come to our attention that may not have come to their attention. The reason we are able to comment is because of the Regional Impact law. We are uniquely positioned to comment on how Hopkinton might be impacted. She noted the merits of having a gun range, but we have to ask if this location is right, or does it have a negative impact on our town? Chairman O'Brien has trouble saying this particular use in this location is going to have an effect on our district. Mr. Gerseny noted that if we make a general statement about the commercial zone in Warner, we can include the fact that there are a significant number of people who think this location is problematic. Mr. Lux noted that talking about the Warner commercial district as a whole is not helpful. Ms. Dunlap stated this is not a discussion about how Hopkinton is zoned vs. how Warner is zoned, this is a discussion about this specific business and this specific use.

Ms. Dunlap said that we need to consider whether a reasonable person would think this proposed use would be detrimental to our district. If you are looking at this use, we have a lot of evidence that even the best run gun range is still inherently risky, and even with conditions of the Planning Board, this business poses inherent risk. If this involved a different type of business that doesn't carry environmental risks, we would not be having this conversation. Mr. Lux stated that he is comfortable with the lead issue and does not believe it will be a problem, and also noted that gas stations present lead concerns as well. Ms. Dunlap agreed and said that is why we can't put gas stations any old place, and they would also need to be properly zoned.

Discussion ensued, with regards to the requested use being essential or desirable to the public convenience and welfare. Ms. Dunlap stated it was not essential, and Chairman O'Brien and Mr. Gerseny agreed that the proposed business is not essential. Mr. Gerseny said this is not essential, nor is it desirable to people who do not use guns. Mr. Lux thinks this range is arguably essential because it offers training and a safe place to shoot. The Board agreed that the questions of whether this is desirable is very subjective. Chairman O'Brien said this would give people a safe place to shoot, which may make it desirable. Other members of the Board noted that several residents were in favor of the range and thus it is also desirable. Ms. Dunlap noted that even if it is desirable, that has to be weighed against the potential risks. Mr. Gerseny noted the Board is split and both sides need to be addressed. The Board agreed not to address the second question in its response to Warner because it could not agree on how to proceed on this question.

Discussion ensued, regarding how to draft a statement as the Select Board has different views on the matter. Ms. Dunlap will draft a statement and e-mail it to Chairman O'Brien, who will edit and then present it to the Board on Monday, November 6, 2017 for further edit/additions.

Rebecca Whitley inquired if the statement would be public, if the Board was doing it by e-mail. Chairman O'Brien stated Ms. Dunlap will do a draft, which I will receive by e-mail for edits. The statement will be discussed during the Monday, November 6, 2017 in public session.

David Dufault inquired if he had permission to work on the Class 6 Road to remove the beaver dam. Chairman O'Brien reaffirmed the Board's position that there is no work to be done on the Class 6 section of Cross Road.

**NON-PUBLIC SESSION IV-RSA 91-A: 3 IV (a) Personnel**

Mr. Gerseny moved to go into a non-public session to discuss a personnel issue under the provisions of Nonpublic Session RSA 91-A: 3 II (a). Ms. Dunlap seconded the motion.

**VOTE:** Select Board Members O'Brien, Traum, Lux, Gerseny, and Dunlap voted in favor, and the Chair declared the motion to have carried unanimously (5-0).

The Board, Fire Chief Jeff Yale (via phone), and the Town Administrator went into nonpublic session, as recorded separately, at 10:07 p.m. The Board returned to public session at 10:27 p.m.

**Vote to seal nonpublic minutes:**

Mr. Traum moved to seal the minutes of the just completed nonpublic session. Ms. Dunlap seconded the motion.

**VOTE:** Select Board Members O'Brien, Traum, Lux, Gerseny, and Dunlap voted in favor, and the Chair declared the motion to have carried

**NON-PUBLIC SESSION IV-RSA 91-A: 3 IV (d) Acquisition of Property**

Mr. Gerseny moved to go into a non-public session to discuss the acquisition of property under the provisions of Nonpublic Session RSA 91-A: 3 II (d). Ms. Dunlap seconded the motion.

**VOTE:** Select Board Members O'Brien, Traum, Lux, Gerseny, and Dunlap voted in favor, and the Chair declared the motion to have carried unanimously (5-0).

The Board and the Town Administrator went into nonpublic session, as recorded separately, at 10:28 p.m. The Board returned to public session at 10:35 p.m.

**Vote to seal nonpublic minutes:**

Mr. Traum moved to seal the minutes of the just completed nonpublic session. Ms. Dunlap seconded the motion.

**VOTE:** Select Board Members O'Brien, Traum, Lux, Gerseny, and Dunlap voted in favor, and the Chair declared the motion to have carried

**ADJOURNMENT**

There being no further business, motion by Mr. Lux, seconded by Mr. Traum to adjourn the meeting. Vote 5-0 in favor of the motion. The meeting adjourned at 10:37 p.m.

Respectfully submitted,

Robin Buchanan  
Administrative Assessing Assistant