

BOARD OF SELECTMEN
Minutes of May 14, 2007

MEMBERS PRESENT: Chairman Alan Carpenter called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Dennis Senibaldi, Margaret Crisler, and Roger Hohenberger were present, as was Town Administrator David Sullivan. Following the Pledge of Allegiance, Chairman Carpenter read the agenda into the record.

ANNOUNCEMENTS: Mrs. Crisler reminded all that the Annual Garden Club Plant Sale would be taking place on the 19th beginning at 10AM at the Town Common.

Mrs. Cheryl Haas, Recreation Coordinator, announced that Fest-a-Ball was scheduled for the following Saturday. There will be much to do, with several bounce houses, Little League opening day, laser tag, and three bands performing throughout the day.

Mr. Senibaldi announced that the Tokanel Field reconstruction project is completed. Once the field is officially opened for use, Mr. Senibaldi will be acknowledging all donors to the project.

Mr. Sullivan clarified that the Garden Club Plant Sale would be moving to the Town Common due to conflicts with the Rabies Clinic and a paid function at the Town Hall.

Mr. Sullivan announced that the mosquito control program had begun that day, and advised that residents should report any areas of concern to the Health Officer at 432-3806.

LIAISON REPORTS: Mr. Hohenberger reported that the Cable Advisory Committee had met the previous Thursday, and were moving forward to purchase another piece of editing equipment. He also noted that negotiations with Comcast will begin this summer. Mr. Carpenter then requested that Mr. Hohenberger seek clarification from the Cable Committee relative to a recent Comcast notice regarding HD channels and whether the rates were increasing or the channels were just being repackaged. Mr. Hohenberger will follow up to find out.

Mrs. Crisler noted that the Caboose committee has been active, and 50' of track has been laid in preparation for the caboose placement. The move is scheduled to take place in June, and will be followed by various opportunities to donate towards fundraising for the project.

Mrs. Crisler noted that the Planning Board had met the previous Wednesday to discuss their Rules of Procedure, the Site Plan Regulations, and Subdivision Regulations.

Mrs. Crisler announced that representatives of the Greater Salem Chamber of Commerce have been meeting as a smaller committee to promote more activity in Windham, and that they will be attending a tutorial hosted by the Department of Resource and Economic Development in the near future.

CORRESPONDENCE: Letter received from the Recreation Committee expressing their support of a smoking ban at the Town Beach and all other Town recreational facilities.

Letter received from Planning Director Al Turner regarding the proposed island at the intersection of Flat Rock and Rockingham roads, suggesting input be sought from the Highway Safety Committee.

Letter received from the Highway Safety Committee regarding the Flat Rock Road island. Mr. Sullivan explained that the Highway Safety Committee felt that, as the island had been approved by the Planning Board, compelling

evidence would be required to request a reconsideration. After review, and in light of the planned widening of the area, the Highway Safety Committee did not find reason to oppose the island construction. Mr. Sullivan further stated that he believed the area residents were drafting another petition for submission to the Planning Board, which may result in the issue coming before the Selectmen again in the future.

Copy received of letter sent by the Town Administrator to Windham Basketball, extending an invitation to them to attend a workshop with the Board to discuss surplus funding.

Notice received from Municipal Pest Management regarding the mosquito control measures as explained earlier by Mr. Sullivan.

Email received from Mr. Mark Samsel of the WRTA, advising the Board that the track for the cabooses has been laid.

Letter received from Mr. Jim Logan requesting the Town look into eliminating a beaver dam at Collins Brook, as the resulting water damage is having a detrimental effect on his property value. Mr. Sullivan noted that it would first have to be determined where the dam is, and whether it is on Town property. A brief discussion ensued regarding Fish and Game means of beaver removal.

Mr. Sullivan will follow up with Highway Agent Jack McCartney and Mr. Logan. Mr. Hohenberger requested that the Glance Road beaver dam also be inspected by Mr. McCartney.

Copy of letter received from the Department of Environmental Services to Transfer Station Manager David Poulson, inviting him to participate in a DES Task Force on the reduction, reuse, and recycling of construction and demolition debris.

ANNOUNCEMENTS CONTINUED: Mrs. Linda German of the Windham Garden Club presented their Annual Arthur Baker Community Investment Grant in the amount of \$1500 to Senior Girl Scout Troop 1007 for use towards powerwashing and other projects at the Windham Wonderland Playground.

OLD BUSINESS: *Transfer Station Tractor Trailer Bid:* Mr. Poulson advised the Board that two bids had been received as follows:

<i>Liberty International Trucks, Manchester</i>	<i>\$96,518</i>
<i>McDevitt Trucks, Manchester</i>	<i>74,900</i>

Mr. Poulson noted that the low bid, which is for a used 2006 Mack CHN613 with 74,000 miles and the balance of the factory warranty, did not meet the bid specifications and would require an additional expense of \$5,150 to retrofit the equipment. He stated that Liberty's bid, which they would not hold, was for a new 2007 International 5900i with a 12 month/unlimited mileage warranty.

A lengthy discussion ensued regarding the CIP Committee's recommendation, wording of the warrant article authorizing purchase of a used truck, status of the existing tractor trailer, and warranty options.

Mr. Carpenter suggested that the Board authorize Mr. Poulson to return to McDevitt and offer them their bid price of \$74,900, with the retrofit to be included in that price. Mr. Hohenberger concurred. Mr. Senibaldi and Mr. Breton disagreed, preferring a legal opinion be obtained regarding the ability of the Board to expend an additional \$21,000 toward the purchase of the new vehicle.

Mr. Hohenberger then moved to approve the bid award to McDevitt in the amount of \$74,900, and to allow Mr. Poulson to negotiate the inclusion of the retrofitting for the wet system in the bid price. There was no second.

Further discussion ensued regarding purchase of the new vehicle as bid by Liberty, possible rebidding of the purchase, and the maintenance needs on the current Mack truck. Mr. Sullivan pointed out that obtaining legal opinion would make no difference, as the Department of Revenue Administration would disallow the expenditure based upon the warrant article language.

After brief, further discussion, Mr. Breton moved and Mr. Hohenberger seconded to reject all bids received and to authorize Mr. Poulson to expend up to \$75,000 to purchase a used vehicle that meets the bid specifications. Passed 4-1, with Mr. Senibaldi opposed.

SMOKING POLICY: Mr. Sullivan prefaced the discussion by explaining that the Town's current Smoking Policy was enacted in 1989 in response to the State's Indoor Smoking Act, and that the document regulates indoor areas only. Mrs. Haas then approached noting that approximately a month ago she had approached the Board to request a designated smoking area at the Beach, which had now expanded to banning smoking in all areas. She requested the Board focus primarily on the Beach area, as she would like some resolution prior to the Beach opening on June 9th. She also noted that Ms. Kristen Moser, Beach Supervisor, supports having a designated area, as she has concerns with who will watch the children if it's banned within the beach area. Mrs. Haas then reiterated her preference of a designated smoking area. Mr. Senibaldi pointed out that the policy, as drafted, will include the parking area so the supervision of children should not be an issue.

Mr. Breton voiced his support of a ban at all recreational facilities, and noted that per RSA 41, the Board can make a final determination immediately. Mr. Sullivan agreed, however, he noted that the matter had not been posted as such.

Mr. Hohenberger noted that, while he did not condone smoking in the beach area, he did not support the Board attempting to legislate individual lifestyles. He then voiced his support of a designated smoking area.

Mrs. Crisler noted that the beach is a very small area, geared primarily toward small children. She supported a ban at the Town Beach, and possibility designated areas at other recreational facilities. She then expressed concern regarding enforcement.

Mr. Carpenter then read into the record two emails: one from Stephanie Wimmer urging the Board to support a smoking ban at the Beach; and the other from Dr. Jeremy Richards expressing concern that, historically, outdoor smoking bans are ineffective and urging the Board not to impose them.

Mr. John Gage, 12 Fordway Extension, approached in support of a ban, noting that a designated area will not keep smoke away from non-smokers as the air flow cannot be controlled as it can inside.

Mr. Bob Coole, Morrison Road, approached noting it does not seem to be a smoking issue but rather a litter issue. He then stated that laws are in place regarding littering that should be enforced. Mr. Coole spoke in support of a designated area, but questioned what the cost would be to keep the area clean and who would do so. He also pointed out that enforcement would come down to a he said/she said situation.

Mrs. Beth Lippold, Recreation Committee, approached in favor a ban. She noted that the lifeguards are not intended to be babysitters, but would likely end up watching the children if there were a designated area.

Mr. Carpenter stated he could understand the need to address the issue at the Beach, as it involves a much tighter proximity, however, he did not see the need to try to fix other recreational areas where no problem existed. Mr. Breton felt an example should be set at all facilities.

Mr. Carpenter then polled the Board for their current positions. Mr. Senibaldi and Mr. Breton supported banning smoking at all facilities. Mrs. Crisler supported a ban at the Beach. Mr. Hohenberger did not support any type of ban but, if one were going to be necessary, he would support the Beach only. Mr. Carpenter then indicated his support of designated areas at all facilities with future review by the Board of their effectiveness. A brief discussion ensued regarding the Board's authority to regulate Town property.

Mrs. Haas approached to note that designated smoking areas do work. Mrs. Crisler then inquired where the area would be established, and Mrs. Haas replied possibly by the boat launch or the building within the fenced area, with proper receptacles in place.

Mr. Sullivan then noted that staff had been asked only to post the proposal for discussion, and that several callers had been advised the Board would not be making a decision that evening. He felt it would be unprecedented to pass an item such as this without a draft policy and public hearing. A brief discussion ensued regarding timing of posting.

Mr. Breton then moved and Mr. Senibaldi seconded to ban smoking at the Town Beach effective June 1st.

Mrs. Crisler expressed opposition to shortcutting the process, and Mr. Carpenter stated that the smokers also have the right to use the Beach and, as a Board, they should try to achieve cooperative use by all. He felt the policy should be rewritten and no decisions made that evening.

Further discussion ensued regarding posting requirements and re-addressing this matter at the next meeting. Mr. Sullivan noted the Board should not plan on amending the existing policy, but on adopting a new one.

The motion failed 2-3, with Mr. Carpenter, Mrs. Crisler, and Mr. Hohenberger opposed.

Mr. Hohenberger moved and Mrs. Crisler seconded to ask staff to post for the next available meeting date an outdoor smoking policy regarding the Town Beach. Passed unanimously.

Mr. Hohenberger moved and Mr. Carpenter seconded to ask staff to draft a policy to set up a restricted smoking area at the Town Beach and related enforcement procedures, and to have Mrs. Haas work with staff to establish said area. Failed 2-3, with Mr. Breton, Mr. Senibaldi, and Mrs. Crisler opposed.

Mrs. Crisler moved and Mr. Breton seconded that staff develop an outdoor smoking policy to ban smoking at the Town Beach for discussion at the next meeting. Passed 3-2, with Mr. Carpenter and Mr. Hohenberger opposed.

Mr. Senibaldi moved and Mr. Breton seconded to direct staff to develop a policy to ban smoking at all other recreational facilities, with the exception of approved designated areas. Failed 2-3, with Mr. Carpenter, Mrs. Crisler, and Mr. Hohenberger opposed.

ICE CREAM VENDORS: Mrs. Haas presented a request to the Board to establish a policy to regulate and govern the presence of ice cream trucks on Town property, particularly at the Town Beach and Griffin Park as both these areas pose safety issues. She suggested the Board could either establishing a "No Soliciting" policy on town recreational policy, or award

two (2) vendors annually a permit to sell food goods on Town property subject to meeting health standards, a successful criminal background check, and adherence to regulations regarding parking, time of day, and similar requirements.

Mrs. Haas indicated she would like to allow vendors at the Town Beach, but preferred not to have them at Griffin Park. She further noted that the current regulations for Griffin Park do not allow the presence of vendors while the concession stand is open.

Chief Lewis approached and stated he was adamantly opposed to ice cream trucks parking at Griffin Park, noting he felt it was a tragedy waiting to happen. Mr. Carpenter noted that a third option might be to ban them at Griffin Park and work out a controlled presence at other areas.

Discussion ensued regarding stopping by ice cream vendors on public roads, the crowding/congestion at Griffin Park, the availability of Johnson's Farm for refreshments, and the lack of room to park at other facilities.

Mr. Howie Patamoni, 5 Locust Road, an ice cream vendor, approached. He noted that it was more of hazard to park on Range Road, and that it would be much safer to allow the trucks inside the parking lot. Mr. Patamoni also felt that, by not allowing the vendors to service the recreational areas, the Board would be taking money away from them. He then noted that the trucks do not sit in one area for the full day, but only for a couple hours at most.

Mr. Mike Petrakis of Haverhill, an ice cream vendor, approached and also noted that banning them would hurt their business.

Mrs. Lippold approached to state that, while she loved seeing the ice cream trucks on her street, she did not feel they should be at Griffin Park as the area is so busy. She stated she is not worried about the vendors' driving, but about other hazards as the children run through the parking lot towards the truck. Chief Lewis concurred.

Mr. Dean Marimanu of Sonny Boy in Haverhill approached, noting he had never heard of a child being hit while running to an ice cream truck or by an ice cream truck. He then voiced his support of a lottery system to issue permits to vendors on an annual basis.

Mr. Carpenter clarified for the record that the Board had previously agreed to not allow outside vending at Griffin Park during baseball season.

Mr. Hohenberger indicated that the problem seems to be at Griffin Park, and felt that they should be banned there but allowed at other recreational areas. Mrs. Crisler felt that controls also should be in place at the Beach. Mr. Breton and Mr. Senibaldi agreed with Chief Lewis regarding Griffin Park, and Mr. Breton requested further information regarding Health regulations.

Discussion ensued regarding the number of lifeguards on duty at the Beach, the number of licenses to be issued, and whether the policy would pertain to just ice cream trucks or to other vendors as well.

Mr. Hohenberger then moved and Mrs. Crisler seconded to ask staff to draft a policy regarding solicitation on Town property, and that it be posted for the next availability meeting, restricting sales at Griffin Park and addressing other recreational facilities. Passed unanimously.

DONATION: Mr. Carpenter read the public hearing notice into the record. Mrs. Haas explained that she had worked with Mr. Breton and Mr. Pouslon, as well as a representative from Ideal Disposal, and that Ideal wished to donate barrels and recycling bins at Griffin Park, which they will then empty twice weekly. After a brief discussion, Mr. Breton moved and Mr. Senibaldi

seconded to accept with thanks the donation from Ideal Disposal valued at \$5,200. Passed unanimously.

Mrs. Haas then noted that the current barrels will be moved to other Town facilities.

DONATION: Mr. Carpenter read the public hearing notice into the record. Mrs. Haas noted that she had been approached by Mr. DeLuca, President of the Cobbetts Pond Improvement Association, regarding the donation of a new gate at the boat launch. Mrs. Haas noted that there are several issues with the existing gate, and that nothing will change as far as security or controls if replaced. The CPIA will remove the existing gate and place a temporary barrier there, if necessary, until the installation is complete.

After a brief discussion, Mr. Senibaldi moved and Mr. Breton seconded to accept with thanks the installation of a sliding gate valued at approximately \$1,787 from the CPIA; installation to be coordinated with staff. Passed unanimously.

OLD BUSINESS CONTINUED: Mr. Sullivan summarized a proposed earned-time donation policy, noting a request had been made to consider allowing full-time employees with earned time benefits to donate time to others who are out on extended disability/illness. He noted that the draft policy would allow donation of hours to a particular employee or to a central pool for use by others. The receiver of donated hours must have exhausted all their available time and may only utilize the donated hours toward their own illness/injury. Mr. Sullivan further explained that to access the central pool, a receiver must have utilized all of their earned time and a minimum of 100 hours of their own pool time. A certification of illness or disability will be required, and any residual hours upon return to work must either be converted to pool time or transferred to the central pool.

He requested that the Board review the proposed policy for discussion and approval on June 4th.

Mrs. Haas approached to advise the Board that she had been unable to obtain three (3) quotes for the purchase of a fountain for the Griffin Park pond. She noted she had met with one individual, who suggested installation of a 1 horsepower fountain at a cost of \$2,580, which he indicated would be good as a goose/mosquito deterrent and for the quality of the water. Mrs. Haas expressed concerns, however, with the proximity of the pond to the playground, and whether the spray would be blown into the area.

A discussion ensued regarding the fountain specifications, and it was the general consensus of the Board to support the fountain, but that it was not urgent. Mr. Senibaldi and Mr. Breton, however, felt it should be implemented immediately.

Mr. Sullivan expressed concerns regarding the funding, noting if the Board wished to utilize the Recreation Improvement Fund that would be one thing, otherwise the purchase should go back onto the global budgeting priority list for next year.

After a brief discussion, Mr. Breton moved and Mr. Senibaldi seconded to expend up to \$3,000 from the Recreation Improvement fund for use toward the purchase of a fountain for Griffin Park. Passed 3-2, with Mr. Hohenberger and Mrs. Crisler opposed due to where the funds were being taken from.

Mr. Senibaldi requested the Board address the clearing of bittersweet and other vines from the trees in front of and to the side of Griffin Park. He noted that three quotes had been received, which Mrs. Haas presented to the Board for review. The low bid was obtained from Outdoor Materials in the

amount of \$2,250; with Boyden Landscape bidding \$3,100 and Plaza Landscape bidding \$3,650. A discussion ensued regarding the means to remove the materials, licensing required to apply herbicide, and available funding. Mr. Breton requested the surplus White funds in the amount of \$1,400 be utilized, and that the remainder be taken from the Property Maintenance Trust.

After further discussion, it was the consensus of the Board that Mr. Senibaldi obtain further information from the vendor regarding the actual cost to spray the area with herbicide to keep the material from returning.

Mrs. Crisler inquired whether the Board's trip to visit the Goffstown disposal facility had been rescheduled. Mr. Sullivan will check with Mr. Poulson and advise the Board accordingly.

Mr. Hohenberger requested that Mr. Sullivan contact the members of the Housing Authority to request that they resume meeting. Mr. Sullivan will follow up to do so.

The Board interviewed Mr. Coole for possible appointment to the Highway Safety Committee.

Mr. Sullivan inquired as to the Board's preference regarding the current oil vendor for the Town, and whether they wished to exercise their option to continue with B & H Oil. It was the consensus of the Board that this service be put out to bid.

Mr. Sullivan advised the Board that a request had been received from Lifeline Screening to utilize the Searles facility at a non-profit rate. After a brief discussion, it was not clear whether the group was non-profit, and staff will follow-up on this matter.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Senibaldi seconded to enter into a non-public session in accordance with RSA 91:A-II:3 a and c. Roll call vote – all members “yes”. The topics of discussion were hiring and reputations.

The Board, Mr. Sullivan, Chief Lewis, and Ms. Devlin were in attendance in the first session. Chief Lewis reviewed his recommended candidate for the position of Police Officer.

Mrs. Crisler moved and Mr. Hohenberger seconded to authorize the Chief to extend an offer of employment to the recommended candidate at a rate of pay comparable to his current rate. Passed unanimously.

The Board, Mr. Sullivan, and Ms. Devlin were in attendance in the remaining sessions.

Mr. Breton moved and Mr. Senibaldi seconded to appoint Mr. Coole a citizen member of the Highway Safety Committee. Passed unanimously.

Mr. Sullivan discussed a staffing issue with the Board. No decisions were made, and Mr. Sullivan will follow up.

Mr. Senibaldi moved, and Mr. Hohenberger seconded, to adjourn. Passed unanimously.

The meeting was adjourned at 10:45 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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