

BOARD OF SELECTMEN
Minutes of February 6, 2006

MEMBERS PRESENT: Chairman Roger Hohenberger called the meeting to order at 7:05 PM. Selectmen Galen Stearns, Bruce Breton, and Alan Carpenter were present. Town Administrator David Sullivan was also in attendance. Selectman Margaret Crisler was excused. Mr. Hohenberger opened the meeting with the Pledge of Allegiance, then requested moment of silence on Mr. Tom Furlong's behalf, as he had recently been involved in a serious automobile accident.

ANNOUNCEMENTS: Mr. Carpenter reminded all that the School District Deliberative Session would take place on Friday evening at 7:00 PM at Golden Brook School, and the Town's would follow on Saturday at 9:00 AM, also at Golden Brook School.

Mr. Carpenter then announced that the State would be conducting a meeting on Wednesday at 7:00 PM at Windham Middle School to present the engineering plans for the proposed Lowell Road reconstruction.

Mrs. Cheryl Haas, Recreation Coordinator, announced that her recent Valentine's Day craft program had been very successful, and extended her thanks to Mr. Sullivan for his support, and to Selectman Breton for donating crayons and stickers for the attendees.

LIAISON REPORTS: None.

RECREATION COMMITTEE INTERVIEW: The Board interviewed Ms. Beth Lippold, a three-year resident of Windham for possible appointment to the Recreation Committee.

After a brief discussion, Mr. Breton moved and Mr. Carpenter seconded to appoint Beth Lippold as a regular member of the Recreation Committee. Passed 4-0.

PUBLIC HEARING/SEWAGE REGULATIONS: Mr. Hohenberger read the public hearing notice into the record. Mr. Turner then presented the Board with proposed amendments to the Regulations Governing Sewage or Waste Disposal Systems.

Discussion ensued regarding the definition of "manifest injustice", that the amendments were more rigid than the existing ordinance, and why the Town had increased the required setback distance to 100' initially. As to the latter, Mr. Turner indicated that larger wells/septic systems had been a factor, and Mr. Hohenberger recalled that concerns regarding soil types and casings on bedrock wells had also been a factor.

Mr. Peter Zohdi approached noting that a recent court decision involving the Town of Strafford had noted that the Town's ordinance "handcuffs the design", and if the developers are forced to meet 100' the design of the system may not be as good as at 75' where better soil/percolation exists. Mr. Zohdi felt the Board's responsibility was to not only protect the well, but ensure that the system itself is good.

Mr. Turner stated he had researched other Town's and the State ordinances, and found that newer regulations mandate shorter distances. He also pointed out that Windham's ordinance requires 5' of soil over the system, which is also outdated. Mr. Turner suggested that if the Board were going to re-post the hearing regarding the distance, they may want to adjust the depth as well.

Mr. Karl Dubay, Engineer, stated he had compared the Town's regulations to the State's, and that our ordinance appears to pre-date the State's. He noted that there are several differences between the two, and that the State's

is very rigid. He felt that the Town should endeavor to follow the State's example.

Mr. Joe Maynard, Benchmark Engineering, supported a reduction to 75', however he noted that there are times that developers will need less and did not support not having a provision for a waiver.

A discussion ensued regarding "as-is" replacement of systems, grandfathering of existing systems, and the pros and cons of a waiver clause.

Mr. Carpenter noted the Board had previously discussed leaving the requirement at 100' and adding a waiver clause. He suggested the Board proceed as such, and add additional language allowing staff to address requests that fall between 75' and 100'. The members concurred, and Mr. Hohenberger suggested that language also be added to require engineering documents showing that the soils can handle the distance requested.

Mr. Carpenter inquired whether the matter would need to be reposted to add the language, and Mr. Sullivan noted the amendments do not require a public hearing anyway, so he did not believe it would be an issue.

Mr. Turner suggested that the depth also be amended to 4'. Mr. Maynard approached to note that the State requires 18" of natural soil.

A discussion ensued regarding clogging problems with the new systems, which require a specific sand type. Mr. Hohenberger inquired whether the Board should add requirements regarding materials used, and Mr. Turner agreed. A brief discussion ensued, in which Mr. Stearns suggested Mr. Turner review the document for those types of changes for discussion in the future.

Mr. Stearns then moved and Mr. Breton seconded to add a new section, 102.3, allowing the Health Officer to grant waivers up to 75' upon presentation of certified engineering analysis of the soil supporting the waiver request.

Mr. Hohenberger inquired how long it would take to review the document for the other changes discussed. Mr. Turner indicated approximately two weeks.

Further discussion ensued regarding the definition of "manifest injustice". Mr. John Basileco stated that, according to his law dictionary, it was defined as an "error in trial court that is direct and obvious". A discussion ensued regarding manifest injustice versus hardship. Mr. Turner pointed out that there are several kinds of "hardship", and manifest injustice pertains to the legality of what is being done. Mr. Hohenberger suggested that Town Counsel be contacted to confirm the definition of "manifest injustice".

Attorney Lefebvre approached to express concerns regarding delegating the authority to grant waivers, lowering the distance, and the timing of this discussion. He felt that the Board should table any amendments and act on the pending applications, and that by delegating the authority to the Health Officer abutters lose the opportunity to speak for or against an application.

Mr. Carpenter felt Atty. Lefebvre raised an excellent point about the abutters, and suggested a caveat be added to the language that only "uncontested" applications be handled by the Health Officer.

Mr. Maynard approached and urged the Board to consider the property owner's perspective as well, noting that on some older lots wells have been drilled with no regard for neighboring properties.

Discussion on Mr. Stearns motion then resumed. The motion failed 2-2, with Mr. Carpenter and Mr. Hohenberger opposed.

Mr. Carpenter then moved and Mr. Hohenberger seconded to approve the amendments as written. Mr. Breton asked that Mr. Turner work with Mr. Zohdi, Mr. Maynard, and Mr. Dubay to review the ordinance as a whole for additional revisions. All agreed.

Motion passed 4-0.

CORRESPONDENCE: Bond release/Bear Hill Road Extension: Mr. Carpenter moved and Mr. Breton seconded to release the amount of \$935,772, retaining \$219,822, to Dean Smith as requested. Passed 4-0.

Bond release/Squire Armor Road Extension: Mr. Breton moved and Mr. Stearns seconded to release the bond in the amount of \$16,281, retaining \$16,464, to Mase Construction as requested. Passed 4-0.

Bond Release/Jenny's Hill Road: Mr. Carpenter moved and Mr. Breton seconded to release the bond in the amount of \$48,900, retaining \$28,476, to Mesiti/Castle Reach LLC as requested. Passed 4-0.

OLD BUSINESS: Mr. Sullivan updated the Board on the permit application relative to mosquito control, noting that the Board had authorized completion of the permit only, which was now being held. Mr. Sullivan explained that this was due to the permit requirements, which mandated that the Town must use the vendor completing the application, as the permit is issued to the vendor and not the community.

A discussion ensued regarding the requirements, the possibility of contacting the State regarding using a different vendor, and the possibility of a joint application/bid with another community.

Mr. Carpenter then moved and Mr. Breton seconded to authorize staff to proceed with the application as requested, and that staff maintain a log of all telephone calls, including names/addresses/phone numbers, related to mosquito concerns. Motion passed 3-1, with Mr. Hohenberger opposed due to the lack of a bid process.

Mr. Breton advised the Board that Commissioner Stevens is developing a program for presentation to the Town regarding the Avian Flu.

The Chairman called for a five minute recess.

RECREATION WORKSHOP: Mr. Hohenberger explained that this discussion of the Recreation Committee charge had been promulgated by the hiring of Mrs. Haas as Recreation Coordinator, and that input had been solicited from the Committee.

Several proposed changes were discussed, including oversight of the budget by Mrs. Haas and authorization for her to expend up to \$500 without approval. Mr. Breton suggested this level be raised to \$1,000 to mirror other Town departments, which will allow for more timely purchases. After a brief discussion, it was the consensus of all that \$1,000 was acceptable.

Mr. Dennis Senibaldi, Recreation Committee Chairman, then interjected that the Committee would like further time to review the proposed changes at their meeting on the 16th, and noted that only two member were present.

Discussion moved to either making Mrs. Haas a member of the Recreation Committee or doing away with the Board of Selectmen liaison and making Mrs. Haas liaison instead. Mr. Sullivan disagreed with both suggestions, citing the conflict of employees being part of committees they are required to work with. Mr. Ralph Valentine, Recreation Committee, agreed, noting that making Mrs. Haas a member would lessen their pool of officers.

A discussion ensued regarding Mrs. Haas' duties, and Mr. Sullivan pointed out that the Coordinator's job description is very clear, and that the goal was to codify the Committee's charge in relation to the description. Mr. Sullivan

noted that Mrs. Haas is accountable to himself, the Board of Selectmen and the Town, and a discussion ensued regarding the operations of the Cable Coordinator and Cable Advisory Board.

Several other items in the Committee charge were reviewed, including: removal of the requirement to post meetings in the local paper; modify the language stating that member terms shall take effect in September, instead making them effective in June; rotation of officers on an annual basis; removal of the conflict of interest clause; inclusion of the scheduled meeting date/time; and addition of language allowing the Coordinator to call a meeting.

Mr. Sullivan then inquired whether the Board wished to make the Board of Selectmen liaison a voting member. The Board did not.

Mrs. Haas will incorporate those changes discussed for submission to the Selectmen and Committee members.

Mr. Senibaldi pointed out the following concerns: that the budget should be developed by the Committee with input from Mrs. Haas, rather than the other way around; that the Committee had envisioned the Coordinator working side-by-side with the Committee on day to day items; whether input will be obtained from the Committee on purchases up to \$1,000 as amended, and; possible future conflicts with subsequent Coordinators.

Mr. Hohenberger noted that the \$1,000 would be for specifically budgeted expenses or items.

Mr. Sullivan clarified that the intent of the budget paragraph was to mirror the Coordinator's job description, which states that the Coordinator prepares and administers the budget with input from the Committee. Mr. Senibaldi then inquired whether the Committee's ability to make decisions would thus be removed, and Mr. Sullivan stated the intent is for the Coordinator and Committee to work together and then make a determination. Mr. Sullivan also pointed out that the Charge can be amended at any time.

Mrs. Haas will incorporate the changes and any input/comments from the Committee for discussion on March 6th.

NEW BUSINESS: Mr. Carpenter expressed concerns to Mr. John Basileco, area reporter, regarding the accuracy/impressions surrounding recently published stories written by him.

A discussion ensued, wherein Mr. Sullivan clarified that the Eagle Tribune staff writers do not craft their own headlines, which has been an issue in the past. Mr. Carpenter noted that in reading the recent article about the Griffin Park house it appeared to be a done deal. A discussion ensued, wherein Mr. Basileco and Mr. Breton defended the accuracy of the article.

OLD BUSINESS, CONTINUED: Mr. Sullivan noted that two bids had been received relative to the sale of the remaining right-of-way on Rocky Ridge Road. Mr. Sullivan reminded the members that the previously awarded bid had fallen through due to issues with the existing dock, which he understands may have to be removed per the Department of Environmental Services. The bids were as follows: \$15,000 from Myer, and \$16,100 from Jacobs.

After a brief discussion, Mr. Carpenter moved and Mr. Stearns seconded to accept the higher bid of \$16,100. Passed unanimously.

CORRESPONDENCE, CONTINUED: Letter received from the Town of Pelham advising the Board that the Castle Hill Road and Tallant Road bridges will both be closed for extended period during repairs to the latter.

Mr. Sullivan indicated there is some discussion in Pelham regarding permanent closing of the Castle Hill Road bridge, and that he has spoken to

Pelham Town Administrator Gaydos about scheduling a joint meeting to discuss funding the repair.

Mr. Hohenberger then indicated he would like Mr. Sullivan to arrange a joint meeting with the School Board, as well, to discuss the access road to the High School. Mr. Stearns clarified that the Army Corps of Engineers had been contacted regarding the London Bridge causeway and, because it could be listed in the National Register, the School Board must address its preservation.

A brief discussion ensued regarding joint bidding on fuel and the like, which was previously discussed but never addressed. Mr. Sullivan will follow up on both items with Mr. Gallagher.

MINUTES: Mr. Breton moved and Mr. Stearns seconded to approve the minutes of January 17th as written. Passed 3-0-1, with Mr. Carpenter abstaining due to absence.

NON-PUBLIC SESSION: Mr. Carpenter moved and Mr. Stearns seconded to enter into non-public session in accordance with the provision of RSA 93-A:3-IIb. Roll call vote – all members “yes”. The Board and Mr. Sullivan were in attendance and the topic of discussion was personnel.

The Board discussed the fire chief candidates and narrowed the field of finalist to three. Interviews for these three candidates will be scheduled over the next few weeks.

Mr. Breton moved and Mr. Stearns seconded to adjourn. Passed unanimously.

The meeting was adjourned at 10:30 pm.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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