

**BOARD OF SELECTMEN**  
**Minutes of October 15, 2007**

**MEMBERS PRESENT:** Vice-Chairman Dennis Senibaldi called the meeting to order at 7:05 PM. Selectmen Bruce Breton, Margaret Crisler and Roger Hohenberger were present, as was Town Administrator David Sullivan. Chairman Alan Carpenter was excused. Following the Pledge of Allegiance, Mr. Senibaldi read the agenda into the record.

**ANNOUNCEMENTS:** Mrs. Barbara Coish, Sister City Committee, approached to announce that students from Suzdal, along with their teacher and an administrator from their school, will be visiting Windham from October 29<sup>th</sup> to November 3<sup>rd</sup>. The guests will be staying with host families, and Mrs. Coish urged anyone who wishes to help during the visit or has ideas for activities to contact her.

*Transfer Station Manager* Dave Poulson approached to update the Board on the damaged trailer, noting that he had been working with Devito Trucking to either repair or replace the unit. Mr. Poulson advised the Board that the insurance settlement had been established as \$23,500, and Devito Trucking had quoted a salvage value of \$18,000. Mr. Poulson went on to note that a new trailer could be obtained at a cost of \$49,000, and that Devito Trucking had expressed a willingness to offset through metals collected the remaining \$7,000 toward the new trailer.

Mr. Hohenberger expressed concerns that this would bypass the bid process. Mr. Sullivan indicated that bidding the trailer new is not an option, as the Town's insurance carrier has commissioned with Devito to repair the trailer. A discussion ensued as to whether or not any work had been completed on trailer, to which Mr. Poulson replied in the negative.

Mr. Poulson clarified that Devito, our current metals broker, would offset the remaining monies needed for the purchase by deducting them from tonnage of metal collected. Discussion ensued regarding the original purchase price of the trailer and its depreciated value.

Mr. Breton then moved and Mrs. Crisler seconded to authorize Mr. Poulson to proceed to replace the 2004 Transfer trailer with a 2008 model as proposed. Passed 3-1, with Mr. Hohenberger opposed.

*Recreation Coordinator* Cheryl Haas reminded all that the Annual Harvest Festival was scheduled for the following Saturday. The Dog Parade will begin at 1:00 PM, and the remainder of the festivities at approximately 3:15 PM.

*Mrs. Crisler* noted that the Women's Club Coat Drive had been very successful, with over 830 items collected and distributed to the Shepherd's Pantry, Lazarus House, and New Horizons. Over 61 volunteer hours were logged, and Mrs. Crisler extended a special thank you to the Girl Scouts who went out and gathered coats for the drive.

*Mrs. Crisler* noted that Kevin Gardner will be speaking at the following Thursday's Garden Club meeting at the Town Hall. Mr. Gardner will be discussing stone walls, and the public is welcome to attend. Reservations are required, and those interested should contact Diane Sarnie.

**LIAISON REPORTS:** Mrs. Crisler advised that the Planning Board had met the previous Wednesday and worked to catch up on a backlog of items; mostly conceptual in nature. Mrs. Crisler noted that one item discussed was the Clarke Farm North development, proposed to contain 75 elderly housing units. Also, several housekeeping zoning amendments were discussed, as well as possible rezoning for multi-family housing.

*Mrs. Crisler* noted that the Historic District Commission has asked the Planning Board to include in their amendments the Historic Demolition Ordinance. *Mrs. Crisler* explained that this ordinance would require a 30-day delay before the demolition of an historic structure. In addition, *Mrs. Crisler* noted that the HDC has also asked that the land on which the caboose rests and the adjacent Stickney cellar hole site be rezoned as part of the Depot Historic District.

*Mrs. Crisler* advised that the Economic Development Committee, part of the Greater Salem Chamber of Commerce, had been meeting regularly and discussing ways to encourage commercial development in Windham with minimal impacts and suitable jobs for Windham residents. She noted the Committee is trying to keep to the Town's Master Plan, and will likely conduct a build-out analysis and charette for future discussion with the Board of Selectmen.

**ANNOUNCEMENTS CONTINUED:** Mr. Breton noted he had attended the Fire Department's open house the previous Saturday, and that the event had gone very well. Chief McPherson approached and extended thanks to all who attended, and to the Department staff for their efforts. He also thanked the Board for attending.

*Mr. Sullivan* noted that there were two important public hearings scheduled for the next agenda: the first pertaining to the renaming of several roadways, for which he asked the Board be prepared to discuss specific names, and; the second pertaining to the possibility of establishing a water agreement. *Mr. Sullivan* noted that no draft document had been prepared, as yet. *Mr. Senibaldi* inquired whether residents would be notified relative to the road names, and *Mr. Sullivan* replied that Tax Assessor Rex Norman had sent out notices to the abutters on Range Road, as many residents would be effected in this area in particular.

*Mr. Senibaldi* noted he had received a few comments relative to the hours of 5P-7P for trick-or-treat. Discussion ensued with Police Chief Lewis regarding the hours, and it was the consensus of the Board that the hours be revised to a recommended 5P-8P. Staff will follow up to notify the Windham Independent of the change.

**CORRESPONDENCE:** Letter of resignation received from Diana Vincent, Assistant Town Clerk. *Mrs. Crisler* moved and *Mr. Hohenberger* seconded to accept *Mrs. Vincent's* resignation with regret and thanks. Passed 4-0.

*Letter of resignation* received from Lee Maloney, CART representative, submitted in order for her to pursue the executive position of Director of CART. *Mr. Hohenberger* moved and *Mrs. Crisler* seconded to accept *Ms. Maloney's* resignation with regret and thanks. Passed 4-0.

*Letter of resignation* received from Margo Luhrmann, Housing Authority member. *Mrs. Crisler* moved and *Mr. Hohenberger* seconded to accept *Mrs. Luhrmann's* resignation with regret and thanks. Passed 4-0.

*Copies of letters* received from Senator Letourneau to various State agencies in support of ongoing Town projects, including the lease of the Depot Buildings, Fire Department SAFER Grant application, and the possible allocation of state funds to corridor communities.

**GREG BURTON/TRAIL EASEMENTS:** *Mr. Burton*, 26 Simpson Road, approached and made a lengthy presentation to the Board regarding his concerns relative to a pedestrian easement on his property, and his intent to draft a petition for the 2008 Town Meeting to have it removed. As part of his presentation, *Mr. Burton* noted the following:

- The easement, which is 1000' in length, was created in 1997 as part of the Candlewood Estate subdivision.
- The easement was put into the site plan by the Planning Board and the developer, but is not part of any existing trail network; rather it was designed to connect neighborhoods.
- The easement crosses the WWPDP, an aquifer district, and a Hydric A and B area.
- Although classified on his property as a pedestrian easement, this same area is shown on his neighbor's property as a drainage easement.
- There is little area remaining to support a trail, due to a retaining wall and storm drain in the area.
- Mr. Burton indicated he had specifically selected his home as he wished to reside on a cul-de-sac, and was unaware at the time of purchase that the easement existed, which may have effected his decision.
- Mr. Burton raised concerns regarding injury liability, the proximity of the easement to his wall and shed, safety of the children residing in the area, and policing of the densely wooded area.

Mr. Hohenberger inquired what had prompted Mr. Burton to approach the Board, and if he had just discovered that the easement existed. Mr. Burton replied in the affirmative, noting that after learning of the easement through a letter from the Trail's Committee, he had visited the Planning Department and obtained a copy of "Walking in Windham", which indicates that the easement in question is currently open to the public.

Mrs. Crisler noted that the Planning Board had, in the past, undertaken much discussion regarding preserving wood and logging roads, and establishing easements such as Mr. Burton's as a means to do so. She noted that, currently, developers are required to lay out trails such as this so that future owners are aware of them.

Mr. Burton indicated he understood the intent of the Planning Board, and noted he had had Assistant Planning Sean Logue visit the area, who had seen no evidence that a trail exists in the area.

Mr. Senibaldi inquired what Mr. Burton was seeking from the Board. Mr. Burton replied he was asking that they recommend his petition in March. Discussion ensued regarding the Board's practice of reviewing and recommending warrant articles at public hearings prior to March.

Mr. Alan Putnam, 26 Bear Hill Road, approached indicating he had similar concerns to Mr. Burton, as well as other extenuating issues with the pedestrian easement on his property. Mr. Sullivan noted that the Board should anticipate many more resident concerns, and inquired how the Board wished to handle them. A discussion ensued as to whether the Board should schedule one evening to handle all issues.

Mr. Morris approached to clarify that the Trails Committee had forwarded letters to the owners to advise them that surveying would be taking place on the easements. Mr. Morris further noted that most are 10' easements, and would be laid out to 4' trails.

Mr. Mike Piessens, Squire Armor Road, approached to state that he believed that each should be separate warrant article, noting that his particular concern was that the easement on his property connects not to another neighborhood, but to Griffin Park.

Mrs. Crisler suggested that the owners should proceed with drafting their individual warrant articles, and that the Board schedule an evening to review them with the parties during the Board's review of the warrant.

Mr. Piessens sought clarification on his easement. Mrs. Crisler noted that, at the time Squire Armor was constructed, the Planning Board had been concerned that there was no way for those residents to get to Griffin Park except via Range Road.

Mr. Sullivan then clarified that a different process would be required for any easements on unaccepted roads and those in open space developments. A brief discussion ensued.

**PUBLIC HEARING:** Mr. Senibaldi read the public hearing notice into the record. Mr. Turner reviewed a map of the roadways to be accepted, and noted that each had been inspected by himself and Mr. McCartney. Mr. Turner also noted that the cistern was working and had been tested as required by the Fire Department.

Mr. Breton inquired whether the speed limit could be set at 25mph as part of the acceptance. Mr. Sullivan replied in the affirmative.

Mr. Hohenberger inquired whether a curb cut could be constructed to the well house easement. Mr. Turner replied in the affirmative, noting construction of an apron could be required as part of the acceptance.

After a brief discussion regarding the testing of the cistern, Mrs. Crisler moved and Mr. Breton seconded to accept Sheffield Road, Class V from Station 20+20 to Station 48+22; Sheffield, Class VI from Station 48+22 to Station 50+09.15; and Lancelot Road, Class V from Station 00+00 to Station 04+63.92.

After a brief discussion, Mrs. Crisler amended her motion and Mr. Breton his second that the acceptance be conditional upon construction of an apron over the first 10' of the pump house access road, subject to inspection by the Highway Agent. Passed 4-0.

Mr. Breton then moved and Mr. Hohenberger seconded to post Sheffield Road as 25 mph. A discussion ensued, and Mr. Breton clarified that his motion was made relative to the health and safety of the residents in the area. Passed 4-0.

*Bond Release:* Mr. Hohenberger moved and Mr. Breton seconded to release the balance of the bond after the apron is construction. Passed 4-0.

**RECREATION MASTER PLAN:** Mrs. Haas reviewed the first draft of the Recreation Master Plan as compiled by the Rockingham Planning Commission with the Board. Mrs. Haas noted that the document needs much rewriting, and that she was looking for the Board's input.

Several items were discussed for Mrs. Haas to follow-up on, including: addition/correction of several conservation areas; participation projections versus trends; and projections of future field, passive, and senior needs as they pertain to impact fee development.

Mr. Breton inquired whether the School District's plan had been taken into account. Mrs. Haas noted it was referenced in the document only. A discussion ensued regarding the possibility of shared maintenance, etc. between the Recreation Department and the School District.

Mr. Turner noted that all Master Plans are dynamic and changing documents, but that a date needs to be established to complete them.

**OLD/NEW BUSINESS:** Chief McPherson approached regarding engine issues that have arisen with the Department's 1982 Spartan ladder truck. He noted that Firefighter/Mechanic Zins had found that the vehicle was burning oil and recommended it be looked at further. Chief McPherson then stated that Pelham Diesel had inspected the engine and advised that if it continued to be run the motor would fry, and the vehicle had subsequently been taken out of service.

Chief McPherson advised the Board that Pelham Diesel had provided an estimate to repair the engine, which currently has over 20,000 hours of service on it. The estimate covers full engine repairs for the vehicle, which the Chief indicated was a necessity in the Winter season. A discussion ensued regarding expediting the repair process, available budget, and any time savings in allowing the Chief to solicit estimates.

Mr. Breton moved and Mrs. Crisler seconded to waive the formal bid process and allow Chief McPherson to obtain written quotes to repair the ladder truck. Passed 4-0.

*Mr. Sullivan* reviewed the draft Drug Free Workplace Policy with the Board, noting that currently all applicants are screened and all drivers comply with random testing. Mr. Sullivan further noted that the policy will expand the current practice to comply with the 1988 Federal drug-free workplace regulations; and speaks about "Zero Tolerance", spells out sanctions, and allows for "reasonable suspicion" testing. A brief discussion ensued regarding the possible inclusion of random testing for all employees.

Mr. Sullivan will post this for the 29<sup>th</sup> or later agenda for approval.

**LEDGE ROAD BLASTING UPDATE:** Mr. Sullivan advised the members that the final, independent reports have not been completed, however, this update had been scheduled after Mr. Hamburger met with Mr. Sullivan regarding his concerns with renewal of the blasting permit. Mr. Sullivan indicated that Mr. Turner had invited the independent consultants to attend, as well.

Mr. Hamburger, 57 Haverhill Road, approached indicating he had inquired of Mr. Turner whether or not Precision's blasting permit would be renewed for the Ledge Road site, and that Mr. Turner had replied in the affirmative. Mr. Hamburger then advised the Board that his nitrate levels have recently spiked, and that he had been informed by experts that the primary causes of this are blasting and farming, and that nitrates are dangerous to pets. Mr. Hamburger noted that the Town is well aware of the danger the blasting is causing, and officially requested that the permit not be renewed until the independent testing is complete. He also sought clarification as to why the blasting was occurring on the left side of the parcel, when the roadway is on the right.

Mr. Turner introduced one of the independent consultants, Dr. Gene Simmons of Hager-Richter, noting that Dr. Simmons had reviewed over 400 related blasting reports, visited the development site, and observed the blasting company's operations.

Dr. Simmons approached and advised that he had found that the blasting company's operation and reporting adhere to all requirements, noting that the blasting reports were excellently prepared. Dr. Simmons indicated he had viewed the site itself and the installation of seismographs, and found that the latter were installed properly and in the proper locations. Dr. Simmons stated he believed that all State and Town ordinances are being complied with.

Mr. Hohenberger then inquired how, based upon his review, Dr. Simmons could explain the well issues being experienced. Dr. Simmons deferred to Mr. Stone of StoneHill Environmental regarding the water issues, but noted that as far as reported foundation cracks, the vibration levels from the site are quite low. Dr. Simmons noted that the standard is 2" per second, and he found that no properties in the area show a level equal to that. He suggested that the pre-blast surveys be compared to the existing conditions.

Mrs. Crisler noted that concerns had been expressed previously regarding placement of the seismographs. Dr. Simmons advised that the standard method of placement is with spikes firmly into the ground and the seismograph resting on the surface with a weight on top, as necessary. Dr. Simmons advised that each piece of equipment he observed being installed was done so correctly. A brief discussion ensued regarding the impacts of loose/fill areas versus solid bedrock/soil. Dr. Simmons noted that bedrock results in a higher frequency/lower amps, and that loose soil results in the opposite. The impact, if any, on the seismographs of truck traffic on Route 111 was questioned by Mrs. Crisler, and Dr. Simmons noted vibrations from a level highway such as 111 would be very low.

Mrs. Crisler then inquired whether Dr. Simmons had any suggestions to improve the Town's Blasting Ordinance/pre-blast procedures. Dr. Simmons replied in the affirmative, noting he had reviewed the document and included suggestions in his packet to the Board. Mr. Sullivan indicated that these possible amendments will be discussed on the 29<sup>th</sup>.

Mr. Senibaldi inquired how many pre-blast surveys had been conducted. Mr. Turner believed that there had been 15, however, he advised that the Town does not track or monitor these items as per Town Counsel recommendation. Mr. Turner then noted that the standard for historic stone foundations was 2" per second, which was why the Town had adopted that measurement.

Mr. Sullivan inquired whether Dr. Simmons review was complete, and Mr. Turner replied there were a few items left for him to review. Mr. Breton inquired how long until completion of the independent review, and Mr. Turner noted that, while Dr. Simmons is nearly done, the well review had been delayed by lack of submissions from the property owners. Mr. Turner indicated that StoneHill had drilled and tested two wells on the blast site to use for comparison during their evaluation, and that all onsite chemicals have been documented. StoneHill will now work to coordinate interviews/water testing with each effected owner.

Mr. Tim Stone, Hydrologist, approached noting that, to date, he had received information on 25 wells. Mr. Stone noted that natural arsenic is a problem in wells around Windham, and tests show that it was present prior to the blasting. Mr. Stone further noted that tests at Mr. Hamburger's home do show a level of nitrates slightly above the health standard. He noted that StoneHill will be interviewing homeowners at selected properties and testing each well/septic system.

Mr. Stone advised that a 50' boring had been drilled on October 4<sup>th</sup> in the deepest area of the construction site and water collected for analysis, which is not yet completed, and that surface water collection is pending. Twelve homes have been selected for review, and appointments need to be scheduled with each of the owners, followed by a two-week turnaround for the results. StoneHill will then analyze the trends based on at least two (2) samples from each property.

Mrs. Crisler inquired about seasonal variations in contaminant levels. Mr. Stone replied that water table fluctuations and changes in flow can result in increased bacterial levels during Spring depending on the well casing, and

that heavy flooding can impact quality as well. Discussion ensued regarding the well depths and the relation of bacteria to surface water. Mr. Stone indicated that, although most bedrock wells are 300-400' deep, they are actually open to where the casing ends, especially if sealed improperly.

Mrs. Crisler inquired as to means to remove arsenic from well water. Mr. Stone indicated that reverse osmosis is the preferred method, but that it is very complex and costly.

Mr. Hohenberger inquired whether Mr. Stone could explain the change in the nature of the wells if the blasting is below the 2" per second standard. Mr. Stone replied that he hadn't seen any data yet indicating there had been a change to the wells. A discussion ensued regarding the strength of the blast vibrations versus the well casings.

Dr. Simmons approached to explain that the 2" per second standard had been developed in the 1950's as the vibration at ground level at which cosmetic damages such as cracked sheetrock began to occur. He further noted that when blasting most of the resultant vibration is at surface level and as you go deeper into the ground it reduces.

Discussion ensued regarding the wells selected for evaluation, changes to the blasting ordinance relative to water analysis, fracture trends in bedrock, and consideration of impacts from the High School site.

Mr. Stone indicated the analysis would begin with 12 wells, and extend further if necessary. Mr. Hohenberger suggested that wells above the site be tested as well, even if they are not contaminated, to establish a baseline. Mr. Turner replied that to do so was the blaster's responsibility, and that he believed they were done as part of the pre-blast surveys. A brief discussion ensued regarding the 50' boring results, which Mr. Stone indicated would be available in a week or so.

Mr. Greg Kindrat, 61 Haverhill Road, approached in favor of postponing the permit renewal. He noted that in 2000, he had had no nitrates in his well and, in the Spring of 2007, the levels had skyrocketed. He stressed that the owners were not just imagining the damage to the property, and indicated they have video and documentation to prove their issues.

Ms. Julia Wissel, 55 Haverhill Road, approached and thanked Dr. Simmons and Mr. Stone for their information. She then advised that she currently has 10% arsenic in her blood, and that silica has been flowing into her yard from the site for over a year. Mrs. Wissel noted that her water had been tested prior to the project beginning, and no arsenic was present. She also supported the postponement of the permit.

Attorney Bruce Marshall approached on behalf of the property owner, and clarified that the reason the blasting had been occurring on the opposite side of the site was due to a curve in the roadway.

Mr. Breton expressed several concerns regarding site safety, including that several large boulders are being held back from falling into the roadway by only a silt fence. Mr. Hohenberger indicated he would prefer to wait to renew the permit until the boring results come in, and that he would like to see the pre-blast survey area expanded to include all properties around the site and across Route 111. Discussion ensued regarding the number originally required by the Planning Board, which was fifteen.

After a brief discussion regarding the size of this project versus others previously undertaken in Town, Attorney Marshall approached and indicated his client would agree to hold off on blasting until mid-November and would present a map at that time depicting which properties underwent a pre-blast survey/water test prior to start of the project.

Further discussion ensued regarding the time necessary to complete independent analysis of the site/results, interviews with owners, and independent water testing, after which Attorney Marshall indicated his client would agree to forego blasting activities until December 1, 2007.

Mr. Stone then encouraged the property owners to submit whatever information they have regarding their wells for evaluation.

Mr. Sullivan clarified that Mr. Turner will take no action on the permit renewal, as to do otherwise would force the developer to appeal the Town's decision.

**OLD/NEW BUSINESS CONTINUED:** Mr. Breton tabled his item until the 29<sup>th</sup> agenda.

*Mr. Senibaldi* advised the Board that three quotes had been obtained relative to replacement of fencing at Tokanel Field. A brief discussion ensued regarding the Recreation Improvement Fund, Mr. Zohdi's donation of engineering services for Nashua Road, and Mr. Hohenberger's intent to allocate any remaining funds to the Depot project.

Mrs. Crisler then moved and Mr. Breton seconded to authorize the expense of \$1,550 from the Recreation Improvement Fund to replace the fence at Tokanel Field, with the remaining \$450 to go towards the Depot project. Passed 3-1, with Mr. Hohenberger opposed.

*Mr. Senibaldi* inquired whether the Board wished to appoint John Alosso to the Housing Authority, as per his letter of interest, in light of Mrs. Luhrmann's resignation. It was the consensus of the Board to post the vacancy with a deadline for letters of interest of October 29<sup>th</sup>.

*Mr. Sullivan* presented a municipal agreement relative to the Depot Project Grant. It was the consensus of the Board that Mr. Sullivan execute the document accordingly.

*Mr. Sullivan* advised the Board that the Town's insurance carrier will be paying those vendors directly who contributed toward the clean-up of the Transfer truck accident.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mrs. Crisler seconded to enter into a non-public session in accordance with RSA 91A:3 IIa. Roll call vote – all members "yes". The topic of discussion was personnel, and the Board, Mr. Sullivan, Police Chief Lewis and Ms. Devlin were in attendance.

The members discussed a union matter with the Chief and Mr. Sullivan. It was the consensus of the Board that Mr. Sullivan proceed to address this matter as proposed.

Mr. Hohenberger then moved and Mrs. Crisler seconded to adjourn. Passed 4-0.

The meeting was adjourned at 11:20 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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