

BOARD OF SELECTMEN
Minutes of May 5, 2008

MEMBERS PRESENT: Vice-Chairman Bruce Breton called the meeting to order at 7:05 PM. Selectmen Roger Hohenberger, Galen Stearns and Charles McMahon were present, as was Town Administrator David Sullivan. Chairman Senibaldi was delayed, and arrived at 7:30 PM. Mr. Breton opened the meeting with the Pledge of Allegiance, then advised that the Board would be recessing into a non-public session prior to the 7:30 DES Public Hearing.

NON-PUBLIC SESSION: Mr. Stearns moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91A:3 II a. Roll call vote – all members “yes”. The topic of discussion was hiring and the Board, Mr. Sullivan, Ms. Devlin and Ms. Haas were in attendance.

The Board discussed the Park Ranger positions with Ms. Haas. Mr. McMahon moved and Mr. Hohenberger seconded to approve the three (3) candidates as recommended by the Recreation Coordinator, subject to the requirements of the Employment Policy. After a brief discussion regarding salary and hours, the motion passed unanimously.

DES PUBLIC HEARING: Representatives of the NH Department of Environmental Services opened the public hearing at 7:30 PM relative to the following: “NOTICE OF PERMIT REVIEW PUBLIC HEARING & COMMENT PERIOD: Pursuant of the New Hampshire Code of Administrative Rules, Env-A 621. 02, notice is hereby given that the Director of the New Hampshire Department of Environmental Services, Air Resources Division (Director), has received an application(s) for a temporary permit from, and based on the information received to date, intends to issue such permit to: John J. Paonessa Co., Inc., Ledge Road Subdivision, 62 Haverhill Road Windham, New Hampshire. For the Following Devices: Three Aggregate Crushing Plants and One Engine”.

The public hearing was adjourned at 9:40 PM, and the Board of Selectmen meeting resumed in public session.

DES: Mr. Brandon Curran of the DES Water Division was present and, after providing a brief history of the DES involvement in the Ledge Road project to date, fielded questions from the public. Residents making inquiry to Mr. Curran were Mr. Jack Hamburger, Mrs. Louise Peltz, Mr. Greg Kindrat, and Mrs. Julia Wissell.

Mr. Curran clarified the following items in response:

- The scope of work required of Paonessa Co. was received past the date due, however, the company was working simultaneously with the Town and the DES in the interim.
- The Air Permit process is separate from the water quality issue. Receipt of an air permit does not mean blasting can resume, as the applicant will still be required to complete the site investigation, remedial action, and development of a plan to prevent similar issues in the future.
- If blasting were to resume, and the water quality remain compromised, the DES is authorized to stop the project as it is unlawful to contaminate groundwater.

- The DES responds to the issue of groundwater contamination, and investigates any activity that may lead to contamination.
- The bottled water currently being received by the residents is a temporary measure until the site investigation is complete. The cost of the water is the responsibility of the developer, and any recipients who experience a problem with the delivery should contact the DES immediately.
- Regarding the developer's original terrain alteration permit, which lists as a condition of approval no degradation of water quality, Mr. Curran indicated that existing Statute speaks primarily to surface water standards, such as lakes or wetlands. He indicated that the DES has since developed broader experience regarding blasting impacts, however, all that can be done regarding Ledge Road is to stop the blasting and conduct a site investigation.
- In the event blasting resumes, monitoring of the water quality will continue through sampling and field testing and should contaminate levels spike again, the operations will have to cease.
- The existing piles of crushed rock were tested for nitrates at the recommendation of StoneHill Environmental, and no contaminants were found. Mr. Curran indicated that, though the stone is not a source of contaminant today, he couldn't say whether it may have been a year ago. When asked how deep into the pile samples had been obtained, Mr. Curran indicated the pile was very compact and, logistically, samples could not be taken from too far in. He noted that, because of this compactness and porous nature of the crushed stone, there would be no means for any contaminant to move from the interior of the pile.
- The DES intends to address other issues associated with blasting, as well, including: turbidity, water quality aesthetics, and other geochemical effects.
- As part of the DES requirements, future water testing will be conducted by a licensed professional retained by the developer, which the DES can choose to oversee.

Mrs. Peltz then requested that the Board of Selectmen consider the ongoing sale of gravel by the developer, and whether a gravel pit meets the criteria for Town codes. Mr. Turner noted that there are several court cases on record relative to crushing and related operations as part of approved projects. He noted the courts have ruled that, as long as such operations were discussed as part of the plan proposal, they are considered accessory to the approved project.

Mr. McMahan inquired what was approved for the site in question. Mr. Turner replied that it is to be a 3-lot subdivision with a Town access road. Discussion ensued regarding bonding for the road, which Mr. Turner clarified is not generally required until the sale of lots begins.

Further discussion ensued regarding the sale of gravel from the site and the status of the excavation tax. It was the consensus of the Board that legal opinion be sought regarding the sales, and that Mr. Norman be asked to provide the Board with the 2007 tax information.

The Board thanked Mr. Curran for his time.

OLD/NEW BUSINESS:

Special Police Officers: Mr. Breton reviewed with the Board a draft document relative to reinstatement of the Special Police Officer program. A lengthy discussion ensued, highlights of which included:

- The Department previously had a Specials program, which was discontinued by Chief Moeckel primarily due to the lack of details available and Police Union contract requirements.
- Under the current program, revenue is often sent out of Town when details cannot be covered by Windham staff.
- Chief Lewis read a lengthy analysis into the record (copy on file) in which he noted a general opposition to the use of retired personnel as part-time police officers, but an agreement that such individuals could perform this function as well as respond during emergency situations, the former of which would generate additional revenue for the Town. His overview and recommendation also included a detailed analysis of training requirements, salary, equipment, and qualifications.
- The use of certified flaggers versus Special Officers was discussed, and it was noted that flaggers do not have the authority granted to specials relative to ticketing, etc. Also discussed was the younger age at which officers are retiring and the opportunity the Special program would provide them.
- The similar use of call firefighters, volume of details available, Route 93 project, and possible amendment to the Contracted Detail Article to allow self-funding of the program through it was discussed. Mr. Sullivan suggested the Board implement the program for a year and then re-evaluate.

Mr. McMahon moved and Mr. Breton seconded to move forward to develop a policy to utilize Special Officers in the Town of Windham.

After further discussion regarding the Police Union, emergency situations, program costs and training, the motion passed 3-1-1 with Mr. Stearns opposed and Mr. Hohenberger abstaining. This matter will be rescheduled for further discussion in two weeks.

Highway Agent: Mr. McCartney reviewed an estimate to complete Goodhue Road in concert with the Town of Derry as previously discussed. Mr. McCartney indicated that Continental Paving will give the Town the same rate Derry is receiving, which is substantially less than the current paving rates.

Mr. McMahon moved and Mr. Stearns seconded to waive the bid process to allow for a single source bid. Passed 4-1, with Mr. Hohenberger opposed.

Mr. Hohenberger inquired why Derry received such a better rate, and Mr. McCartney clarified that their portion of the project does not require any basin or similar work, but rather is strictly paving.

Mr. McMahon then moved and Mr. Breton seconded to approve the Goodhue Road paving project as recommended by the Highway Agent. Passed unanimously.

Griffin Park Irrigation: Mr. Sullivan advised the Board that three (3) quotes had been obtained for the replacement of two (2) of the pump systems at Griffin Park as follows:

Policy Well & Pump:	\$5,626
Young Bros/Boyden Landscaping:	5,700
Derry Well:	5,100

Mr. Sullivan indicated that each vendor has been utilized by the Town in the past, and all are reputable companies. He further noted that it has been recommended that the current 1HP engine be replaced with a 2HP, which the pricing reflects, and that \$3,000 has been budgeted in the Property Maintenance Trust for this project. Mr. Sullivan recommended the remaining balance be taken from the White and Recreation Improvement Funds.

Discussion ensued regarding the make of the pumps. Mr. McMahon then moved and Mr. Hohenberger seconded to waive the bid process. Passed unanimously.

After further discussion relative to the pump specification, warranties, and the possible need for Mr. Sullivan to verify the comparability of the pumps, Mr. Breton moved to authorize the expense of up to \$5,700 to replace the pumps. There was no second.

Mr. Hohenberger then moved and Mr. McMahon seconded to authorize Mr. Sullivan to expend up to \$5,100 to replace the pumps, subject to a review of the pump specifications. Passed 4-1, with Mr. Senibaldi opposed.

Mr. Breton moved and Mr. McMahon seconded that the project be funded as recommended by Mr. Sullivan. Passed unanimously.

All other agenda items were tabled due to the lateness of the hour.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91A:3 II c. Roll call vote – all members “yes”. The topic of discussion was reputations and the Board, Mr. Sullivan, and Mr. Turner were in attendance.

The assignment of Code Enforcement responsibilities during the Planning/Zoning Administrator recruitment process was discussed. It was the consensus of the Board to authorize Mr. Sullivan to obtain a quote from MRI for these services for discussion at the next meeting.

Mr. Hohenberger moved and Mr. Stearns seconded to adjourn. Passed unanimously.

The meeting was adjourned at 12:15 pm.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have not been submitted to the Board for approval.