

**BOARD OF SELECTMEN**  
**Minutes of August 26, 2013**

**CALL TO ORDER:** Chairman Phil LoChiatto called the meeting to order at 7:00 PM. Selectmen Ross McLeod, Al Letizio, Kathleen DiFruscia, and Roger Hohenberger were present; as was Town Administrator David Sullivan. Mr. LoChiatto opened with the Pledge of Allegiance.

**LIAISON REPORTS:** Mr. Letizio advised that the Community Development Department and Greater Derry Londonderry Chamber of Commerce would be hosting a “Windham Business Matters” event at Lucia’s Bodega on September 25<sup>th</sup> beginning at 5:30 PM. The event is free to all Windham businesses and organizations, and those interested in attending should RSVP to Ms. Scott.

Mr. Letizio also noted that Ms. Scott has extended an invitation to local restaurants and vendors to participate in a First Annual “Foodie Weekend”; September 27 through the 29th. He noted that those who do not have a storefront have been invited to participate in a food expo at Searles School on Saturday the 28th. Those interested in participating should contact Ms. Scott.

Mr. Letizio advised that the Economic Development Committee has been very busy and, in particular, the Communications sub-committee has been assembling weekly press releases relating to economic development topics. He also noted that the EDC is preparing to make a presentation to the Selectmen relative to the possible inclusion of funding in the 2014 budget to conduct a water study. Mr. Letizio then noted that the CIP continues to meet; and thanked Mr. Hohenberger for sitting in at the first few meetings which he was unable to attend.

**ANNOUNCEMENTS CONTINUED:** Fire Chief McPherson approached noting that he and Police Chief Lewis had been working on a grant proposal to fund the purchase of an enclosed trailer for the Department’s off-road vehicle, as well as to equip the former with various, emergency medical equipment. He explained that the EMS equipment could include an insert for use on the Town’s trails consisting of a backboard and room for an attendant to tend to injured parties. Chief McPherson advised that he had spoken to the NH Emergency Management Department regarding same, and that he and Chief Lewis are now ready to apply for a 50% matching grant in the amount of \$15,000 if the Board approves.

Mr. Hohenberger inquired where the trailer would be stored, and the Chief replied it would be in the rear parking lot of the Police Station; adding that it would also be lettered appropriately. Mr. LoChiatto sought clarification as to whether the Chiefs were looking to fund the Town’s portion of the purchase via this year’s budget or at the 2014 Town Meeting. Chief McPherson indicated that they would be seeking funds prior to Town meeting, likely from the emergency management budget and/or bottom line department budgets. Brief discussion ensued regarding the previous workings of emergency management offset funding, which is no longer available to Towns.

Mrs. DiFruscia then moved and Mr. Hohenberger seconded to approve the Chiefs pursuing an Emergency Management grant to fund and outfit an enclosed trailer for emergency off-road use. Passed unanimously.

**CORRESPONDENCE:** Mr. Sullivan advised that a response had been received from the NH Department of Transportation relative to the Town’s request that the traffic signal at the Route 111/111A intersection not be removed. He noted the DOT has advised that, while they respect the decision of the Board of Selectmen, they will be continuing with their current plan and will be removing the signal in question. Mr. Sullivan indicated that the State has also advised that the pedestrian beacon, as previously discussed, will be installed at this same intersection however, contrary to their previous position the State will be taking responsibility for the maintenance of same rather than the Town.

Discussion ensued, and Mrs. DiFruscia noted that while she was not surprised by the DOT’s response, she was disappointed as she does not believe removal of the signal to be a prudent decision and that there will be detrimental impacts to local businesses.

**MINUTES:** Mr. Hohenberger moved and Mr. McLeod seconded to approve the minutes of July 22, July 29, and August 12 as written, Passed unanimously.

**PUBLIC HEARING ROAD ACCEPTANCES:** Mr. Sullivan read the public hearing notice into the record as follows: *“The Board of Selectmen will hold a public hearing at 7:00 pm on August 26, 2013 at the Community Development Department to consider the acceptance of the following as public roads:*

*Settlers Ridge Roadway System: Settlers Ridge Road from station 0+00 to 22+00 (to include adjacent tract of land known as “Parcel A”)*

*Fieldstone Woods: Glen Denin Road from station 0+00 to 10+50; Butternut Road from station 0+00 to 9+50; Poplar Road from station 0+00 to 9+50; Appleton Road from station 0+00 to 13+50; Sagamore Road from station 0+00 to 8+00.”*

Community Development Director Laura Scott advised that all remaining items for Settler’s Ridge Road have been completed and signed off on by the Highway Agent, Fire Chief, Town Engineer and Town Counsel. She also noted that the Planning Board had voted to recommend acceptance of Settlers Ridge as a Town road and that the Board return the cash guarantee of \$12,000 plus any accrued interest. Brief discussion ensued as to the inclusion of Parcel A, which had been included at the behest of the Planning Board in order to protect an adjacent wetland. Mr. Sullivan clarified this parcel will become part of the road structure.

Mr. Letizio moved and Mrs. DiFruscia seconded to accept Settlers Ridge Road from station 0+00 to 22+00, including the adjacent Parcel A, as a Town road and to release the cash guarantee in the amount of \$12,000 plus any accrued interest. Passed unanimously.

Mr. Hohenberger moved to post Settlers Ridge Road at 25 mph, and Mr. Letizio seconded for discussion. Discussion ensued, and Mr. McLeod pointed out the related statutory requirements for subdivisions and the need for a speed study in order to post the speed under the statutory 30 mph; adding that doing so without one is unenforceable. Mr. Hohenberger disagreed, noting that the statute indicates the Town may not “change” the speed limit without a traffic study; which he noted the Board is not doing. Further discussion ensued, before the motion failed 2-3 with Mr. McLeod, Mr. Letizio, and Mrs. DiFruscia opposed.

Ms. Scott advised that each of the roadways noted in Fieldstone Woods have been completed and signed off on by all parties, and that the Planning Board has voted to recommend they be accepted and their cash guarantee/line of credit released.

Mrs. DiFruscia moved and Mr. McLeod seconded to accept Glen Denin Road from station 0+00 to 10+50, Butternut Road from station 0+00 to 9+50, Poplar Road from station 0+00 to 9+50, Appleton Road from station 0+00 to 13+50, and Sagamore Road from station 0+00 to 8+00 as Town roads; and to release the line of credit in the amount of \$17,082.50 and cash guarantee in the amount of \$17,082.50 plus any accrued interest. Passed unanimously.

**WESTON SUBDIVISION:** Ms. Scott explained that the Planning Board had, as a condition of approval, required that a trail easement be reserved for the Town as part of the Weston Estates subdivision. She indicated that the final plan must be executed by the Selectmen Chair and the easement documents by the full Board in order to accept the easement. Mr. LoChiatto noted for the record that he does not support such granting of easements; particularly since the Town took back several at past Town meetings as the abutting residents did not want them.

Mrs. DiFruscia inquired whether any public input was heard at the Planning Board hearing about the easement, and Ms. Scott replied in the affirmative; adding that there is actually an existing, abutting trail system that this easement will connect. Mrs. DiFruscia inquired whether there was opposition to the easement from the public in attendance that evening, and Ms. Scott indicated she did not recall; reiterating that it was, however, a condition of approval set by the Planning Board.

Discussion ensued and Mr. McLeod indicated he disagreed with the Chair, as he felt putting in such an easement now shows foresight by the Planning Board. He then moved and, Mr. Hohenberger seconded to accept the trail easement at Weston Road. Passed unanimously.

**AUDIT PRESENTATION:** Mr. Scott Egan and Cheryl Pratt of Plodzick and Sanderson were present to review the results of the 2012 Independent Audit. Highlights included:

- No major deficiencies were found and the Town received an unqualified opinion on all financial statements.
- Several schedules and exhibits were reviewed with the Board relative to unanticipated revenues that were received, unexpended budget funds, the various types of fund balances, and liabilities. There was a somewhat lengthy discussion regarding the Town's liability as it pertained to Earned Time payouts, currently at approximately \$1M with offsetting funds of \$150,000 available in the Town's Earned Time Trust Account. It was noted by the auditors that this liability assumes that every employee leaves simultaneously and that, typically, governments look at such payouts on an annual basis and/or use an expendable trust as a means to offset same; so it is not unusual to have a liability this large. Mr. Sullivan also noted several rejections of the Earned Time Trust funding by both voters and previous Boards; adding that had those years been funded then currently 50% of the total liability would be on hand.
- The audit staff had performed a risk assessment, including documentation of major transaction classes such as payroll and town clerk activities; and that there was nothing indicating that internal controls were not in place and implemented.
- Comments were noted regarding ambulance billing and recording of impact fees. As to the former, it was felt that a policy should be in place, which has since been developed and adopted, and as to the latter it was noted that a log of transactions should be developed which staff is currently working on.
- Questionnaires were sent to a sampling of employees across all departments asking mainly fraud related questions; and no issues or concerns were reported.

Thanks were extended to Mr. Egan and Ms. Pratt; and Mr. Sullivan added he would like to thank Mrs. Call for her efforts in preparing for the audit. Mr. LoChiatto added that he was glad the Board made the decision to bid the annual audit and go with a new firm; affording a new set of eyes to the Town's finances.

**DONATION ACCEPTANCE:** Mr. McLeod recused himself from the board due to his affiliation with Windham Soccer. Mr. Sullivan then read the notice into the record as follows: *"In accordance with RSA 31:95-e, the Board of Selectmen will hold a public hearing at 7:00 pm on August 26, 2013 at the Community Development Department for the purpose of considering the acceptance of the donation of goods and services from Windham Soccer Association, relative to improvements to the Nashua Road recreational fields. The approximate value of the material and labor is up to \$6,000.00."* Mr. Dennis Senibaldi approached and noted that, back in December of 2012, the Nashua Road swales had been discussed as it pertained to the difficulty in repairing them due to the wetlands. He indicated that the State DES had finally okayed some work in that area, and funds were expended to clear the brush. Mr. Senibaldi advised he had then approached Windham Soccer and, along with Conservation and Recreation funds, the project is now complete; adding that Highway Agent Jack McCartney had done an excellent job redesigning the area. He noted the purpose of this hearing was to formally accept Soccer's contribution toward the completion of the improvements.

Mr. McLeod approached noting that Nashua Road had always proved difficult for soccer due to the wetness of the field. He extended thanks to Ralph Valentine for working with the DES and to Mr. Senibaldi for his efforts to complete the project; adding that hopefully it will be maintained going forward. After further, brief discussion, Mrs. DiFruscia moved and Mr. Letizio seconded to accept with many thanks the donation of goods and services from Windham soccer, valued at up to \$6,000, for improvements to the Nashua Road fields. Passed 4-0. Mr. McLeod resumed his seat on the board.

**BID AWARD-PAVING:** Mr. Sullivan requested that the Board dispense with the reading of the bids, as attached, noting there were ten roads and three bidders. Mr. McCartney indicated that his recommendation would be to award Fawn Road, Deer Run Road, Colchester Road, and Leni Road to Tate Brothers Paving; which Mr. Hohenberger noted represented the low bids. Mr. McLeod inquired whether Mr. McCartney had experienced any issues with Tate, and Mr. McCartney replied in the negative; noting that of 73 recent paving bids awarded, Tate had received 58.

Mr. McCartney then indicated that he would recommend that the remaining six (6) roads be awarded to Hudson Paving, with the exception of Moeckel Road until it can be confirmed with Hudson that they can adhere to the scope of work in this case. Mrs. DiFruscia inquired whether there had been any issues with Hudson, and Mr. McCartney replied in the negative.

Mr. McLeod then moved and Mr. Hohenberger seconded to award the bid for Fawn, Deer Run, Colchester, and Leni roads to Tate Brothers Paving; Hawley Road, Marblehead Road, Londonderry Road, Edgewood Road, and Church Street to Hudson Paving; and that Moeckel Road be awarded to Hudson Paving contingent upon their ability to meet the bid specifications. Further, if Hudson is unable to comply, Moeckel Road is to be awarded to Tate Brothers. Passed unanimously.

**ELECTRICITY SUPPLY:** Mrs. Call advised that while all of the Town's accounts for electric service are through PSNH, on the electricity supply side bid prices are sought; adding that we are currently paying \$0.068/kw, however that price is expiring soon. She advised that a price has been received from our current broker Freedom Energy, as well as an alternative company, ENH, for review. She reminded the Board that these prices are only held for a 24 hour period, and indicated that she was seeking the Board's authorization to wait a period of one week for renewed pricing based on the volatility of the market and, if lower, that staff be authorized to accept it. Mrs. Call noted the acceptance would be for a 12 month period via a renewable energy source.

Discussion ensued, and Mr. LoChiatto indicated he would like to see an analysis of the total kilowatts used in order to be able to better compare the bottom line prices and the various green options. Mrs. DiFruscia concurred, adding she would also like more information on the different type of green energy. It was the consensus of the Board that staff return to the Board in two weeks with more information.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that sexual harassment training has been scheduled for staff and, in line with that, amendments are being proposed to the Town's Sexual Harassment Policy. He noted the document will be posted in house for the required for 14-day period. Mrs. DiFruscia noted that reference to RSA 354A, should be included in that anyone can file a complaint directly with the NH Human Rights Commission. Discussion ensued, and Mrs. DiFruscia will draft and send language to Mr. Sullivan regarding same.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. Letizio seconded to enter into nonpublic session in accordance with RSA 91-A:3 II a, c and d. Roll call vote, all members "yes". The Board, Chief Lewis, and Mr. Sullivan were in attendance in the first session.

*The Chief* discussed a personnel matter with the Board. Mr. Letizio moved and Mrs. DiFruscia seconded to seal this portion of the minutes for a period of 30 days. Passed unanimously.

*The Chief* discussed the vacant Sergeant position. Mrs. DiFruscia moved and Mr. Hohenberger seconded to support the promotion of Officer Bryan Bliss to the position of Sergeant effective August 29. Passed unanimously.

*The Board* and Mr. Sullivan were in attendance in the next session.

*Mr. Hohenberger* moved and Mr. Letizio seconded to support the recommendation of the Town Administrator to hire two (2) part time drivers for the Town van contingent upon successful completion of background and physical checks. Passed unanimously.

*Mr. Sullivan* reviewed with the Board an employee evaluation. The Board tabled any action on this matter to allow for further review.

*Mr. Sullivan* discussed a union matter with the Board. Mrs. DiFruscia moved and Mr. McLeod seconded to support the tentative agreement reached between the Town and AFCME 1801 (Municipal Union) for a new, three year contract. Passed unanimously.

The Board, Mr. Wayne Morris of the Conservation Commission, and Mr. Sullivan were in attendance in the final session. The Board discussed a potential land purchase, and Mr. Letizio moved and Mr. Hohenberger seconded to support the Conservation Commission moving forward to a public hearing to purchase the subject parcel. Passed unanimously.

Discussion then moved to another possible land purchase, at which time Mr. McLeod and Mrs. DiFruscia recused themselves from the remainder of the meeting due to a possible conflict of interest relative to the owner of one of the parcels in question.

Mr. Letizio moved and Mr. Hohenberger seconded to seal this portion of the minutes due to ongoing negotiations. Passed 3-0.

Mr. Hohenberger moved and Mr. Letizio seconded to adjourn. Passed 3-0.

Meeting was adjourned at 9:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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

## BID OPENING RESULTS

**August 21, 2013 – Administrative Offices:** The following bids for paving projects were publicly opened at 2:00 PM on this date by Town Administrator David Sullivan.

	1	2	3	4	5	6	7	8	9	10
Vendor	Fawn Road	Deer Run Road	Hawley Road	Marblehead Road	Leni Road	Church Road	Londonderry Road	Edgewood Road	Colchester Road	Moeckel Road
Brox Industries, Dracut MA	48,470	121,400	116,100	165,000	62,400	49,000	165,600	121,900	96,300	87,700
Tate Brothers Paving, Hudson NH	24,130	77,810	83,341	83,366	34,740	23,680	124,622	74,686	79,015	60,030
Hudson Paving, Hudson NH	33,745	89,000	62,340	73,230	39,800	20,990	109,120	74,165	82,820	59,275