

**BOARD OF SELECTMEN**  
**Minutes of October 22, 2012**

**MEMBERS PRESENT:** Chairman Bruce Breton called the meeting to order at 7:05 PM. Selectmen Phil LoChiatto, Kathleen DiFruscia and Roger Hohenberger were present, as was Town Administrator David Sullivan. Selectman Ross McLeod was excused. Mr. Breton opened with the Pledge of Allegiance.

**ANNOUNCEMENTS/LIAISON REPORTS:** None.

**MINUTES:** None.

*Mr. Simon Thompson*, of Senator Ayotte's Manchester office, introduced himself to the Board as a point of contact. Mr. Thompson advised that, as part of the Senator's outreach program, she and/or her staff are trying to visit all communities; adding that he would be happy to remain on site until after the meeting to sit with any residents who might have concerns. The Board thanked Mr. Thompson for attending.

**CORRESPONDENCE:** None.

**PUBLIC HEARING/EMERGENCY LANE PETITION:** Mr. Sullivan opened the public hearing, noting that a petition had been received to declare the Windham portion of South Shore Road as an emergency lane. If approved, the Town would then take over winter only maintenance of the roadway. Mr. Sullivan reviewed with the Board a map of the location; noting that there are ten (10) homes on South Shore in Windham. He noted that the roadway is not in the best condition for winter maintenance, and presented photos exhibiting said condition, and a discussion ensued in that the Town does not perform any maintenance on the roadway which has an average width of 14'.

Mr. Sullivan went on to explain that, per State statute and Town policy, once a petition is received for emergency lane declaration, a public hearing is scheduled for the purpose of hearing evidence of a public need for such a declaration. He noted that all abutters/interested parties had received notice of the public hearing, and went on to explain the roadway must meet one of three criteria: 1) be within a Planning Board approved subdivision and have been plowed as of March 2, 2011; 2) a school bus must pass over and through en route to a public road, or; 3) the road provides the Fire Department access to a water source.

Mr. Sullivan noted that if South Shore Road is determined to meet one of more of these criteria, the question then turns to the condition of the road. Mrs. DiFruscia requested that the Highway Agent and/or Chief address the condition criteria as required in the attached policy, Section III, B) 2. a-g, and 3 a-f. Mr. McCartney noted the following:

2.
  - a. No issue.
  - b. Does not meet.
  - c. The first portion of the roadway may be 30', however he is unsure about the second portion.
  - d. The road is paved in some portions, but gravel in others and will require grading.
  - e. There is only one culvert that he is aware of and some driveways are configured such that they hold water in the roadway.
  - f. There is no area at the end of South Shore Road for the Town to turn around.
  - g. Sand/salt restrictions are already in place.
  
3.
  - a. In its current condition, the roadway is not safe for plowing equipment.
  - b. He believes there is adequate space for off-street parking.
  - c. He does not believe this is an issue other than as it pertains to a turn around.
  - d. Clearing would be required.
  - e. Emergency vehicles would need to back out of the roadway due to a lack of turnaround.
  - f. There is a street sign at the end of the road.

Petitioner Arthur Provencal, 108 South Shore Road, approached, noting that he had owned #108 and #110 for thirty years, and that the Town of Salem used to plow the road with no issues turning around until the road deteriorated; at which time Salem refused to continuing plowing. Mr. Provencal noted that the Town owes the South Shore resident safety, and that to get an emergency vehicle into the area in a snowstorm would require deployment of a plow with the truck, which could take a long time; adding that Town of Salem not Windham responds to emergency calls on South Shore, yet doesn't plow the road. Mr. Provencal went on to note that there is drainage on the road, that the surface is graded and paved, and that the turnaround now owned by the State was built by Salem just before they stopped plowing the road. Brief discussion ensued. Mr. Provencal clarified that the road had been maintained at one point, that all the homes are year round, and without plowing the residents have no real emergency coverage.

Chief McPherson approached to clarify that South Shore road is similar to other private roads in town and that Windham responds to Fire/EMS calls received at our end with the exception of mutual aide calls and/or incorrect addresses being given. He noted that the department has responded several times to #105 and utilizes their driveway as a turn around; adding that even with large equipment it is manageable and regardless of weather, the Department will get to residents. Chief McPherson also clarified that South Shore Road does not provide direct water access, rather hoses must be utilized to draft from the lake. Discussion ensued regarding the nature of the water access afforded and whether it met the established criteria. Mr. Sullivan indicated that it did not, as it was not a direct draft and Chief McPherson clarified that it would be utilized as a secondary source. Discussion ensued regarding boat ramp access for public safety personnel, which Chief McPherson indicated was available, and Mr. Provencal stated that in his experience Windham has never responded to an emergency call; rather it has always been Salem. Mrs. DiFruscia inquired whether there were any problems with response due to the condition of the road, and Chief McPherson replied South Shore was like any other of the private roads; there are tight areas and getting in is easy while getting out can be tough. He reiterated that Windham has been providing, and will continue to provide, emergency response to the residents of South Shore.

Mr. Lou De La Flor, 112 South Shore Road, approached expressing concerns with the number of families using the area year round and the potential for ice or snowmobile accidents. He also noted that it was important for the Town to consider elderly residents in the area and use of the cove area by others. Mrs. DiFruscia sought clarification that the ten homes in question were all year round, and Mr. De La Flor replied in the affirmative. Discussion ensued as to how the road had previously been cleared, and Mr. De La Flor indicated it had previously been done by Salem and was now done by the homeowners. He added that the school bus does travel the road as far as the second to last house, and that the owners would be willing to execute agreements as necessary to allow the Town access to the lake.

Discussion ensued regarding the amount of work needed on the road and potential costs. Mr. Hohenberger cited the previous petition by the owners of Turtle Rock Road; adding that the owners need to be aware that it is not a cheap proposition as the road will need to be brought up to or near to Town standards. Mr. LoChiatto concurred, and felt that the Highway Agent could develop something fairly easily for the owners. Mr. De La Flor noted that, as taxpayers, the residents of South Shore Road receive nothing and felt that they should at least be plowed. He added it was fairer for the Town to incur the costs to bring the road up to standard; as it does for others. Discussion ensued, and Mr. Sullivan clarified that State Statute prohibits the Town from expending public funds on private roads; which South Shore is in its entirety. He added that once the road is brought up to standard and declared an emergency lane, the Board can then determine how much maintenance will be performed on it.

Further discussion ensued before Mr. Sullivan clarified that the Board first needed to determine whether a public need existed before talking about repairs. He indicated that the law is very clear in that, and added that "public need" pertains to benefits to others who do not reside on South Shore. Mr. Sullivan indicated that South Shore does not meet the criteria for bus use, as it is a dead end street, however the water source criteria may be a possibility. Mr. De La Flor pointed out that others do use that area of the lake.

Lengthy discussion ensued in that only one criteria needs to be met, public safety response, that there is nothing in the history of the roadway that indicates it was ever anything but a private road, and areas available for water access.

Chief McPherson cautioned the Board that all the Town equipment has side mounted pumps, and Mr. LoChiatto noted that in that case even if an access area were paved to the edge of the pond it would not meet the criteria. Further discussion ensued, and the Chief indicated they would have to draft via hoses and a portable pump. Mr. Provencal inquired if it would meet the criteria if the owners ran pipe for a hydrant, and Chief McPherson advised that the Town no longer utilizes dry hydrants without an agreement to maintain/test same. Further discussion ensued regarding public safety and the Chief, again, reiterated that there is not an access issue now and that the Department has the necessary equipment to get water if it is needed.

Mr. Hohenberger indicated that he did not see the criteria as being met. Mrs. DiFruscia added that she did not see there being a danger to the residents, given the Chief's input. Mr. Breton noted that the owners were fortunate to have the service through Salem, that they no longer have. Mrs. DiFruscia noted that, while she empathized with the owners, the Board has criteria it must meet.

Mr. De La Flor approached seeking clarification that the Town was stating in the event of a blizzard they can get emergency vehicles to the residents; questioning liability and whether that could be put in writing. Mr. Hohenberger replied that the same situation exists all over town, as there are many private roads which the residents thereon must get together and plow. Chief McPherson added that the Department pre-plans to deploy highway vehicles in advance when they know heavy weather is coming.

Mrs. Jillian De La Flor approached noting that she had heard from others of drifts, power outages, and the like in her area and expressing concerns about being cut off with no help. Discussion ensued, and Mrs. DiFruscia noted that she lives on the Pond and has experienced drifting and outages for weeks, but she has never felt or witnessed abandonment by the Town; adding that she believed that would not happen.

Discussion then ensued regarding the bus criteria. Mr. LoChiatto then moved and Mrs. DiFruscia seconded for discussion that the Board waive criteria #2 given the special circumstances in that the bus passes over the road, turns around, and exits. Mrs. DiFruscia indicated that she still had concerns regarding the condition of the road, and Mr. Hohenberger suggested that the Board have the Highway Agent look at developing a cost estimate to determine if the owners can/will afford the upgrades.

After further discussion, motion failed 2-2 with Mr. Hohenberger and Mrs. DiFruscia opposed.

Mr. Hohenberger then moved and Mrs. DiFruscia seconded that the Highway Agent obtain a cost estimate to bring South Shore Road up to a condition he is comfortable with and that the Fire Chief be consulted, as well. Passed 4-0.

Mr. Sullivan advised that, if they are willing to pay the upgrade costs, the owners can then re-petition for emergency lane status once they have received the cost estimates and completed the work.

**ANNOUNCEMENTS:** Community Development Director Laura Scott announced that the 1<sup>st</sup> Annual Shopping Extravaganza would be held on December 1<sup>st</sup> at the High School from 9 am to 2 pm. Businesses interested in participating should contact her at 432-3806.

**PUBLIC HEARING - HAZARD MITIGATION PLAN:** Chief McPherson explained that with the help of Theresa Walker, FEMA, and the RPC, the Town's Hazard Mitigation Plan has been revised; adding that all department heads had participated in developing this overall plan to prepare for natural disasters.

Ms. Walker approached, further explaining that the plan is required by FEMA and that the Town's current plan is due to expire in 2013. She noted that no action from the Board was required that evening; rather the purpose of the hearing was to gather Board comments only and the draft will then be posted for public input. Discussion ensued regarding the plan, that after the draft is finalized it will go to FEMA for review, and whether a red-line version or synopsis could be provided, as well. Ms. Walker indicated that she would send a summary of the amendments to Mr. Sullivan for distribution to the Board; and asked that comments be submitted to her within the next couple of weeks.

*The Chair called for a five minute recess.*

**MAINTENANCE REORGANIZATION:** Mr. Sullivan noted that, as a result of the previous week's discussion, a non-public session had been held with the Highway Agent and Transfer Station Manager to discuss the administrative duties of the Maintenance Department. Mr. Sullivan noted that a possible hybrid approach had been proposed, as well as compensation; adding that Highway Agent Jack McCartney is interested in undertaking the duties until year end, and Mr. Poulson is not.

Mr. Hohenberger noted that he was pleased Mr. McCartney had agreed, but expressed some concerns regarding what would happen during his heavy work times; with Mr. Sullivan or Mrs. Call having to pick up the slack. Mr. Sullivan indicated he and Mrs. Call would continue to do the bills/payroll etc., as necessary, however neither has time to be in the field ensuring tasks are being completed. Discussion ensued regarding the need for a middle position, administrative needs, proposed compensation, and the intended budget presentation.

Mr. LoChiatto noted that the hybrid approach came about in light of the two proposals and that there is a need to a boots on the ground look at the departments; adding that he believed Mr. Poulson's refusal to undertake the duties was more than a compensation issue. Discussion ensued regarding the need for an assessment of the departments and budgeting.

Mr. Sullivan clarified that his proposal was designed to save on staffing and monies; as his fills to the vacated position with only the addition of a part-timers. Mr. LoChiatto added that the difference, in a nutshell, between the two proposals was his did not include any additional staff. Discussion ensued.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mrs. DiFruscia seconded to enter into nonpublic session in accordance with RSA 91-A:3 II a. Roll call vote all "yes". The topic of discussion was personnel. The Board, Mr. Sullivan and Ms. Devlin were in attendance, and no decisions were made.

*Public session resumed at 9:40 PM.*

Mr. LoChiatto then moved and Mr. Hohenberger seconded to appoint Mr. McCartney as interim manager of the Maintenance Department for the next two months. Passed 4-0.

Discussion then moved to the need for a clear break in the managerial duties of the department; and the Board extended thanks to Mr. Barlow for his years of service to the Town.

Mr. LoChiatto then moved and Mr. Hohenberger seconded to formally relieve Mr. Barlow of his responsibility and duties as Maintenance Manager pending his retirement. Passed 4-0.

**BID AWARD – THERMAL CAMERA:** Chief McPherson approached and advised that, per the Board's authorization, the Department had sent out bid specifications for the purchase of an additional thermal camera. He noted that four proposals had been received and reviewed by himself and Mrs. Call and, based upon research, current department equipment, and training it would be their recommendation to award the purchase of the camera and necessary equipment to Harrison Schraeder for their bid amount of \$13,595.

Mr. LoChiatto sought clarification that this purchase is being funded by grant monies, and the Chief replied in the affirmative; noting that it would be 100% reimbursed. Discussion ensued as to compatibility, and Chief McPherson confirmed the same.

Mrs. DiFruscia moved and Mr. LoChiatto then seconded to award the purchase of the ISG Elite XRHR thermal camera in the amount of \$13,595 to Harrison Schraeder. Passed 4-0.

**BID AWARD – SOLID WASTE DISPOSAL:** Mr. Poulson advised that three proposals had been received, however, he had excluded Covanta as he felt they had not adhered to his verbal directive to bid the service at a fixed price for five years rather than on a sliding scale. He then noted the following:

- *Casella Waste* had bid \$47/ton to Southbridge, MA; with an additional \$135/hour hauling fee
- *Waste Management* had bid \$68/ton to North Andover, MA; with no additional fees

Mr. Poulson noted that, based upon the average of 4,500 tons per year and the distance involved, he would recommend the bid be awarded to Waste Management; resulting in an overall annual savings of \$3,780. Discussion ensued regarding the negatives of landfill disposal, waste to energy disposal, disposal/hauling costs, and Covanta's bid.

Mrs. DiFruscia indicated that she felt Covanta had done as directed, which was to give a fixed price, each year, for five years, as follows: 2014, \$66.25/ton; 2015, \$67/ton; 2016, \$67.75/ton; 2017, \$68.50/ton and; 2018, \$71.25/ton. Mr. Poulson concurred that this was true, and discussion ensued regarding the Covanta bid, which also included a reduction of \$7/ton off of the existing contract for 2013. Mr. Poulson also noted that he had just learned that the North Andover site utilized by Waste Management charges a \$350/year fee. After further discussion, Mr. Hohenberger moved and Mrs. DiFruscia seconded that, based upon the savings, the contract be awarded to Covanta. Passed 4-0.

**GROUNDSKEEPING:** Mr. Sullivan advised that the Town's contract with Boyden Landscaping was up for bid and that Mr. Boyden had offered to extend same, with the exception of the By-pass, at the same price for an additional two years. Mr. Sullivan noted that Recreation supports this continuation, and that all are very pleased with Mr. Boyden's service. He indicated that, as to the By-pass, Mr. Boyden is not willing to maintain that area for the \$5,000 previous bid, as the actual cost is 3-4 times as much, so this service will have to be treated separately.

Mr. Dennis Senibaldi, Recreation Chair, approached noting that Boyden's is the best contractor to work with, and that he continually goes the extra mile for the Town. Mr. Senibaldi then indicated he believed there were ways to lower the actual costs to maintain the By-pass. Mr. Breton suggested that ways be explored to better maintain the islands, such as matting to suppress weeds, and that a program be developed. Discussion ensued.

Mr. LoChiatto moved and Mrs. DiFruscia seconded to waive the bid process for groundskeeping. Discussion ensued as to Mr. Boyden's contract price being public, as well as development of an "adopt-a" spot program with the Community Development Director. Ms. Scott approached, noting that she had been working with Mr. Boyden on the latter, and apologizing if she had been premature in doing so. Further discussion ensued regarding the value of Mr. Boyden's efforts over and above the scope of work. Mr. Boyden approached and expressed his commitment to working long-term with the Town.

Motion to waive passed 3-1, with Mr. Hohenberger opposed. Mr. Hohenberger then moved and Mr. LoChiatto seconded to award the contract for groundskeeping, with the exception of the By-pass, to Boyden's Landscaping for the bid price of \$74,050/year for the years 2013 and 14. Discussion ensued, and Mr. Boyden expressed a willingness to go three years rather than two.

Mr. Hohenberger amended his motion, and Mr. LoChiatto his second, to include 2015 in the award, as well. Passed 4-0.

**REGIONAL PLANNING COMMISSION AFFILIATION:** Ms. Scott approached reminding the Board that, after the presentation from the Rockingham, Southern NH, and Nashua Regional Planning Commissions, the consensus was to take the summer months to allow the various Town boards/committees to review and comment on the Commissions' offerings. She then advised the Board that the presentations had not included any cost differences to the Town, and indicated that Southern NH would be approximately \$8K/year, Rockingham \$11K, and that she did not have Nashua's costs available. Ms. Scott noted that there had been no recommendation to move to the Nashua Commission, and Mr. Sullivan indicated that Mr. McLeod had advised him that he would prefer Nashua. Mr. Sullivan added, however, that Mr. McLeod had also indicated he would be comfortable with Southern NH, as well.

After a brief discussion, Mr. LoChiatto moved and Mrs. DiFruscia seconded that staff being the process to change planning commission affiliation from Rockingham to Southern NH. Brief discussion ensued regarding the process the Town must follow to do so, as well as finishing up those projects pending with the RPC. Mrs. DiFruscia extended thanks to the RPC for their service over the years.

Motion passed 4-0. Ms. Scott indicated that she would work with Mr. Sullivan to ensure the transition is a smooth one.

**OLD/NEW BUSINESS:** Discussion of the Board's designee to assist the RFP's received to conduct the Town's audit. Mr. Breton indicated that he had participated in this process for a couple of years now, and suggested that a citizen member be appointed to the review panel. Discussion ensued regarding the turn-around table to solicit letters of interest/appoint someone, and the Board designee. It was the consensus that Mr. LoChiatto serve as the Selectmen designee and that staff advertise for a citizen member, as well.

*Mr. Sullivan* advised that a proposal in the amount of \$2,395 had been received from Builders Installed Products to install rigid foam insulation in the Armstrong Building basement area; and requested authorization to expend same from the Property Maintenance Trust.

Mr. Hohenberger moved and Mrs. DiFruscia seconded to authorize the expense of \$2,395 from the Property Maintenance Trust as requested. Passed 4-0.

*Mr. Sullivan* reminded the Board that the following week the Board would be conducting a joint meeting with the School Board.

*Mr. LoChiatto* expressed concerns relative to the amount of time the Board members have to review items for Monday nights, and a discussion ensued regarding items being sent to the members by Thursday rather than Friday. Staff will do so moving forward.

*Mr. Sullivan* advised that the Court had rendered a decision relative to Warrant Articles 18 and 19, declaring both to be invalid due to constitutional issues. He advised that a press release to that effect would be prepared and distributed pending approval by the Board.

Mr. Hohenberger moved and Mr. LoChiatto seconded to adjourn. Passed 4-0.

The meeting adjourned at 10:45 pm.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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