

**BOARD OF SELECTMEN**  
**Minutes of August 22, 2011**

**MEMBERS PRESENT:** Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Phil Lochiatto, Kathleen DiFruscia, and Roger Hohenberger were present; as was Assistant Town Administrator Dana Call. Town Administrator David Sullivan was excused. Mr. McLeod opened with the Pledge of Allegiance.

**CORRESPONDENCE:** Memo received from Fire Chief Tom McPherson relative to the last day of department training at the Fellow's House, which is scheduled for August 23<sup>rd</sup>, and reiterating that the public is welcome to attend.

*Letter received* from Senator Rausch advising that the deadline for submission of items for consideration at the first legislative session is October 10, 2011.

**ANNOUNCEMENTS:** Mr. McLeod noted that the Town Beach is now closed for the season, with no lifeguards on duty. Discussion ensued, and it was clarified that the beach remains unlocked while lifeguards are not on duty and that the raft is now in for the season. Residents should contact the Recreation Coordinator at 965-1208 with any questions.

**LIAISON REPORTS:** Mr. Lochiatto reported that the CIP will meet this week to continue their review of departmental submissions.

**DONATIONS:** On behalf of Ms. Haas, Mrs. Call requested that the Board accept the following donations to Town Day, Fireworks, and the Annual Senior Picnic: State Farm Insurance, tent; Howie Glynn's, 25 bags of ice; Eagle Tribune, \$450; Anonymous/CPIA, \$2500; Thompson Auto Group, \$250; Gourmet Grille, \$10 gift certificate; Windham Junction, \$20 gift certificate; Anonymous, 600 cookies; and Glenn's Kreme and Kone, rolls valued at \$154. Mrs. DiFruscia moved and Mr. Hohenberger seconded to accept all donations with thanks. Passed unanimously.

**BID AWARD/PAINTING:** Mrs. Call advised that a bid had been received via FedEx after the August 16<sup>th</sup> deadline for submission. She noted that the overnight parcel was dated the 15<sup>th</sup>, however it had not been received until the 18<sup>th</sup> and inquired whether the Board wished to accept the bid. Mr. Hohenberger moved and Mrs. DiFruscia seconded to accept the bid. Passed unanimously.

Mrs. Call then noted that the bidder in question, Final Coat, LLC doing business as Rhino Shield, had been specifically contacted regarding this project for comparison purposes, and that the bid specs themselves had been forwarded to several other vendors as well. Mr. Breton noted that Rhino Shield involved a different method of painting which offered a lifetime warranty. Discussion ensued; Mrs. Call then opened and read into the record the following bid:

Finalcoat LLC dba Rhino Shield NE, Pembroke MA

Town Hall - \$62,345 Community Development - \$33,200 Bartley House - \$11,111 Total - \$103,000

Mr. Lochiatto sought clarification as to whether the other bids had been solicited or received from the advertisement posted, and Mrs. Call replied that in response to the lack of bids received the last time the project had been advertised she had expended extra time researching vendors. She noted that seven sets of specs had been sent out and the notice posted in three locations. Discussion then ensued regarding Rhino Shield.

Mrs. DiFruscia advised that she had received a call from Carol Pynn, Chair of the Historic District Commission, who had expressed concerns that the Commission had not been notified before the project was bid regarding items such as color and pressure washing. Mrs. Call replied that she had also spoken to Ms. Pynn that afternoon, and that Mr. Sullivan had unofficially spoken to the HDC several months prior to the bids being sent out.

Mrs. Call then read the remaining bid results into the record as follows:

Target New England, Alton, NH

Town Hall - \$24,760 Community Development - \$34,640 Bartley House - \$ 7,780 Total - \$67,180

M & L Maintenance, Litchfield, NH

Town Hall - \$18,000 Community Development - \$ 7,084 Bartley House - \$ 2,300 Total - \$27,384

Mrs. Call noted that the Bartley House bids are so low due it primarily being vinyl siding. She went on to note that Mr. Sullivan was endeavoring to contact the low bidder's references, however, he was not finished doing so and asked that if the bid were to be awarded it be contingent upon satisfactory responses.

Mrs. DiFruscia expressed a desire for more information regarding Rhino Shield, and Mr. Breton suggested that the bids be tabled both due to the disparity between the bids and to allow for representatives of Rhino Shield to meet with the HDC to discuss their process. He also suggested that pre-bid conferences may be advisable in the future to avoid such discrepancies. Mrs. DiFruscia concurred, and added that if Rhino Shield does indeed afford a 30 or 50 year warranty it may be something for the Board to consider.

Mr. McLeod noted that the Board did have apples to apples bids available, and that the numbers are now public. He felt it might be more appropriate to have all three vendors in to meet with the Board. Discussion ensued regarding the scope of work as bid.

Mr. Lochiatto expressed concerns with the disparity in the bids and also with the stringency of EPA lead standards as it pertained to clean-up/disturbance and the required certifications and insurances. Discussion ensued, and it was the consensus of the Board to table this matter and ask all three vendors and the HDC to attend a future meeting.

**ANIMAL CONTROL POLICY:** Mrs. Call explained that, several months ago, a request had been received from Ms. Carol Marshall to revise the Animal Control Policy, which the Board could do that evening if they desired; she then deferred to Ms. Marshall.

Carol Marshall, 14 Oriole Road, approached and gave a brief summary of her experiences with the Animal Control Officer as it pertained to complaints made by and against her regarding barking dogs. Ms. Marshall noted that, several years ago, she had been contacted by Mr. Seifert regarding a complaint and he had been unable to release the caller's name to her and that, conversely, she had recently been verbally accosted by a neighbor for calling to report a barking dog. Ms. Marshall noted that she had subsequently researched the law and while she understood the need for transparency, she felt releasing of the complainant's name results in unintended consequences such as she experienced. She suggested that the Board consider revising the policy so that the complainants remain anonymous as part of their first time calling the ACO. Discussion ensued regarding response procedures and past versus current policy.

Mrs. DiFruscia concurred with Ms. Marshall, noting that there are individuals who will seek retribution if a call is made about them. She added, however, that revealing the caller's name does afford an opportunity to resolve issues amongst neighbors. Discussion ensued regarding other departmental policies regarding anonymity of callers.

Mr. Lochiatto suggested that perhaps the caller may request anonymity on their first call and, if the number of calls escalates, they be advised that their name will then be revealed. Mr. McLeod concurred, noting that if callers are allowed to remain anonymous it could invite harassment. Discussion ensued.

Mr. McLeod then suggested that Section IV of the Animal Control Policy be amended to read "All records of the Dog Control Officer shall be open to the public, with the exception of the identity of a complainant's first complaint regarding a particular address, which shall remain anonymous unless court action ensues." Mr. Hohenberger moved accordingly, with a second by Mr. Breton. Passed unanimously.

**OLD BUSINESS:** Mr. McLeod recused himself from the Board as President of the Windham Soccer Association, and Mr. Breton assumed the Chairmanship. Mr. McLeod explained that, last season, the WSA had received permission to place temporary lights at Griffin Park aimed at the lower soccer field; the purpose of which was for late practices from 6 to 7:30 PM. Mr. McLeod indicated that WSA would again like to place these lights, with all four being of the type with quieter generators. He added that there had been no issues reported last year as it pertained to refilling the generators or resultant damage to pathways; and in fact the generators had only required refilling once.

Mr. McLeod went on to note that there had been one complaint received last year from Ms. Elizabeth Bondioli, and that she had also sent an email this year expressing the same concerns. Mr. McLeod clarified that the lights in question are much lower than the baseball field lights and also noted that Ms. Bondioli's residence is quite a distance away from Griffin Park with a number of other houses in between; none of whom had complained. He then advised that the lights would be installed with the cooperation of the Recreation Coordinator and Police Chief, with the two closest to Squire Armour Road being pointed away from that area.

Mr. Lochiatto inquired how many nights the lights would run, and Mr. McLeod replied five nights per week with installation being the week of Labor Day and removal being 7 to 8 weeks thereafter. He added that the lights would be extinguished by 8:00 PM each evening. Discussion ensued regarding previous uses of the lights, including the trial period at Nashua Road field, and the lack of complaints received. Mrs. Call noted for the record that the Recreation Coordinator has indicated her support of the lights.

Mr. Lochiatto then moved and Mrs. DiFruscia seconded to support the use of temporary lights at Griffin Park as requested by Windham Soccer. Further discussion ensued in which it was clarified that all costs and/or damages will be the responsibility of WSA. Motion passed 3-1, with Mr. Hohenberger opposed citing opposition to any expanded use or lights at the Park.

Mr. McLeod resumed Chairmanship.

Mrs. Call reviewed with the Board a proposed amendment to the Searles Regulations regarding ongoing uses as follows:

"R. On-going Rental Programs:

*Mutually advantageous long term rentals on a regular basis under the following conditions:*

- 1) *The arrangement must be reviewed by and supported by the Historic Committee*
- 2) *Any proposal to be considered for a special fee arrangement must show that:*
  - a. *Shows the long term benefits exceed the cost of operation;*
  - b. *The Rental income exceeds the cost of utilities, set up, clean up, opening and closing by staff, wear and tear and maintenance for the facility in addition to providing some income to Searles School and Chapel.*
  - c. *Allows the building to maximize income during optimal rental periods;*
  - d. *Maintains high standards of operation not inconsistent with the long term restoration of the building and*
  - e. *Provides events that are deemed to serve as an overall benefit to the Townspeople of Windham.*
- 3) *Any contract for the use of the Searles Building which is covered by a special fee arrangement must state or contain:*
  - a. *The anticipated use of the building.*
  - b. *The anticipated wear and tear experienced by the events.*
  - c. *The required set up and accommodations needed.*

- d. *A schedule of expected dates and hours of ongoing events.*
- e. *The audience expected to attend said events.*
- f. *The expected maintenance level to be provided by the Town of Windham.*
- g. *A list of any exceptions to the above criteria which must be agreed upon by the Historic Committee and Board of Selectmen*
- h. *A termination clause that allows either party to cancel the contract for non-compliance or if the events or arrangement do not continue to meet the above criteria.”*

Mrs. DiFruscia expressed her endorsement of the amendment, noting she believed it addresses all concerns regarding ongoing uses of the building. Mr. Hohenberger requested “and the Board of Selectmen” be added to subsection 1.

Mrs. Call inquired whether the Board wish for the cost of operations analysis be completed by staff or the renters, and Mr. Lochiatto felt it should be the renter however staff would need to offer input as the user would not be aware of those costs. Mrs. Call clarified that the utility fees for the building are part of the Town budget, and a discussion ensued.

Mr. McLeod then suggested that “or ongoing rental program” be added to Section P, which is the waiver section, and a discussion ensued regarding amending of “shall” to “may” throughout and deleting subsection R, 2 “a” if Section P were amended. Mr. Lochiatto inquired why the Board would ask an ongoing user to break out the expenses if one time users are not asked to do the same, and a discussion ensued. Mr. Hohenberger indicated he believed the purpose of “a” was to ensure that the Town did not lose money in allowing ongoing uses. Mr. Lochiatto agreed, but felt it was a difficult request if the Town were not able to provide those costs. Discussion ensued regarding Mr. McLeod’s suggested amendment to Section P.

Mr. Breton noted that, as it pertained to activities requiring an “attende”, the fee schedule would need to be amended as well. Mrs. Call replied that the “attende” would be the Searles Coordinator, and confirmed that the amendment can be made at the next review of the fee schedule.

Mr. Breton then moved and Mrs. DiFruscia seconded to amend the Searles Regulations by adding Section R as amended to include “and the Board of Selectmen”, and by amending Section P to include “or ongoing rental.” Passed unanimously.

**NEW BUSINESS:** Community Development Director Laura Scott approached requesting authorization to apply for a grant for planning assistance through the Rockingham Planning Commission. She noted that this would be a 50/50 grant and the deadline for submission is Friday. Ms. Scott explained that she would like to apply for \$5K to analyze the Town’s zoning regulations versus the Village Center vision, and that the project would start in February of 2012 and be completed by June of 2012. She indicated that if the Board authorized her to apply and the grant was awarded, she would then need to re-allocate departmental funds to cover the Town’s portion. Lengthy discussion ensued regarding the grant requirements and timing/funding of the proposed project.

Mr. Lochiatto inquired what would be given up if the funds were reallocated, and Ms. Scott replied there were two items budgeted, which had yet to be completed, those being marketing and the non-residential buildout analysis. She added that she believed the proposed project to be more important than marketing, and a discussion ensued.

Mrs. DiFruscia then moved and Mr. Hohenberger seconded to authorize Ms. Scott to apply for a grant from the RPC as requested. Passed unanimously.

A brief discussion ensued regarding the need to have a contract in place by year-end for these funds.

**OLD BUSINESS CONTINUED:** Mr. Hohenberger noted he had received a number of concerns regarding the Griffin Park parking lot project and the lack of public input. He inquired whether the Board should have a public meeting to discuss the project. Mr. Breton noted that the project is scheduled to be presented to the Planning Board on 8/31, and a discussion ensued regarding possibly having a public meeting thereafter or whether one was necessary.

Mr. Lochiatto questioned the Board's plans if a room full of people attended such a meeting in opposition to the project, which has already been approved by the voters. Mrs. DiFruscia noted that the voters had conceptually approved the project, however, she believed the concerns were arising as the details were discussed, such as the stone wall. Discussion ensued, and it was the consensus of the Board to schedule a public meeting with Mr. Zohdi in attendance for September 12<sup>th</sup>, at which updates will be provided regarding the stone wall and trees.

**NEW BUSINESS CONTINUED:** Mrs. DiFruscia expressed concerns with the previous week's meeting and the update as requested from Representative Bates. She indicated that the update had been requested as part of the Board's old business, however, she felt it had morphed into a political statement which she did not feel was appropriate as it had not been an agenda item. Mrs. DiFruscia stated that such items should be listed on the agenda and the Board have an opportunity to discuss them in advance. Mr. Breton indicated he felt it had been important to update the public on school funding. Mr. McLeod noted that, had he been present, he may have restricted the discussion as it was a School District issue. He did feel the Board should be kept apprised of the funding, but there are other means of doing so and that political speeches are not an appropriate use of the Board of Selectmen's time.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mrs. DiFruscia seconded to enter into a non-public session in accordance with RSA 91-A:3, II, d. Roll call vote – all “yes.” The topic of discussion was land acquisition and the Board, Mrs. Call, James Finn, Dianna Fallon, Norm Young, and Ms. Devlin were in attendance.

The Board discussed at length the potential acquisition of conservation land. It was the general consensus of the Board to support the concept as presented, however more information is necessary regarding liability, as well as a cost analysis. No decisions were made.

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

Meeting was adjourned at 9:25 PM.

Respectfully submitted,  
Wendi Devlin, Administrative Assistant

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