

BOARD OF SELECTMEN
Minutes of July 11, 2005

MEMBERS PRESENT: Chairman Roger Hohenberger called the public portion of the meeting to order at 7:05 PM, explaining the Board had entered into non-public session at 6:00 PM to conduct interviews with the Recreation Coordinator candidates.

Selectmen Bruce Breton, Galen Stearns, Margaret Crisler and Alan Carpenter were present. David Sullivan, Town Administrator, was also in attendance. Mr. Hohenberger read the agenda into the record.

ANNOUNCEMENTS: Mr. Breton announced that the Windham Baseball/Softball League would be conducting a clinic at Griffin Park from August 1st to 5th for boys aged 6-12. Interested residents should contact Charlie McMahon at 401-4646 or Jim Ball at 965-0060 for more information.

Mrs. Criser announced that she had recently attended a meeting of the Southeastern NH Hazardous Materials Mutual Aid District, at which their annual budget had been approved. Mrs. Crisler noted that Candia and Deerfield were also approved as new district members.

Mr. Carpenter extended congratulations to the Playground Committee on successful completion of an excellent facility at Griffin Park. Also, he praised the Recreation Committee for a successful 4th of July event.

Mr. Sullivan reminded all that the Annual Senior Picnic is coming up on Friday, July 22. This year's theme is a Hawaiian luau, and the festivities will begin at 12:00 noon at the Fire Station. Mr. Sullivan also advised the public that the Administrative Office, Town Hall, and Planning and Development Department will be closed that day, to allow the employees to host the picnic.

FINANCIAL UPDATE: Finance Director Dana Call presented her quarterly update to the Board, highlights of which included:

- Over-expenditure of the Administrative legal ad line item will occur, based upon the high number of employment ads and bid notices required thus far.
- In general, heat and vehicle fuel line item expenses are higher than anticipated due to fuel price increases.
- Out-of-Town details under Police contracted services line item have been suspended, as the \$200,000 approved at town meeting has been spent. A brief discussion ensued regarding the workings of this fund, which is a 100% reimbursed account, and how similar details are handled by surrounding towns.
- Dispatch overtime expenses are high, due to two vacant full-time positions, however a savings of \$18,830 is expected in dispatch contracted services.
- Monitoring of the Fire overtime is ongoing. The Chief has implemented additional operational changes, which have successfully impacted the situation, however the savings are not immediately evident due to the ongoing staffing issues.
- Planning & Development overtime account is depleted, but the departmental budget is expected to be fine at year-end. After a brief discussion, the Board requested Mrs. Call compile a detail of this information for the upcoming departmental workshop.

- The Highway Department overtime is depleted and the Winter contracted services budget fully expended, due to the severity of this past winter season.
- The Recreation budget will recognize a savings in salary given the start date of the Coordinator.
- Health insurance premium budgeting was discussed, and Mr. Sullivan advised the Board that the Department Heads had been requested not to “bottom line” their budgets.

Mrs. Call also reviewed the status of the Town’s special accounts, noting that the Earned Time Trust and Health Trust have both been seriously depleted this year due to retirements and several significant employee claims.

After brief discussion of miscellaneous items, the Board thanked Mrs. Call for her presentation.

PUBLIC HEARING/DONATION: Mr. Hohenberger read the public hearing notice into the record. Mr. Sullivan explained that the basin in question on Castle Hill Road has been experiencing flooding problems due to its insufficient size. At the request of the Town, Mr. Peter Zohdi had inspected the area, and recommended the basin be replaced, the estimated cost of which would be \$1900 – 2610. Mr. Sullivan explained that the proposed donor had approached him to donate funds toward the repair, as his property is negatively impacted by the basin’s inadequacy.

A discussion ensued regarding the appropriateness of accepting donations toward such a Town project, whether a negative precedent was being set, and whether the acceptance could be perceived as improper.

Mr. Sullivan noted that this replacement is not a budgeted project for 2005, and assured the Board that the gentleman in question was eager to contribute and had not been approached to do so by any member of the staff.

Mrs. Crisler moved and Mr. Breton seconded to accept, with thanks, the donation of \$1,300 from a private citizen to be used toward installation of a replacement catch basin on Castle Hill Road: the location of which is known to the Highway Agent. Passed unanimously.

BOARD OF HEALTH/38 FIRST STREET: Mr. Stearns moved and Mr. Breton seconded to enter into the Board of Health. Roll call vote – all members “yes”. Mr. Hohenberger read the public hearing notice into the record.

Mr. Turner presented a tax map of the location in question to the Board, and explained that the owner, Irene Bauchman, has approximately 21’ of frontage on First Street, and 50-60’ on Cobbetts Pond. Mr. Turner noted that not much detail is available on #38, but there is very good information on the abutting lot. Mr. Turner explained that Mrs. Bauchman has a holding tank rather than a leaching field, which does not require a waiver. The well proposed by Mrs. Bauchman would be approximately 50-75’ from the neighbor’s septic system.

Mrs. Crisler inquired whether the property was seasonal, Mrs. Bauchman replied in the negative. Mrs. Crisler then inquired of Mr. Turner what the maximum distance from the septic would be and, after consulting the plan, Mr. Turner noted approximately 65’.

Mr. Carpenter inquired about the surrounding properties, and Mr. Turner noted that the lot across First Street is owned by Mrs. Bauchman and currently houses a garage, and to the opposite side are a cottage and a vacant lot.

Mrs. Bauchman explained that the new well was required as part of a reverse mortgage she was attempting to obtain in order to keep her property. Ms. Kathy Burns, of Wells Fargo, explained that FHA requires that Mrs. Bauchman have a well, rather than drawing from the pond, and that three drillers had visited the property to date to draw up estimates.

Mrs. Crisler wondered whether a waiver was required, as Mrs. Bauchman owned the two affected properties and the issue lay not with her holding tank, but the adjacent septic system. Mr. Turner noted that if the well were proposed for lot 47, a waiver would not be required.

Mrs. Bauchman confirmed that the well was intended to be drilled on the other lot, which would be over 100' from the neighbor's septic system. Mr. Carpenter sought clarification that the well would be drilled on lot 47, to which Mrs. Bauchman and Mr. Turner replied in the affirmative.

Mr. Turner inquired if measurements had been obtained from the proposed well location to the neighbor's septic, and Mrs. Bauchman confirmed that her son had measured the distance that day and confirmed it was over 100'.

After a brief discussion, the Board determined that no action need be taken, as a waiver was not required.

Mrs. Crisler moved and Mr. Breton seconded to exit the Board of Health portion of the meeting.

GRANITE STATE ELECTRIC: Mr. Sullivan explained that this agenda item had been postponed until August 8th, as the representative from Granite State was unable to attend.

CORRESPONDENCE: Letter received from Benchmark Engineering on behalf H & B Homes, petitioning the Board to re-open a portion of Hopkins Road. After a brief discussion, Mr. Sullivan advised the Board that this item was scheduled for the meeting of the 25th, at which time the Board will determine whether to send this request to a public hearing.

Letter received from the NH Department of Transportation regarding the Town's request to consider bicycle/pedestrian connections in the vicinity of North Lowell Road as part of the I-93 project. The DOT has agreed that the connection adjacent to the I-93 right-of-way appears to be, as suggested, a viable concept which will, after further evaluation, be incorporated into the final design plan as feasible and appropriate.

Bond Release – 12 Osgood Road: Mr. Sullivan explained that this was a driveway bond only, and that the area had been inspected and found satisfactory by Mr. Turner and Mr. McCartney.

Mr. Carpenter moved and Mr. Stearns seconded to release the bond in the amount of \$2,000 to Donald Wilson. Passed unanimously.

Letter received from Dr. James Finn, Chairman of the Conservation Commission, requesting a joint meeting between the Commission, the Board of Selectmen and Mr. Peter Zohdi of Herbert Associates to discuss a proposed wetland crossing to Jackman Ridge. After a brief discussion, Mr. Sullivan advised the Board he will speak to Mr. Finn further to determine the purpose of the meeting, as this may actually be a Planning Board issue.

Letter received from the NH Department of Environmental Services regarding Pennichuck, which Mr. Hohenberger deferred to later in the meeting.

Memo received from Mr. Turner advising the Board that the Planning Board had voted unanimously to recommend the Selectmen appoint Mr. Peter Griffin to the Rockingham Planning Commission for another 4-year term.

Mrs. Crisler moved and Mr. Stearns seconded to appoint Peter Griffin to the Rockingham Planning Commission as recommended. Passed unanimously.

Mr. Sullivan requested the Board members of the recently established I-93 Coordination Committee check their schedules for the ensuing week, as the Committee would like to meet.

RIGHT-OF-WAY REQUEST: Mr. Hohenberger read Mr. Rees' letter into the record, in which he requested installation of curbing along his property line at 8 Heritage Hill Road. Mr. Rees makes this request in effort to eliminate damage to his property from runoff, parking, and vandalism, and has advised the Board that if the Town cannot correct the problem through curbing, he will endeavor to do so by placing large rocks or timbers within the right-of-way.

Mr. Rees approached to reiterate his concerns, noting the problem had existed for many years and had only increased since the Middle School pickups were moved to Heritage Hill. He noted that the catch basin up the hill from him was ineffective, and the water runs around the curbing and destroys his property. Mr. Rees stated he had spoken to the Middle School and no resolution had been offered.

Mr. Stearns noted that he had previously spoken to the Highway Safety Committee about possibly posting "No Parking" signs on Heritage Hill Road.

A discussion ensued regarding curbing failing to stop parking and/or vandalism issues. Mr. Carpenter inquired whether curbing would solve the drainage issues. Mr. McCartney replied in the negative, noting that installing curbing would only move the problem further down the roadway. Mr. McCartney explained that Heritage Hill Road had been designed with sheet drainage, which was not functioning properly.

After some discussion regarding the basins, which are in good repair, and the curbing further up Heritage Hill Road from Mr. Rees, which was installed sometime in the 1970's, Mrs. Crisler moved and Mr. Carpenter seconded to have the Highway Safety Committee explore the parking issues and Mr. McCartney look into curbing the area for future discussion. Passed unanimously.

ROULSTON ROAD IMPROVEMENTS: Mr. McCartney requested that the Board consider revising the bid award for Roulston Road to allow for a more extensive repair of the area in light of issues arising out of this winter season.

Mr. McCartney explained that the original bid of \$10,528 was to shim and overlay the section only, but that he was now requesting to pulverize the existing pavement and re-crown the area from the intersection at Searles Road to the first pole after Stonehedge Road at a cost of \$27,572.

A discussion ensued regarding re-bidding the project, which was originally awarded as one of a multiple project bid. Mr. Sullivan noted that funds are available in the budget to cover the increase, which is only a 10-12% increase in the overall original bid amount of \$144K for several projects, and that essentially Mr. McCartney's request amounted to a change order.

A discussion ensued regarding whether this change would correct the problem area, which is caused by a drainage pipe run underneath Roulston to Stonehedge that may not have been compacted properly.

Mrs. Crisler moved and Mr. Breton seconded to follow the recommendation of Mr. McCartney and issue a change order for the Roulston Road project for an amount not to exceed \$27,572. Passed 3-2, with Mr. Hohenberger and Mr. Carpenter opposed.

Mr. Carpenter requested an update on the Langdon Road project. *Mr. McCartney* indicated the State is in the process of lowering Range Road to correct the deficiencies at the intersection of Langdon Road, and is endeavoring to keep traffic flowing by cutting one lane at a time. *Mr. Sullivan* stated the project should be completed sometime in September.

Mr. Breton asked that the gates at the Cemetery on the Hill be checked, as they seem to be tipping due to the dirt from the roadway work.

NEW BUSINESS: *Mr. Sullivan* advised the Board that the Town's contract with Choice One, to which phone service was switched three years ago, is expiring in November. *Mr. Sullivan* inquired whether the Board wished to go out to bid for this service, which averages about \$2,000/month.

After some discussion, it was the consensus of the Board that *Mr. Sullivan* proceed to solicit Requests for Proposal for this service from three vendors.

PUBLIC HEARING/DONATION: *Mr. Hohenberger* read the public hearing notice into the record. *Mr. Sullivan* advised the Board that, since posting for the hearing the amount of donations received had increased to \$1,305, and publicly acknowledged the following donors of cash, gifts, and products:

- Windham Neighborhood Variety
- Klemm's Mobil on the Run
- Dunkin Donuts
- Gourmet Grille
- BJ's Wholesale
- The Stove Shoppe
- Salem Cooperative Bank
- First Horizon
- Prizio Realty
- Sovereign Bank
- Cyr Lumber
- Real Estate Results
- Prudential Dinsmore Associates
- Monique Donovan Law Office
- ERA
- State Farm
- Linda Roberts Realty
- Hilltop
- Movie Scene
- Klemm's Bakery
- Coca-Cola Bottling
- Granite Tees
- Life is Good
- Pete's Scoop

Mr. Sullivan also advised the Board that the Conservation Commission had presented him with a \$50 gift certificate to the Windham Restaurant for his assistance last year, which he had been unable to accept, that he would be donating toward the Picnic door prizes. *Mr. Sullivan* extended his thanks to all who donated.

Mr. Carpenter moved and *Mr. Stearns* seconded to accept with tremendous gratitude the numerous donations to the Senior Picnic. Passed unanimously.

MARGARET CASE/CABLE: *Mrs. Case* briefly updated the Board on the establishment of the consortium of communities to be represented by one attorney during the Adelpia buy-out. She noted that the estimated legal

costs for the consortium as a whole is \$10,000, and requested the Board execute the consortium agreement for return to Attorney Epstein. As well, Mrs. Case explained that Attorney Epstein had drafted a response letter to Comcast in regards to the 394 Form, which needed to be submitted within 30-days.

Mr. Hohenberger sought clarification that the consortium does not pertain to specific, individual franchise items that the Town may have in agreement with Adelphia. Mrs. Case concurred, stating the agreement pertained to the overall franchise and that Windham has some very specific items that will be addressed separately.

Mr. Breton moved and Mr. Stearns seconded to appoint the Cable Advisory Board Chairman or his/her delegate to represent the Town in consortium matters. Passed unanimously.

Mr. Carpenter moved and Mrs. Crisler seconded to authorize the Chair to execute the Consortium Agreement and Comcast letter drafted by Attorney Epstein as counsel for the Town as requested. Passed unanimously.

MINUTES: Tabled.

OLD BUSINESS: Mr. Stearns expressed concerns regarding the rock outcroppings at the beach. Mr. Sullivan advised the Board Mr. Barlow had looked at the area that afternoon, and will follow-up the following day.

Mr. Stearns then inquired if any information had been obtained regarding cost to sift the sand. Mr. Sullivan replied in the negative, but will have staff explore this option.

The Board discussed scheduling a discussion regarding the issue of Pennichuck Water Works on an upcoming agenda. Mr. Hohenberger explained for the benefit of those watching that Pennichuck was seeking to draw water from Canobie Lake for use at the West Shore Road well, due to water quality/quantity issues. As well, Pennichuck is endeavoring to change the nature of their permit for their well site in the area of the Common Man Restaurant to be commercial rather than residential in nature.

After some discussion, the Board requested that this discussion be scheduled tentatively for August 15th, and that Mr. Sullivan arrange for invitations to be extended to the following: Pennichuck, Salem Board of Selectmen, Canobie Lake Protection Association, Department of Environmental Services, the Windham Planning Board and Conservation Commission, and area residents.

Mr. Hohenberger read correspondence (carbon copy) received from the Department of Environmental Services regarding this matter into the record, and extended thanks to Ms. Lisa Linowes for bringing this matter to the Town's attention.

NON-PUBLIC SESSION: Mr. Carpenter moved and Mr. Stearns seconded to enter into non-public session in accordance with RSA 93-A:3 IIa, b and e. Roll call vote, all members "yes". The topics of discussion were personnel and legal.

The Board, Mr. Sullivan, Mrs. Case, and Ms. Devlin were in attendance in the first session. The impending Adelphia contract renewal with Adelphia was discussed. The consensus of the Board was to have the Windham Cable Advisory Board to follow-up on this matter by sending an inquiry to Adelphia regarding the existing contract.

The Board, Mr. Sullivan, Chief Don Messier, and Ms. Devlin were in attendance in the second session. After some discussion regarding testing and promotion criteria, Mr. Carpenter moved and Mr. Stearns seconded to promote Firefighter Tim Dunn to Lieutenant and Call firefighter Mike

Specian to full-time firefighter, pending successful completion of required physical and background checks, as recommended by the Chief. Passed unanimously.

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

Personnel: The Board discussed the Recreation Coordinator interviews conducted earlier that evening. Mr. Breton moved and Mr. Stearns seconded to extend an offer of employment to Cheryl Haas as Recreation Coordinator. Passed unanimously.

Personnel: Mr. Sullivan updated the Board on the Police Prosecutor interviews, and advised the Board that the position may have to be re-advertised. The consensus of the Board was to have Mr. Sullivan and the Chief proceed accordingly.

Personnel: Mr. Sullivan updated the Board on two ongoing personnel matters, advising the Board that the first issue of concern had been resolved and that the second is pending. No decisions were made.

Legal: The Board reviewed a notice from the State of NH to purchase a small piece of land at the Searles Building. After a lengthy discussion, it was determined that Mr. Sullivan will contact the State to discuss the possibility of other options beyond purchase of the property.

Mr. Carpenter moved and Mr. Stearns seconded to adjourn. Passed unanimously. The meeting was adjourned at 10:15 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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