

**BOARD OF SELECTMEN**  
**Minutes of November 1, 2004**

**ROLL CALL:** As the evening's WCTV-21 volunteer was delayed, the meeting was called to order by Chairman Carpenter at 7:00 PM, prior to start of the cablecast. Those present included Selectmen Bruce Breton, Christopher Doyle, and Roger Hohenberger. Mr. Sullivan was also present. Selectman Galen Stearns was excused. Mr. Carpenter read the agenda into the record.

**ANNOUNCEMENTS:** Mr. Carpenter reminded all to vote the following day: Election Day.

Mr. Wally Ramsden, American Legion Post #109 Commander, updated the Board on the clean-up of Graphelia Park by the Boy Scouts. He reported that 15 scouts had attended and worked for two hours cleaning up brush, trees, etc.

Mr. Ramsden also reminded those present that the Legion will be conducting a re-dedication ceremony at the Persian Gulf Memorial located at the Town Hall on November 11 at 11:00 AM. He stated that, once the painting of the memorial is complete, the Legion hopes the Town will then take over the stewardship of the memorial.

The meeting cablecast began at 7:10 PM.

**ANNOUNCEMENTS, CONTINUED:** Mr. Charles McMahon presented the following updates to the Board regarding Griffin Park: the benches purchased as part of the Commemorative program, 40 in all, have arrived and will be assembled and transported to the park over the coming week by the Maintenance Staff; and, additional maintenance is required on the infields of the three baseball fields at the park prior to the onset of winter. Hillside Landscaping is able to do the work now for approximately \$1,900, which the Windham Baseball Softball League will then donate back to the General Fund. Mr. McMahon requested the Board's authorization to proceed immediately and that they allow Mr. Barlow, Maintenance Supervisor, to coordinate the project with Hillside.

Mr. Breton moved and Mr. Doyle seconded to allow Windham Baseball to proceed with the requested infield work and to schedule a public hearing to accept their donation in December. Mr. Hohenberger expressed concern that the Board was circumventing the proper donation procedure, and felt that if the work were completed after acceptance of the donation in December ample time would remain for completion.

Mr. Carpenter inquired of Mr. Sullivan if funds were available within the budget for this work. Mr. Sullivan replied that the funds could be located and, after a brief discussion regarding the time frame in question and general bid procedures, inquired of Mr. McMahon whether the Board could simply guarantee payment to Hillside rather than paying up front. Mr. McMahon indicated that was acceptable.

Mr. Breton withdrew his previous motion and moved to allow Baseball to have Hillside Landscaping perform work on the infields at Griffin Park as needed with payment being guaranteed by the Town. Mr. Doyle seconded the motion, which passed 4-0.

*Mr. Ramsden* approached to reiterate his previous, off-camera announcement regarding Graphelia Park and the Persian Gulf Memorial. He then read the names of the participating Scouts/parents into the record as follows: Chuck Swierad, Rich Schiele, Nick Schiele, Paul Morlock, Kevin

Raison, Paul Raison, Brian Raison, Matthew Raison, Steve Pierson, Frank Merchel, Tom Merchel, Tim Swierad, John Pierson, David Pierson, and Jake Northcutt. Gail Webster, Cemetery Trustee, approached to publicly thank the Legion and the Scouts for their efforts at the Park.

*Mr. Breton* inquired whether the cable/telephone lines to Griffin Park could be expedited as the fire alarms and security cameras are tied in to them. After a brief discussion, it was decided that Mr. Sullivan will inquire as to the status of this in hopes of moving the process along more quickly.

*Mr. Bob Skinner*, Supervisor of the Checklist, reminded the Board that the following day was the election and requested the presence of all members for the full day.

*Mr. Breton* congratulated the Police Department on a great job during Trick-or-Treat, and thanked all for their efforts.

**FINANCE DIRECTOR:** Mrs. Dana Call, Finance Director, presented a synopsis of the 2004 budget status to date, noting that most budgets appear to be where they should be for this period of the fiscal year. Items of interest highlighted by Mrs. Call included: over-expenditures in the Searles Building budgets due to Maintenance staff overtime, which can be made up within other budgets; higher than expected expenses in the Insurance line item, due to property-liability expenses; near depletion of the General Assistance budget; and a possible significant bottom line over-expenditure in the Fire Department due to overtime expenses. Mrs. Call noted that an in-depth analysis is being conducted by the Fire Chief of the overtime to date for discussion at next week's budget hearing. Conversely, Mrs. Call noted that revenues to date are higher than anticipated.

Mr. Breton requested that the \$1,353 remaining in the Griffin Park Special Grant fund be utilized to purchase barrels for the Park. Mrs. Call noted that the Recreation Committee had included this purchase in their 2005 budget proposal, and Mr. Breton suggested the remaining funds be expended instead and the line item removed from the proposed Recreation budget. Mr. Sullivan will speak to the Recreation Committee regarding this suggestion.

Mr. Sullivan presented a slideshow to the Board as an overview of the proposed 2005 budget. In-depth budget discussions between the Board and Department Heads will begin on November 8 and continue over several weeks, and Mr. Sullivan encouraged the public to monitor the Town's website and local paper for more information about times and departments. As part of the presentation, Mr. Sullivan explained that it was virtually impossible to level-fund the 2005 budget as requested by the Board. Based upon consideration of all items, budgetary and warrant articles, submitted in 2004, the overall increase for 2005 is potentially 9.7%.

Mr. Doyle stepped out of the meeting temporarily at 7:45 PM.

A discussion and overview of key increases in the area of Public Safety, Capital Outlay, Transfer Station, and Assessing Department was held.

The Board thanked Mr. Sullivan and Mrs. Call for their efforts and presentation.

#### **BUILDING PERMITS/PRIVATE ROADS:**

*Fletcher Road:* Mr. Sullivan noted that the Board had discussed this request at a previous meeting, and the Board's consensus had been that it was not under their purview to grant or deny the issuance of the permit. Upon request for further information, Mr. Sullivan had consulted with Attorney Campbell, who had responded that although technically an easement, this

permit fits the requirements of RSA 674:41. Mr. Breton sought clarification of the definition of a private road per NH RSA. Mr. Sullivan replied that they are not defined specifically in the RSA's.

Mr. Tom Case approached to inquire by what justification Town Counsel had deemed the easement to be a private way. Mr. Doyle read a portion of Town Counsel's response which indicated that, under RSA 674:41 the municipality may not issue a building permit for a lot which is not served by a public highway or street approved by the Planning Board unless the governing body votes to allow such a permit.

Mr. Case noted that the property deeds to Fletcher Estates indicate that nothing can be done in the common land over which the easement in question passes. Mr. George Fredette, Engineer for the property owners, noted that when the Fletcher Estates subdivision was approved by the Planning Board the easement was granted to Mr. and Mrs. Higgins to allow access to their property in the rear.

A discussion ensued regarding the opinion offered by Town Counsel and the requirements/purpose of RSA 674. Mr. Case noted that his daughter, a resident of Fletcher Estates, has an open space declaration which does not mention an easement to the Higgins. He also believed the easement pertained to #36 Fletcher Road as opposed to #38. He suggested that the Higgins might utilize the existing dirt roadway that leads to the pump house in the area instead.

Mr. Fredette noted that the subdivision approval had been re-opened and revised specifically to include the easement under discussion. He believed the matter was before the Board based upon the lack of frontage on Fletcher Road of the Higgins' lot.

Mr. Case again requested clarification of Town Counsel's opinion that the easement was a private way. Mr. Hohenberger read a portion of Counsel's response which indicated there is nothing inherent to RSA 674 that requires a private road to be of a certain age or serve a certain number of persons in order to be a "private road", and that he had concluded that the property owner must apply to the Board of Selectmen under the statute in question.

Further discussion ensued as to whether this was a Zoning Board of Adjustment matter rather than a Board of Selectmen issue.

Mr. Hohenberger moved and Mr. Breton seconded to, in the event this easement is a private road, allow the issuance of a building permit in accordance with RSA 674:41.

Mr. Hohenberger amended his motion to include: pending signature of proper waivers and provided that the roadway remain passable at all times for emergency vehicles during construction and that no vehicles be parked on common land. Mr. Breton seconded the amended motion, which passed 4-0.

*33 Sawtelle Road:* Mr. Sullivan noted that the Planning Board had submitted their standard response to request for input: that the roadway remain clear at all times for emergency access and adequate off-road parking be demonstrated. Mr. Sullivan also noted that Fire and Police had echoed the point regarding emergency access, and expressed no other concerns.

Mr. Breton moved and Mr. Doyle seconded to approve the issuance of a building permit for 33 Sawtelle Road. Passed 4-0.

**TRANSFER STATION:** This agenda item was cancelled for the evening.

**PROPOSED DOG REGULATIONS:** Mr. Sullivan read the public hearing notice into the record. This is a new public hearing on the proposed regulations, based upon changes made by the Board at the previous meeting. Mr. Sullivan noted those changes have been incorporated, specifically: changing “Permissions” to “Prohibitions/Permissions”; adding a new sub-section “c” to Section VII pertaining to training of dogs; and, adding a new sub-section “e” to Section VII exemption town roadways/rights-of-way.

Mr. Case approached to note that Section I still included the term “ordinance”, rather than “regulations”, a correction which staff will make. Mr. Case also sought clarification of two items, the definition of lawful removal of waste and competence to control one’s dog, and who would make those determinations.

Mr. McMahon requested that the regulations be more specific regarding athletic courts in addition to fields. Staff will correct Section V to read “athletic fields and courts”, and revise Nashua Road Field/Tennis Courts to “Nashua Road Complex”.

Ms. Tonia Chase stated that in researching EPA opinions on dogs and waste removal, she found that they recommend education and enforcement as primary controls. She inquired as to what the Town has done to enforce the existing Dog Control Law. Mr. Seifert, Animal Control Officer, replied that limited enforcement had been undertaken at Griffin Park, as specific regulations are not yet in place.

A discussion ensued regarding the difficulty of enforcing the proposed regulations, increased burden on all, and number of citations/fines levied under the existing Animal Control Law. Ms. Chase believed the Board was not setting a “friendly” tone for visiting teams, etc., to the Park, and was penalizing responsible pet owners. She suggested the Board consider including electronic leashes as an acceptable means of restraint.

Ms. Nancy Williams inquired what means had been employed prior to these regulations to promote clean-up at the Park. Mr. Sullivan noted that nothing specific had been in place.

Mr. Bob Huff believed that the general public needs to be made aware of the requirements and consequences. He suggested the Board at least try to enforce the existing Dog Control Law first, through police presence and signage. The Board noted that there is no provision under the existing law to enforce clean-up. Mr. Huff then offered support of the proposed regulations, with the exception of the leash requirements.

A discussion ensued regarding the amount of alternative land available to exercise and run dogs; with the parks being a very small percentage of Town-owned land. Mr. Carpenter reiterated that these regulations had been drafted both in response to numerous resident complaints and due to the lack of means of enforcement.

Mr. Huff expressed concerns that the Board was subjecting the interested members of the public to a biased and adversarial atmosphere. A lengthy discussion ensued wherein the Board defended their position on the issue and their efforts and willingness to incorporate input gleaned from previous public hearings.

Ms. Linda Letendre approached to voice her support of the regulations, noting that unleashed dogs and children do not belong in such close proximity.

Mr. Dennis Senibaldi, Chairman of the Recreation Committee, urged the Board to not include electronic leashes in the regulations, believing them to be an ineffective means of restraint.

Ms. Gail Webster agreed that there is ample land available so that dogs do not need to be on the fields, which she views as a safety issue.

Mrs. Barbara Coish, School Board member, praised the Board for their efforts and stated she will be approaching the Schools to propose they adopt the same or similar regulations.

After further discussion regarding electronic leashes, with input in support inclusion by Ms. Chase and comments against from Mr. Chuck Nickles and Mr. Senibaldi, the consensus of the Board was no provision would be added for use of electronic leashes.

Mr. Hohenberger moved and Mr. Doyle seconded to approve the Regulations regarding dogs on Town property, #WIN 2:06:21:04 with modifications as made on November 1, 2004. Passed 4-0.

Mr. Carpenter suggested that the Board revisit these regulations in May of 2005.

The Board called for a five minute recess.

#### **DONATIONS:**

*Wal-Mart Grant:* Chief Messier advised the Board that this grant was the same one he had sought permission to apply for approximately one month ago. The Fire Department was awarded the bid and has received the check for purchase of a simulator for training in proper use of fire extinguishers.

Mr. Doyle moved and Mr. Hohenberger seconded to accept with gratitude the Wal-Mart grant in the amount of \$1,000 to be used toward purchase of a fire extinguisher pan. Passed 4-0.

Chief Messier extended an invitation to the residents to receive extinguisher training, and asked that they contact the Station to make arrangements.

*Portable Boat Ramp:* Chief Messier explained that the Fire Department had, in the past, utilized a resident's dock for launching of the Department's jet skis. When that arrangement was no longer available, Cyr lumber had been approached and had loaned a temporary dock to the Department for seasonal use, which they have now decided to donate to the Town.

Mr. Doyle moved and Mr. Breton seconded to accept with gratitude the donation from Cyr Lumber of a temporary dock for use by the Fire Department, and to send a letter of acceptance and thanks accordingly. Passed 4-0.

**BAYBERRY ROAD:** Mr. Sullivan read the public notice into the record, and noted that the Planning Board has recommended the full release of the bond amount of \$10,863.74 and the acceptance of Bayberry Road. He further noted that the Planning staff expressed no concerns and has the deed in their possession. Mr. Doyle moved and Mr. Breton seconded to accept Bayberry Road as a public road from station 0+00 to 16+00.00, and to release the remaining bond amount of \$10,863.74. Passed 4-0.

**OLD BUSINESS:** Mr. Gerry Bowes, owner of Bowes Landscaping, was present to discuss his request to cut trees in front of the Transfer Station and at the intersection of Ledge Road and Route 111 to improve site distance in the area. Mr. Sullivan advised the Board the Mr. Bowes has offered to this at

his own cost, and that the Highway Safety Committee had reviewed the area as requested previously by the Board. As Mr. Sullivan had been unable to attend the site walk, he deferred to Chief Messier who had been present as acting Chair of the Committee.

Chief Messier reported that, in reviewing the area, the Committee had noted no real reason to remove any of the trees in question, but that they saw no issue in doing so. Mr. Hohenberger questioned whether the hazard had been reduced due to the lack of leaves on the trees at this time. Mr. Bowes stated that the problem had indeed been resolving as the leaves diminished.

After a brief discussion, it was determined that some of the lower limbs may be removed and the underbrush cleared. Mr. Hohenberger moved and Mr. Breton seconded to accept with gratitude the donation of labor from Mr. Bowes to work with Highway Agent Jack McCartney to facilitate the removal of underbrush and limbs as approved to improve the site distance in the area of Ledge Road and Route 111. Passed 4-0.

**MINUTES:** Mr. Doyle moved to approve the minutes of October 18 as written. Mr. Breton requested that the non-public session be amended to reflect that the Board was in agreement to support the Chief of Police in his intended direction on how to fill the vacant patrolman position. Mr. Doyle withdrew his previous motion and moved to approve the minutes of October 18 as amended. Mr. Breton seconded. Passed 4-0.

**OLD BUSINESS, CONTINUED:** Town Hall painting discussion was postponed as Mr. Stearns was not in attendance.

**NEW BUSINESS:** Mr. Morris Caruso, representing MJC Development, approached the Board to discuss possible donations to the Town as part of an impending subdivision. Mr. Caruso explained that he was scheduled to appear before the Planning Board regarding the latest phase of the Villages of Windham, and was present to seek the Board's guidance on the proper method of donating funds toward the Fire Department as part of the development.

Mr. Doyle clarified that Mr. Caruso was proposing \$1,000/unit be donated at the time of sale towards Fire Safety. Mr. Caruso confirmed the amount, and noted that it doesn't have to be applied towards the sub-station, but could be donated towards equipment or other needs.

After a brief discussion, it was determined that a public hearing will be scheduled in the future to accept the donation and that Town Counsel will review Mr. Caruso's proposal in the interim.

#### **CORRESPONDENCE:**

*Bond Release – Flat Rock Road:* Mr. Doyle moved and Mr. Breton seconded to approve the partial bond release of \$41,680 to H & B Homes, retaining \$12,800. Passed 4-0.

*Bond Release – Hadleigh & Blackburn Roads:* Tabled until November 15.

*Bond Release – Ludlow Road:* Mr. Doyle moved and Mr. Breton seconded to approve the partial release of \$34,544,40. Passed 4-0.

*Bond Release – Leeds Road:* Mr. Doyle moved and Mr. Breton seconded to approve the partial release of \$71,766. After discussion, Mr. Doyle and Mr. Breton withdrew their motion and second, and this release and several others were tabled to allow for further review.

**NEW BUSINESS, CONTINUED:** Mr. Sullivan advised the Board that a public hearing has been scheduled for November 15 to discuss the possible acceptance of annual donations from the Soccer Association of \$10-15,000 for use in maintaining the Town's soccer fields.

**ANNOUNCEMENTS, CONTINUED:** Mr. Sullivan advised the public that the Administrative Offices would be closed on November 3 and 4, as would the Assessor's Office on the 4, as staff will be attending the annual LGC Conference.

Mr. Doyle moved and Mr. Breton seconded to adjourn. Passed 4-0.

The meeting was adjourned at 10:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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