

BOARD OF SELECTMEN
Minutes of October 7, 2013

CALL TO ORDER: Chairman Phil LoChiatto called the meeting to order at 7:05 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, led by Eagle Scout Ben Havasto.

ANNOUNCEMENTS/LIAISON REPORTS: Mr. Sullivan noted the passing of two, long-time employees of the Town, Virginia Gray and Stan Mackey, and requested a moment of silence.

Mr. McLeod noted that on September 29th the ConvenientMD 10K Race at the Rail Trail had taken place; with participants from as far away as Boston.

Mrs. DiFruscia noted that the previous Saturday had been the Fire Department Annual Open House, with a spectacular turnout; adding that Mr. Letizio had won 2nd Place in the Chili contest.

Mrs. DiFruscia reminded all that Harvest Fest is scheduled for October 19th at Griffin Park.

Mr. Letizio advised that the Economic Development Committee would be meeting on the following Friday at 7:30 AM; and that the public is welcome to attend.

Mr. Letizio also reminded all that he would be participating in the Helping Hands Walk-a-thon on November 9th; adding that he had obtained sign up sheets for each of the Board members.

MINUTES: Mr. Letizio noted an amendment to the minutes of 9/23; correcting the spelling of Mrs. Letizio's first name to "Patti". Mr. McLeod moved and Mr. Hohenberger seconded to approve the minutes of 9/9 as written and 9/23 as amended. Passed unanimously.

ANNOUNCEMENTS CONTINUED: Life Scout Ben Havasto from Troop 266 approached to present a proposal for his Eagle Scout project; entailing reconstruction of the Legion kiosk in front of Town Hall. Mr. Havasto explained that the side facing North Lowell road would remain unchanged; while the other would be replaced by a town map. Discussion ensued regarding the materials to be used, which would be pressure treated wood and plexiglass. Mr. LoChiatto suggested that perhaps Mr. Havasto could incorporate the Town's trail system into the map portion, and a discussion ensued. Mrs. DiFruscia moved and Mr. Hohenberger seconded to endorse the Eagle Scout project as proposed. Passed unanimously.

Community Development Director Laura Scott approached noting that, although the Foodie Weekend had not seen as much traffic at the businesses participating as expected, over 250 had attended the food expo at Searles. She extended thanks to Searles Coordinator Donna Markham for her assistance, and to all the participants/attendees.

Ms. Scott advised that, due to the government shut down, the October free business seminar scheduled to be held at Medicus had been cancelled.

Ms. Scott then presented the Board with a framed collage of the recent Money Magazine article/cover naming Windham #30 in their 50 Best Places to Live ranking.

CORRESPONDENCE: Bond Release/Cricket Ridge: Ms. Scott advised that this was a partial release and had been signed off on by all. Mr. Hohenberger moved and Mr. McLeod seconded to approve the partial release for Cricket Ridge. Passed unanimously.

PAVING BIDS: Mr. McCartney approached advising that the following bids had been received as part of the re-bid for Hawley and Marblehead roads; adding that all three (3) of the original vendors had submitted new bids while requesting an extension into November to complete the project:

Brox Industries: Hawley Road, \$108,200 / Marblehead Road, \$151,300

Tate Brothers Paving: Hawley Road, \$83,341 / Marblehead Road, \$82,030

Hudson Paving: Hawley Road, \$73,360 / Marblehead Road, \$84,725

Mr. McCartney indicated that he would recommend Hawley Road be awarded to Hudson Paving, and Marblehead Road to Tate Brothers. Discussion ensued regarding the differentials between the bids, which Mr. McCartney indicated was due to the bid specifications.

Mr. Hohenberger moved and Mrs. DiFruscia seconded to award the bids for Hawley and Marblehead roads as recommended. Passed unanimously.

OLD BUSINESS: Mr. McCartney sought the Board's authorization to place out for sealed bid the Highway Department's 1993 Ford pickup. Discussion ensued in that the truck is not out of service at this time, and Mr. McCartney indicated he had no issue with retaining the truck if the Board desired. He added that he intended to obtain a new vehicle next year via grant funding, and it was the consensus of the Board that the truck be kept until the spring in case it is needed over the winter.

"WELCOME TO WINDHAM" SIGN UPDATE: Ms. Scott advised that she has been working with AP Dailey and Mr. Mike Salvo of the Picnic Table Factory on design and construction of a "Welcome to Windham" sign for installation on Town-owned land at Mammoth/Glance Road. She indicated that the sign is planned to be 5'x4', placed 8' off the roadway, and will be no higher than 8' high; adding it was modeled after similar signs in Londonderry. There was brief discussion regarding the size of the sign, which Ms. Scott felt may only need to be 4'x3' while Mr. McLeod thought 5'x4' may be appropriate, as well as the intended location and any related NH DOT requirements.

Mr. Salvo approached to provide details regarding the posts, noting they would be vinyl clad and of a breakaway nature. Mrs. DiFruscia inquired as to the colors, and Ms. Scott indicated it would be a white sign with a painted color seal. Discussion ensued as to the materials, and that the sign will be a raised design.

Mr. Letizio moved and Mr. Hohenberger seconded to accept the donations toward said sign valued at \$1,500; and to approve the sign and the location as specified. Brief discussion ensued, and the Board requested that Ms. Scott work up a plan of the location, which she agreed to do. Passed unanimously.

ECONOMIC DEVELOPMENT COMMITTEE: Mr. Ralph Valentine, Chairman of the EDC, approached and reviewed with the Board two, minor housekeeping amendments to the EDC By-laws. Mr. McLeod moved and Mr. Hohenberger seconded to approve these amendments. Passed unanimously.

Mr. Valentine then advised that the EDC Infrastructure Subcommittee had been looking at water in the Town; adding it always seems to be an issue as it pertained to both potability and fire safety needs. He then presented a slideshow to the Board detailing the Committee's efforts, the benefits of Town water such as lowered insurance costs for homeowners, and the EDC's request that the Board consider budgeting funds for next year to be used towards completing a Water Study. Mr. Valentine specified that the EDC was seeking the Board to support it as an operating budget item, rather than as a separate warrant article.

Mr. Hohenberger noted that, for economic development purposes, town water made all the sense in the world as stores need sewer and water, however it involved infrastructure costs that will trickle down to the residents who do not receive a direct benefit from it. Discussion ensued regarding the failure of similar requests regarding Town sewer, and Mr. Valentine clarified there is no idea at this point how infrastructure would be funded; rather the EDC's request relates just to conducting a study to determine feasibility.

Mr. Hohenberger noted that, if such a request did go forward, he would support it only as a separate warrant article giving voters the opportunity to choose. Further discussion ensued, with Mrs. DiFruscia indicating she agreed with Mr. Hohenberger. Also discussed was the need for outreach/education to the public regarding same.

Mr. Letizio noted that 92% of the Town's taxes are supported by the residents; adding that the survey conducted by the EDC showed overwhelming that Andover, MA and Bedford, NH were the vision held by the community and both had an 80/20 mix. He felt that, regardless of whether the Board cut the budget, taxes would still be high due to this disparity in commercial and residential taxes; adding he would like the study funded in the budget, however, even as a warrant article he would like to see much more discussion about it.

Mr. McLeod indicated that he fully supported this study, as it is distinctly different than the sewer matter as water issues in Town are documented. He noted he agreed with Mr. Hohenberger that it should be a separate warrant article, as this would help with overall awareness and encourage further public discussion.

Mr. LoChiatto also indicated he supported the study wholeheartedly, and that it was clear that the Board preferred there to be more public discussion and that this request should be made as a warrant article. Brief discussion ensued regarding the various areas in Town involved.

CABLE ADVISORY BOARD: Mrs. Margaret Case, Chairman, approached noting that the WCAB has been endeavoring to update the upstairs meeting room at Town Hall for better broadcasts and, as part of that, they would like to buy 60 new chairs. Mrs. Case explained that the current metal chairs are a source of sound interference, and that the funding for the new chairs would come from the Special Cable Fund. She then showed a sample chair to the Board, which was of the padded/stackable type. Discussion ensued regarding the number of chairs needed for the room, and that the others will be placed in storage rather than disposed of.

Mrs. DiFruscia then moved and Mr. Letizio seconded to approve the purchase of 75 chairs from the Special Cable fund. Discussion ensued in that the WCAB had only authorized, by their vote, Mrs. Case to request 50-60 chairs.

Mrs. DiFruscia amended her motion and Mr. Letizio his second to authorize the purchase of up to 75 chairs. Passed unanimously.

PROPERTY MAINTENANCE TRUST: Mr. Sullivan reviewed with the Board a proposed prioritization of remaining Property Maintenance Trust monies as follows:

1. Exterior Painting as scheduled (Fire, Police, Senior Center, Bartley and Searles exteriors), \$25,550
2. Correction of water issue at Police Department
3. Repair the heat in the Fire Department bays, \$3,800
4. Repair the west side of the Senior Center roof, \$3,600
5. Replacement windows at the Police Department, est. \$6,500
6. Repair the Community Development Department roof, est. \$20,000
7. Bay doors at Community Development, est. \$15,000
8. Carpeting in Community Development, est. TBD
9. Refinishing of the Town Hall hardwood floor, est. \$6,000

After a brief discussion, it was the consensus of the Board to support this prioritization, and that staff proceed accordingly.

OLD/NEW BUSINESS: Mrs. Call advised that the Department of Revenue Administration had been going to delay tax rate settings until November, however, staff had since been advised that they are returning to their normal schedule of mid-October.

The Chair called for a brief recess.

IMPACT FEE ANALYSIS: Ms. Scott opened the discussion by apologizing to the Board for the time it took her to compile the information she was presenting; noting it had not been a priority for her due to her misinterpretation of the statutes regarding impact fees as it pertained to vesting. She indicated that once it had been pointed out to her, she had addressed it immediately; adding that tonight's discussion would revolve around the impact fee collection process. Ms. Scott then reviewed with the Board the attached memo; which details the history of various statutory and local requirements regarding impact fees.

Mr. Sullivan noted that, though the data is still being compiled, the amount of Public Safety impact fees that went uncollected was far less than the \$400K suggested by Mr. Mayberry to the Planning Board. He noted the figure is currently closer to \$100K, and that staff is working to validate vesting dates to determine final impacts. Mr.

Sullivan then noted that, as it pertained to the School impact, their verification has just begun and any uncollected dollars would be much smaller and due only to changes in the amount of the fee.

Mrs. DiFruscia inquired as to whether the differential between staff numbers and Mr. Mayberry's was due to grandfathering, and Mr. Sullivan replied in the affirmative. Lengthy discussion ensued regarding the uncollected funds, which cannot be collected now, the Public Safety impact fees that were collected absent any methodology, and the efforts of the Community Development Department to clarify all of the fees and provide the data to the Finance Department.

Mr. McLeod indicated that he could not help but be disappointed these funds weren't collected; adding that the Board relies on staff to know the applicable regulations. He indicated that, beyond 2014, there could be capital projects that are impacted by the loss of funds; adding that the Planning Board should consider adding language clearly indicating that seasonal conversions must pay the impact fee. Discussion ensued.

Mr. Hohenberger noted that he would like Town Counsel to confirm whether the Public Safety impact fees can be used toward the purchase of fire trucks. Mr. Sullivan indicated staff will obtain an opinion from Attorney Campbell, and Ms. Scott added that Mr. Mayberry has advised that these fees must be used towards a new structure based on population growth. Discussion ensued.

Mr. Walter Kolodziej approached expressing concerns regarding the fees collected for a future substation, prior to impact fees; noting there was no methodology or authorization to collect them. He went on to indicate that he spoken to the developers and found these fees were collected improperly, that they were not donations, and that they should be returned. Mr. Kolodziej then noted that Town Counsel had previously provided the Board with an opinion that these fees were improper and should be returned, but that the Board had opted to spend them. Mr. Sullivan noted that Mr. Kolodziej's assessment was correct, and that \$10K only remains in this fund. Discussion ensued, and Mr. Letizio indicated that he would like to hear Counsel's opinion regarding this; adding that he believed they should be returned whether they were expended or not. Mr. Hohenberger indicated the Board would need to go both ways; collecting the uncollected fees, as well. Further discussion ensued, and Mr. Sullivan indicated that staff will provide the current Board with all previous correspondence/minutes regarding these fees. Ms. Scott then clarified that, statutorily, the Town cannot collect what went uncollected previously, however some of the developers are working with the Town to pay them.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Letizio seconded to enter into nonpublic session in accordance with RSA 91-A:3 II c and d. Roll call vote, all members "yes". The topics of discussion were reputations and land acquisition.

The Board, Mr. Sullivan, Mr. Wayne Morris of the Conservation Commission, and Ms. Devlin were in attendance in the first session.

The Board discussed a potential land purchase. No decisions were made, as the Board would like to visit the site.

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

Mr. Hohenberger moved and Mrs. DiFruscia seconded to accept the Tentative Agreement with the Fire Union for April 2011- March 2017. Passed unanimously.

Mr. Sullivan updated the Board on a reputations matter. No decisions were made.

Mr. Sullivan updated the Board on a personnel matter relative to earned time. It was the consensus of the Board that Mr. Sullivan proceed as discussed.

Mr. Sullivan updated the Board on a reputations matter. No decisions were made.

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

Meeting was adjourned at 10:00 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.