

BOARD OF SELECTMEN
Minutes of October 6, 2008

MEMBERS PRESENT: Chairman Dennis Senibaldi called the meeting to order at 7:45 PM. Selectmen Bruce Breton, Galen Stearns, Charles McMahon and Roger Hohenberger were present, as was Town Administrator David Sullivan. Mr. Senibaldi advised that the Board had commenced their meeting at 6:30 PM in a non-public session, and then read the agenda into the record, followed by the Pledge of Allegiance.

ANNOUNCEMENTS: Mr. Breton advised that Mr. Cliff Sinott of the RPC had been present at the previous Wednesday's Planning Board meeting to review the latest CTAP report, copies of which he provided to the Board. He asked that the members review the document and complete and return the recommendation portion to him.

Recreation Coordinator Cheryl Haas approached to extend thanks to Ms. Carolyn Webber for opening the Caboose for viewing during her recent program at the Rail Trail. She then reminded all that the Annual Harvest-fest is coming up on Saturday October 18th.

Fire Chief McPherson approached to advise the Board that there had been a school bus accident that afternoon at the corner of Blossom and Nashua Roads, in which a female driver had rear-ended the bus. Chief McPherson noted that there were approximately 39 students on the bus, and three minor injuries had been reported from students sitting in the rear. All had been taken to Parkland for treatment and released. The remaining students were transported to Center School on another bus and released to their parents. Chief McPherson noted that Dr. Bass had been on site, and that personnel from the Town of Londonderry had assisted.

Chief McPherson then noted that the Annual Fire Department Open House the previous Saturday had been a great success, extending thanks to all who had attended. He also thanked the following for their contributions/assistance: Windham Firefighters, Shaw's Supermarket, Klemm's Bakery, Howie Glynn, Brian Bauchman, SENHHMMAD, SNHSOU, Derry Fire Department, Recreation Coordinator Cheryl Haas, Steve Short of Liberty Mutual, and Bruce Breton. In addition, a special thank you was extended to all the participants of the Jr. Firefighter Safety Challenge, and the Chili Cook-off winners/participants.

LIAISON REPORTS: Mr. Hohenberger advised that the CIP Committee had met with the Board of Selectmen, Nesmith Library, and Fire Department on the previous Thursday, and that their next meetings are scheduled for the 16th and 30th. Mr. Senibaldi advised that he had attended on behalf of the Board of Selectmen, and had requested that the CIP hold the Londonbridge Road Project in abeyance.

CORRESPONDENCE: Letters of support received from the Planning Board and Conservation Commission relative to application for CTAP funding to conduct a sewage study.

Letter received from Planning Director Al Turner relative to the sale of lot 13A-96 by the State of NH, for which the Town has the right of first refusal. Discussion ensued and it was the consensus of the Board that the Town was not interested in acquiring the property, however, Chief McPherson still needs to evaluate the property.

POST OFFICE OPTION AGREEMENT: Mr. McMahon reviewed an agreement with the Board, which had been drafted in 1999 or 2000 as part of the construction of the Fellow's Road complex, to allow the Town to acquire access to the back portion of the property by way of the Post Office. Mr. McMahon indicated that the agreement had not been executed at the time, and was now necessary as it was the most cost effective means for the Housing Authority to proceed with an elderly housing complex.

After a brief discussion regarding cost and liability, Mr. Breton moved and Mr. Stearns seconded to execute the agreement as requested. Passed unanimously.

RANGE ROAD PARKING AREA: Mr. McMahon gave a brief history of the project to date. Mr. Hohenberger indicated that the Board of Selectmen had been awaiting the drainage study, as the Cobbetts Pond Improvement Association had had concerns regarding water quality. Mr. Breton indicated the CPIA has a copy of the drainage plan, which had been available since the previous week. He further noted that the plan includes a detention pond which will collect all run-off, and that the resultant flow will be no greater than it is now.

Mr. Hohenberger indicated that the main concern will be salt and how it will be treated, and Mr. Breton indicated that slopes, erosion control, and cape cod berms will be implemented to divert the run-off into the detention pond. Mr. Senibaldi indicated there was no intention to utilize the lot for parking in the winter, however it may be plowed for emergency access. Mr. Hohenberger inquired whether a condition could be that no salt would be used, and Chief McPherson indicated he had no issues with that. Discussion ensued regarding the number of spaces, which has been reduced in the area of the house, the "No Parking" areas along Range Road, and the layout of the area and reconfiguration of entrances to Griffin Park as previously agreed upon.

Mr. Senibaldi indicated that, if the State would allow it, he would like to see barrel pedestrian signs in both directions, similar to those in place on Depot Road. Mr. Stearns inquired whether the State had confirmed they would not allow an on-demand signal light. Mr. Breton indicated that Chief Lewis is looking into this possibility, which the State has not ruled out. Mr. McMahon noted that the State's primary concern regarding the signal was maintenance of it, which they did not want to do. In addition, they did not feel the traffic count justified an on-demand signal. Further discussion ensued regarding crosswalks in other areas of Town versus Range Road.

Atty. Kathleen DiFruscia approached on behalf of the CPIA, advising that the Association had just picked up the plans the previous Wednesday, had not had a chance to fully review them, and was requesting additional time to do so. Atty. DiFruscia noted that the CPIA has received a grant in the amount of \$85K to conduct a study of the pond, and that they feel it is important that Geo-Syntech and the NHDES have time to review the drainage plan. She further noted that Mr. Zohdi had agreed to meet with the CPIA after their reviews to ascertain whether any changes would be implemented. Mr. Senibaldi noted for the record that Mr. Zohdi, who is acting as the Town's engineer on this project, was not in attendance as he had a previous commitment.

Atty. DiFruscia indicated she did not see the rush, and that the CPIA would appreciate the courtesy of time to review the plan and return to the Board of Selectmen. She then inquired as to the status of the Board's application for a

variance for the project. Mr. Senibaldi advised that there had been no decision to date, but that it would be discussed later in the evening. Mr. Breton clarified that the legal opinion regarding the Town's options would be discussed in non-public session.

Atty. DiFruscia then expressed concerns with the language of the warrant article, and that a parking lot cannot be constructed in a residential neighborhood. She did not feel that a lease or similar was an option, as the Town is bound by the language of the warrant article which did not state the property could be leased or conveyed prior to completion. Atty. DiFruscia noted that Town Counsel may disagree with her, but she did not believe it was up to the Board's interpretation of what the warrant article language meant. She further noted that Mr. Senibaldi had advised the CPIA that the Town would be applying for a variance for the project and, if they now were not, it would set a bad precedent to circumvent the will of the people. Mr. Senibaldi disagreed, and a discussion ensued.

Mr. Senibaldi inquired how much time the CPIA needed to review the drainage plan, and Atty. DiFruscia replied two to three weeks. Mr. Hohenberger sought clarification that, in Atty. DiFruscia's opinion, the existing owner was required to apply for a variance. Atty. DiFruscia replied in the affirmative, unless another warrant article was presented to allow the property to be leased or conveyed prior to construction.

At Mr. Breton's request, Mr. Sullivan summarized the options indicated by Town Counsel as follows: 1) direct conveyance of the property to the Town, which cannot be done based on the warrant article language; 2) current owner obtains a variance; 3) conveyance of the property with a provision to revert back to the owner if the project is not completed, or 4) a lease agreement to allow the construction to begin.

Ms. Carolyn Webber approached, suggesting that the Board of Selectmen consider accepting the land from Mr. Mesiti, but having him construct the parking lot on the lower right side of Griffin Park with access from Squire Armor Road. Mr. Sullivan noted that the land Ms. Webber was referring to was in a conservation easement, which limited its usages. Discussion ensued regarding use of this area, which would require Town meeting approval.

Mr. Carl Meinelt approached noting he had visited the Planning Department when the project was first proposed, and had been told that the property sat far into the watershed. He felt if the State and the CPIA were willing to expend so much to restore the quality of the pond it was important to do so, and that there had to be a solution to the parking problems on the Park side. Mr. Meinelt expressed concerns regarding children and elderly residents crossing Range Road at twilight, and that the construction of a parking lot on this parcel was contrary to what the CPIA was trying to accomplish. Mr. Senibaldi replied that while the solution was not ideal, it was safer than cars parked along the road with children running from in between them and doors opening into the roadway.

Atty. Anthony DiFruscia approached to inquire who would construct the parking lot and what the motion was before the Board. He inquired if the purpose of this discussion was because the Town was paying to construct the lot, to which the Board replied in the negative.

Atty. DiFruscia then noted that the warrant article was contingent upon the completion of the parking lot, and stated that it had been two years that the CPIA had been told that Mr. Zohdi would provide plans for their review.

Mr. McMahon replied that the donation was of a completed project, to be paid for by Mr. Mesiti without taxation. He noted that though the parking lot is over 2000' from the high water mark and did not meet the DES impact levels for review, the plan would be to code at the request of the owner. Discussion ensued regarding the rush to proceed and that the CPIA had only delivered the latest plan to DES and Geo-Syntech that day. Mr. Senibaldi clarified that he was seeking the Board's approval of the layout, flow, egress, and crosswalk only. Discussion ensued.

Mr. Patrick Poor approached to reiterate the CPIA's request for additional time, noting that Geo-Syntech is working on clean-up measures and that maintenance and contaminant control is a concern beyond stormwater runoff. He also urged that the ZBA be allowed to review the plan.

Ms. Webber approached and urged the Board to explore the possibility of parking by the Soccer field. Discussion ensued.

Ms. Carol Pynn, HDC, approached to inquire about previously requested landscaping changes in the area of the building. Mr. Senibaldi pointed out that natural buffers will be installed behind and to the right side of the house, with parking spaces in the rear only.

Mr. Senibaldi requested that Atty. DiFruscia contact the DES and Geo-Syntech regarding the timing of their review, and Atty. DiFruscia agreed, noting she will try to push to get their comments within two weeks. Further discussion ensued regarding Town Counsel opinion, application for a variance, and the posting requirements of RSA 674:54. Mr. McMahon requested that Atty. DiFruscia provide him the name of her contact at the DES, and she agreed to forward that information to him.

After further discussion regarding the layout, the CPIA's efforts regarding the pond, plan reviews by DES and Geo-Syntech, and looking into additional parking within the Park, Mr. Hohenberger moved and Mr. Stearns seconded to table this matter until the October 20th meeting pending a review of the drainage plan by Geo-Syntech and the NHDES on behalf of the CPIA. Further, that the Board of Selectmen on behalf of Mr. Mesiti present a request to the ZBA for a variance on lot 17L-15. Motion failed 2-2, with Mr. McMahon and Mr. Senibaldi opposed and Mr. Breton voting "present".

After further discussion, it was the consensus of the Board to table this matter for a period of two weeks.

The Chairman called for a five minute recess.

OLD/NEW BUSINESS: Recreation Coordinator Cheryl Haas approached to suggest that the Skate Park be closed for the season on November 12th, which is subsequent to the end of soccer season and removal of the chemical toilets and trash barrels. After a brief discussion regarding winterization, Mr. Stearns questioned why the Board was being asked to discuss this matter, as it should be Ms. Haas' decision. Discussion ensued regarding some confusion surrounding last year's closing.

After a brief discussion regarding the holiday weekend, it was the consensus of the Board that Ms. Haas post that the Skate Park will be closed for the season on November 17th, and that a chemical toilet be kept on site until that date. Future closing of the Skate Park was then discussed, and it was the general consensus of the Board that these be scheduled by Ms. Haas as being the Monday following Veteran's Day weekend, annually.

Mr. Sullivan advised that a notice of resignation had been received from Recreation Committee member Victoria Noel. Mr. Stearns moved and Mr. McMahon seconded to accept Ms. Noel's resignation with regret and thanks. Passed unanimously.

Mr. Sullivan requested the Board be prepared to discuss Londonbridge Road as it pertained to the Capital Improvements Plan on October 20th.

Mr. Sullivan reminded the Board that they have a site walk scheduled for Ironwood Road on October 20th to review a parcel of land being petitioned for release from public servitude.

Mr. Sullivan requested the Board's authorization to send the grant application to the CTAP program relative to funding for a preliminary sewage study. Mr. Breton moved and Mr. McMahon seconded to send the application as requested. Passed unanimously.

Mr. Sullivan announced that the Board will be meeting on Thursday the 9th at 6 PM on a personnel matter, and will meet with Counsel prior beginning at 5 PM.

NON-PUBLIC SESSION: Mr. McMahon moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91-A:3-IIa, c and e. Roll call vote – all members “yes”. The topics of discussion were personnel, reputations, and legal and the Board, Mr. Sullivan, and Ms. Devlin were in attendance in the following sessions.

Mr. Hohenberger moved and Mr. Stearns seconded to appoint Marilyn Bailey to the Historic District Commission. Passed unanimously.

Mr. Sullivan discussed a request from the HDC to hire an additional rental coordinator. Mr. Hohenberger moved and Mr. Stearns seconded to hire the recommended candidate at a rate of \$25/showing. Passed unanimously.

Mr. Breton moved and Mr. Hohenberger seconded to appoint Chris O'Neil to the Recreation Committee to fill Ms. Noel's vacated position. Passed unanimously.

The Board discussed a personnel matter. No decisions were made.

The Board discussed a legal matter relative to disciplinary action. No decisions were made.

The Board and Ms. Devlin were in attendance in the remaining session.

The Board discussed a personnel complaint. Ms. Devlin will follow-up to advise all parties accordingly.

Mr. Hohenberger moved and Mr. Stearns seconded to adjourn. Passed unanimously. The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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