

BOARD OF SELECTMEN
Minutes of August 22, 2005

MEMBERS PRESENT: Chairman Roger Hohenberger called the meeting to order at 7:00 PM. Selectmen Galen Stearns, Alan Carpenter, and Margaret Crisler were present. Town Administrator David Sullivan was also present. Selectman Breton was excused. Following the Pledge of Allegiance, Mr. Hohenberger read the agenda into the record.

ANNOUNCEMENTS: Mrs. Crisler announced that the Garden Club is currently accepting applications for new members. Also, Mrs. Crisler noted that Garden Club member and past President, Bill Wallace, had recently undergone heart surgery. Best wishes were extended to him.

LIAISON REPORTS: Mrs. Crisler noted that the Planning Board had covered several plans at the previous Wednesday's meeting, including review of the Waterhouse plan. Also, a public hearing had been held regarding clearing of vegetation by Public Service of NH along Morrison Road, a designated scenic roadway. Mrs. Crisler reported the Planning Board had authorized the clearing as requested. A brief discussion ensued regarding whether such authorizations were the purview of the Planning Board or the Board of Selectmen. It was the consensus of the Board that they would like to review these particular requests, as well.

TOWN AUDIT: Mr. Bob Vachon of Vachon, Clukay & Co., PC was present to review the 2004 Audit Report as prepared by them. Mr. Vachon presented a slide show, focusing on key changes within the auditing process as a result of the implementation of GASB 34, as well as highlights of the audit report itself, including:

- The Town's undesignated fund balance for the purpose of setting the tax rate is \$734,000.
- The Town's revenues exceeded the budget by \$187,000.
- The Town's expenditures were under budget by \$295,000.
- The Town continues to maintain a very low ratio of debt.
- No issues or reportable findings were noted during the audit.

After fielding several questions from the Board, Mr. Vachon extended his congratulations to the Board and staff on their continuing efforts to update policies and procedures as the Town continues to grow.

SEARLES ROOF BID AWARD: Mr. Peter Griffin, representing the Historic Committee, approached to advise the Board that the Committee was still in the process of reviewing the bids received and was not in a position to make a recommendation at this time. Mr. Griffin requested the bid award be postponed to the next available meeting. After a brief discussion, it was the consensus of the Board to postpone this bid award as requested.

Mr. Sullivan noted the next available meeting would be September 12, and inquired of the Committee whether that would leave adequate time to complete the project prior to year-end. Mrs. Marion Dinsmore confirmed that ample time would remain to complete the project as planned.

DEPARTMENT OF TRANSPORTATION: Mr. Bill Cass and Mr. Larry Keniston from the NHDOT were present to address previously raised concerns regarding the Route 111 By-pass project and, specifically, construction of sidewalks as proposed by the State. Mr. Cass noted that Mr. Keniston had prepared a slide show presentation for the Board. Mr. Cass then clarified for those watching that the issue in question involved the DOT's plans to construct sidewalks along both sides of Route 111 from the area of the Honda dealership to Route 28, and then to continue the sidewalks

north on Route 28, also along both sides of the roadway. Mr. Cass noted that, if the sidewalks were not constructed, the shoulders would be level with no surfacing.

A discussion ensued regarding future development in the area, as well as the Gateway District, and whether or not a need existed for sidewalks.

Mr. Keniston proceeded with his presentation, which included several examples of similar roadway projects for the Board's consideration. Mr. Keniston explained that the State was attempting to mitigate the impacts of the expanse of pavement involved in the By-pass through landscaped medians and grass strips between the roadway and the sidewalks as planned.

A discussion ensued regarding maintenance of the medians, which Mr. Cass noted was generally not handled by the State. Also discussed were materials planned for the medians, to which Mr. Cass noted low maintenance items such as mulch, flowering (fruitless) fruit trees, etc. are under consideration. Mr. Turner noted that without some form of landscaping, litter is likely to be an issue within the medians and along the shoulders.

Mr. Carpenter inquired why the State was planning a 5' sidewalk as opposed to a narrower width. Mr. Cass noted that the standard is generally 4', however the added width would offer an additional buffer for bicyclists and pedestrians utilizing the area.

Mr. Keniston then exhibited several examples of similar roadways without sidewalks, and noted that the State supported their installation for a number of reasons, including: connectivity for children; as an aide to the elderly and disabled; and the ability to implement pavement markings, signage, and crosswalks that sidewalks would offer.

Mrs. Crisler noted that she had previously been opposed to this aspect of the project but after considering the current Route 111, she felt that the ability to install crosswalks might justify construction of the sidewalks. She was not convinced, however, that they were necessary in the whole area as proposed.

Mr. Carpenter expressed concerns that, after a few seasons, the landscaped medians and sidewalk areas would begin to look neglected. He also noted that wet leaves on the roadway, which would occur should trees be planted in the medians, pose a hazard to motorists. Mr. Cass noted that the State works closely with individuals who are familiar with developing salt resistant, low maintenance plantings. Mr. Cass also noted that State is looking to structure any plantings with a three (3) year establishment provision.

Mr. Stearns inquired what the State was proposing as the speed limit through the area. Mr. Cass stated he believed the limit would be set at 35MPH.

Highway Agent Jack McCartney inquired what materials the State was planning to use for the sidewalks and curbing. Mr. Cass replied that the curbing would be vertical granite, with bituminous asphalt planned for the sidewalks. Mr. McCartney then expressed the opinion that, if sidewalks were going to be done, it should all be completed at once. He noted that, for the time being, a policy could be established that the Town would not perform winter maintenance on the sidewalks, as equipment is not available to do so.

Mr. Turner voiced his support of the sidewalks, noting that the Town is not pedestrian friendly. He urged the Board to look at the future of the area, and noted that it would be expensive for the Town to install them in the future, if necessary.

Fire Chief Don Messier noted safety concerns, and felt this was a perfect opportunity to provide a safe area for pedestrian and bicycle traffic along this route.

Mr. Peter Griffin also voiced his support of the sidewalks, noting that if the area were made more hospitable for pedestrians they would utilize it.

Mrs. Marion Dinsmore, on behalf of the Historic Committee, expressed concerns regarding a buffer of some sort in the area of the Searles Chapel. She stated the Committee believed the noise from the By-pass traffic might prove detrimental to weddings, etc. Mrs. Dinsmore also noted that the Committee supported the idea of pedestrian crossings in the area. A discussion ensued regarding proposed crossings in the area of the Chapel, the only one being at Roulston Road.

Mr. Wayne Morris inquired of Mr. Cass whether additional sidewalks were planned as part of the I-93 project. Mr. Cass stated he believed there were. Mr. Morris noted the sidewalks could eventually extend all the way to Griffin Park, possibly through attainment of Transportation Enhancement Grants, and noted that he believed now was the time to begin installation.

Mr. Hohenberger noted that there are very few businesses between Klemm's and Route 28, and did not envision a lot of use of sidewalks in this area. He also noted that a shoulder only would allow the plows to clear all the way to the curbing, noting that utilizing an 8' shoulder only would offer year-round safety to users.

Mr. Stearns believed that several convincing arguments had been presented in favor of the sidewalks, such as the potential for connectivity to Griffin Park. Mrs. Crisler felt the By-pass may ultimately resemble South Willow Street in Manchester without benefit of the sidewalks, to which Mr. Hohenberger replied it couldn't, as the same level of businesses cannot exist there due to area development restrictions.

Mr. Carpenter felt that the budgetary question was the actual issue, and whether the Town wanted to assume the financial burden of the sidewalks. He stated that, although the Board endeavors each year to keep budget increases to a minimum, sometimes fiscal responsibility involves spending money. Mr. Carpenter noted that, to a large number of travelers, this stretch of roadway is "Windham", and that it may be wise to spend a small amount of money on maintenance for a large return.

Mr. Carpenter then inquired of Mr. Cass if the State would signalize the intersection of Searles Road, complete with a pedestrian crossing, if the Board were to execute the Agreement. Mr. Cass replied he would look into any safety issues with adding the pedestrian crossing, given the proximity of Searles Road to Roulston Road.

Mr. Hohenberger stressed that he would prefer no trees be planted in the medians in the interest of ease of maintenance and vehicle safety. Mr. Carpenter noted the State could be asked to work with Assistant Planner Rebecca Way on the landscaping plans, and inquired of Mr. Cass what the time frame was to finalize any decision. Mr. Cass replied that the final landscaping would not need to be determined until late 2007-08.

Mr. Carpenter moved and Mrs. Crisler seconded to approve the State's installation of sidewalks totaling 5,500 meters as proposed along Route 111 and Route 28, conditional upon installation of a pedestrian signal at Searles Road and the State's agreement to work with the Town to develop an appropriate landscaping plan for the area. Passed 4-0.

Discussion moved to deed issues involving Industrial Drive. Mr. Turner noted that the State wished to acquire additional property, and to move electrical service in the area above ground.

Mr. Cass explained that the State had set their limited access right-of-way to contain the extensive work necessary to cross Industrial Drive, however, they had mistakenly believed that relocating Industrial Drive essentially

absorbed the existing roadway. Mr. Cass noted that the Town had since brought to their attention that Industrial Drive had actually been deeded to the Town of Windham, and suggested the Town consider quitclaiming the existing roadway to the State.

Mr. Cass further explained that, currently, the utilities to the Industrial Drive complex are located underground, but will be impacted by the By-pass project. Mr. Cass explained that the State generally does not force companies to run their lines underground, and that the State was allowing Granite State to go aerial over Route 111.

Mr. Dan Mahoney and Mr. John Upham, representing Granite State Electric, approached. Mr. Mahoney explained that the State had approached GSE at the start of the project, and that currently the service runs underground up the right side of Industrial Drive at a depth of approximately 3'. Mr. Mahoney further noted that GSE plans to relocate the poles to allow their service to come in from Range Road and up the left side of the roadway, and that the main feed will remain on Range Road.

A discussion ensued regarding other area utilities, which are all overhead, height of poles in question (45' on a 10m cut, which would put the wires themselves at approximately 60' high), and the number of crossings necessary in the new area (5 for primary cabling).

Discussion of the right-of-way issue resumed, and Mr. Sullivan reminded the Board that crossings aside, the Board cannot actually convey the property in question to the State. Mr. Hohenberger suggested the Board considering quitclaiming the property as part of a "friendly" eminent domain procedure for a cash sum which the Board can determine how best to spend at a future date.

After further, lengthy discussion regarding GSE's request, Mr. Stearns moved and Mrs. Crisler seconded to allow the utility crossing from the new Route 111 By-pass to Industrial Drive to be above ground. Passed 4-0.

GRANITE STATE ELECTRIC: Mr. Mahoney explained that Granite State would like to upgrade their system on Industrial Drive to service the existing businesses in the area. He explained that the current lines are "direct laid", without benefit of a conduit, and that while construction of the By-pass is underway GSE would like to make the upgrade and install conduit.

Mr. Mahoney noted the upgrade would involve very little disruption to the roadway and, if any were to occur, repairs would be made by GSE.

Mr. McCartney expressed concerns with GSE's workmanship, citing recent damage to Linda Street. Mr. Turner also expressed concerns, noting that if the DOT were not supervising GSE then the Town would need to. Mr. Turner also noted that detailed plans had yet to be submitted showing manholes, etc.

Mr. Cass noted that it would make sense for the State to pave Industrial Drive as part of their project, and Mr. Mahoney stated that GSE is willing to place the manholes wherever the Town wished.

A discussion ensued regarding the need for GSE to work with the DOT and Town staff to finalize plans for their request.

Mr. Carpenter moved and Mrs. Crisler seconded to allow Granite State Electric to proceed with updating of service on Industrial Drive provided they work with Town staff and the DOT to ensure detailed plans are submitted and work is completed appropriately; and subject to the DOT putting a final coat of pavement on Industrial Drive when GSE's project is complete. Passed 4-0.

DEPARTMENT OF TRANSPORTATION, CONT.: Discussion of the right-of-way issue resumed. It was the consensus of the Board to proceed with the “friendly” eminent domain solution.

Mr. Hohenberger posed the following, previous concerns to Mr. Cass for status updates:

- *Final inspection of Town roadways:* The DOT is agreeable to final inspections being conducted by Town staff.
- *Disposition of surplus property:* Meetings are ongoing, and the State continues to work with the Town. Mr. Hohenberger requested a listing of all surplus property in Windham, which Mr. Cass will forward to staff.
- *Disposition of former Town roads:* Mr. Cass indicated that no new information was available on this subject, as the State’s position continues to be that, when completed, the By-pass will be the main State roadway, and that the remainder of Range Road should then become a Town road.

A discussion ensued regarding the pros and cons of assuming responsibility of Range Road. Mrs. Crisler noted that, if the Town must take ownership, the roadway could be reconfigured to make navigation by large trucks difficult.

Mr. Sullivan pointed out that the Town was still holding the Municipal Agreement, which was relative to the ongoing discussion. He inquired of Mr. Cass what the time frame was to execute the document. Mr. Cass noted that the project had already begun without the Agreement in place, and that the sidewalks had been the primary issue preventing its execution. He also noted that concerns had been expressed regarding traffic control, which was the DOT’s responsibility, and clarified that that the section regarding ownership of reconstructed town roads had not been intended to pertain to “Canobie Lake Road” (Range Road).

Mr. Sullivan stated that, if the Board were satisfied with the issue of traffic control, the Agreement could be executed. Mr. Cass concurred, noting that the meeting minutes would clarify that the Agreement does not pertain to Range Road, but primarily to the reconfigured intersection of Roulston Road.

Mr. Turner noted that the new poles on Industrial Drive/Roulston Road cannot be licensed by the State, and that Verizon would have to come before the Board of Selectmen. A discussion ensued regarding review of the pole placement by Mr. Turner and Mr. McCartney. Mr. Cass indicated he can provide updated plans to staff showing location of the poles.

After a lengthy discussion, it was determined that upon execution of the Agreement, Verizon would not need to obtain license from the Selectmen to proceed.

With the consensus of the Board, the Chairman executed the Municipal Agreement for Windham/State Project: Windham-Salem 10075E/Federal Project: X-A000(175) accordingly.

Mr. Keniston resumed his presentation to the Board, the remainder of which detailed phasing of the By-pass project as follows:

- Opening of Route 28: September, 2007
- Opening of Route 111 By-pass at the “Five Corners”: October, 2007
- Final completion of By-pass Project: September, 2008

Thanks were extended to Mr. Cass and Mr. Keniston for their time and efforts in attending the meeting and working with the Board.

Mr. Hohenberger noted that the Board had recently been served regarding eminent domain proceedings by the State relative to the small portion of the Searles property necessary to the project. Mr. Sullivan replied that this was in keeping with normal eminent domain proceedings, and that a letter had been sent to the State regarding alternative compensation as requested by the Board, however he had been advised verbally by Mr. Bill Janelle that the State could not comply. Mr. Sullivan indicated he would like to wait for Mr. Janelle's written confirmation regarding his response before discussing the matter further.

PUBLIC HEARING/STOP SIGNS: Mr. Hohenberger read the Public Hearing notice into the record. Mr. Stearns noted that the School Board had made this request for Stop signs at the intersections of the three school driveways with Lowell Road.

After a brief discussion, Mrs. Crisler moved and Mr. Carpenter seconded to approve the Stop signs as recommended by the Highway Safety Committee. Passed 4-0.

HIGHWAY SAFETY ISSUES: Mr. McCartney advised the Board that, after review and discussion, the Highway Safety Committee was recommending that all of Meetinghouse Road and 150' of Easy Street be striped. Mr. McCartney further noted that, while Easy Street could be a single yellow line, Meetinghouse should be a double line.

Mr. Carpenter inquired whether input had been garnered from residents of the area. Mr. Sullivan replied it had not, but that a public hearing could be scheduled if the Board wished.

After a brief discussion, Mr. Stearns moved and Mrs. Crisler seconded to support the recommendation of the Highway Safety Committee to stripe Meetinghouse Road and Easy Street. Passed 4-0.

Mr. Sullivan advised the Board that the Highway Safety Committee had received a request from the School Board regarding turn lanes on Route 111 into the SAU building. Mr. Sullivan noted that, as Route 111 is a State roadway, the Highway Safety Committee could not address this request, however, he had spoken to the State who had verbally replied that they had no current plans to install any such lanes. Mr. Sullivan noted the State had indicated, however, that if the Town could contribute funds toward the project, they may consider doing it this year. After a brief discussion, it was determined that Mr. Sullivan should work to get an estimated cost for this project.

MINUTES: Mr. Carpenter moved and Mr. Stearns seconded to approve the minutes of July 11 and 18 as written. Passed 4-0.

Mr. Hohenberger requested the minutes of July 25 be tabled. Mrs. Crisler requested amendment to same as follows: *Liaison reports: replace "...State wishes to meet with the Planning Board regarding the proposed Gateway District"* with *"...State wanted to meet with the Planning Board to discuss the area north of Route 111 and West of 93, similar to the previous discussion regarding the Gateway District."*

Mrs. Crisler requested that minutes of August 8 be amended as follows: *Liaison Reports: replace "...the Planning Board had concluded the Clark Farm subdivision,..."* with *"at the last Planning Board meeting public discussion of the Clark Farm had been completed,..."*.

Mr. Stearns moved and Mrs. Crisler seconded to approve the minutes of August 1 as written, and the minutes of August 8 as amended. Passed 3-1, with Mr. Carpenter abstaining due to absence from the meetings.

CORRESPONDENCE: Letter received from Mr. Turner relative to a Health Alert issued by the NH Health Alert Network pertaining to recent suspect cases of Human Eastern Equine Encephalitis in Londonderry and Goffstown, NH.

OLD BUSINESS: Mrs. Crisler requested the Board discuss finding funds to repair the crack in the walkway in front of the Police Station. Mr. Sullivan advised Mrs. Crisler that this repair had already been approved.

NEW BUSINESS: None.

NON-PUBLIC SESSION: Prior to requesting a motion, Mr. Hohenberger sought clarification from Mr. Raymond Rees of the purpose for his request for a non-public session with the Board. After a brief discussion, it was established that, as Mr. Rees' concerns pertained to an abatement application, the matter should be discussed in public session.

RAYMOND REES: Mr. Rees expressed concerns that his house had been singled out and assessed disproportionately to his neighborhood. He noted that his home is one of the smaller houses on the street, and his assessment is higher than some of the newer houses on Heritage Hill Road.

Mr. Rex Norman, Tax Assessor, explained that in reviewing Mr. Rees' abatement application, he could not substantiate his concerns regarding his property based upon comparable sales and properties. Mr. Norman noted that Mr. Rees owns an 1800sft Garrison home, and that 12 very similar sales had been reviewed. Mr. Norman noted that Mr. Rees can appeal the denial to either the Board of Tax and Land Appeals or the Superior Court, and that he had provided Mr. Rees the listing of sales utilized in his review to aide in his appeal.

Mr. Norman further noted that, as a result of his inspection during the abatement review, Mr. Rees' assessment had increased for 2005 by \$2,000 as a result of a computer conversion error in which the Garrison's overhang had calculated as an open porch. Mr. Norman noted that this additional increase can be appealed in 2005, if Mr. Rees wishes.

Mr. Rees again indicated he did not understand how his house could surpass others in his neighborhood. Mr. Norman noted that a door-to-door review of every property on Heritage Hill Road had since been conducted, and errors were found in those properties, as well.

Mr. Carpenter inquired whether Mr. Norman felt Mr. Rees' home was fairly assessed in comparison to the other houses in the neighborhood. Mr. Norman replied in the affirmative.

Mr. Norman indicated he could understand Mr. Rees' concerns regarding his response time in addressing the abatement request, but noted that the application had required extensive research by him.

Mr. Rees' stated that he still hadn't received an explanation of why his assessment was higher than others on Heritage Hill were. Mr. Norman noted that assessments are not based upon sales price, and that the state ratio of 73% is a level across the Town used as a statistical measure.

A discussion ensued regarding calculation of an overhang versus an open porch, the latter of which is not assessed as living area. The general consensus of the Board was to support Mr. Norman's decision, and Mr. Carpenter noted that Mr. Rees did have an avenue to appeal the denial.

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

Personnel: Mr. Carpenter moved and Mr. Stearns seconded to approve William Brown as a Call Firefighter. Passed 4-0.

Legal: Mr. Sullivan presented a legal document to the Board on behalf of the Cable Advisory Board. After a brief discussion, Mr. Carpenter moved and Mrs. Crisler seconded to allow the Chair to execute the document accordingly. Passed 4-0.

Legal: Mr. Sullivan discussed an ongoing legal issue with the Board. No decisions were made. Mr. Sullivan will follow-up with Town Counsel on this matter.

Mr. Carpenter moved and Mr. Stearns seconded to adjourn. Passed 4-0

The meeting was adjourned at 11:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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