

BOARD OF SELECTMEN
Minutes of March 10, 2014

CALL TO ORDER: Chairman Phil LoChiatto called the meeting to order at 6:00 PM. Selectmen Ross McLeod, Al Letizio, Kathleen DiFruscia and Roger Hohenberger were present; as were Town Administrator David Sullivan and Assistant Town Administrator-Finance Dana Call. Also present were School Board members Michael Joanis, Jerome Rekart, Dennis Senibaldi, Michelle Farrell, and Superintendent Winfried Feneberg; as well as Planning Board members Pam Skinner, Paul Gosslin, Alan Carpenter, Steve Bookless, Jim Fricchione, Vanessa Nysten and Kristi St. Laurent. Mr. LoChiatto opened with the Pledge of Allegiance, and then deferred to Mr. Sullivan to open the Impact Fee workshop.

Mr. Sullivan noted that the purpose of this joint session of the Boards was to determine the following as it pertained to the possible refund of School Impact fees collected:

- 1) The extent of the fees to be refunded – Mr. Sullivan reminded the Board that the analysis had revealed that a total of \$173,541 had been over-collected and, of that, \$14,265 fell within the three (3) year statute of limitations; and
- 2) Assuming refunds of same are approved, whether they should be disbursed from the legal budget or School Impact Fee account.

Mr. Sullivan noted Town Counsel had advised that, in his opinion, it was best to disburse the refunds from the legal budget unless it can be clearly assured who the payer was, when the funds were received, and if they were currently unexpended. Mr. Sullivan noted that the Finance Director can confirm that the funds currently in the School Impact fee account are those collected over the past three (3) years, and that funds beyond that time period have been paid out. Mr. Sullivan then indicated that Town Counsel recommends any refunds be issued within sixty (60) days, and that the Board can net out the overages if they wished. He indicated that, if the latter were the case, the total amount to be refunded for the three (3) year period would be \$10,657. Mr. Sullivan then noted that, in addition to determining the above, while the three (3) Boards were present any possible additions/changes to the procedures should be discussed.

Mr. LoChiatto sought clarification as to whom the funds would be refunded to, and Mr. Sullivan replied that Town Counsel confirmed they should be refunded to whomever it was that originally paid them; adding that those records are clear.

Discussion ensued as to the consensus of the Board being to refund the previous three (3) years, and whether same should be taken from the legal fund. Mr. Sullivan reminded the Board that the District had already lost \$81,000 in seasonal conversion fees; adding he believed these refunds can be absorbed in the Town's bottom line. Mrs. DiFruscia noted that Town Counsel seems to lean toward using funds from the legal budget due to possible complications involved with the School Impact Fee funds. Mr. Sullivan concurred, adding that the latter opens up the Town to challenges and he agreed with Counsel that the legal budget is the safer option. Further discussion ensued.

Mrs. Call approached and clarified that the accounting is very detailed for these funds, and that the only disbursements of these fees have been to the District. She indicated that these fees have to be tracked in order to ensure that disbursement occurs within the required six (6) year window; and that tracking is done on a first in/first out bulk basis. Mrs. Call clarified that in 2010 there was a remaining balance of \$3,200, due to the original fee structure, and that after the High School construction the fee was re-done and tracked separately. Mr. Hohenberger questioned funds/balances available pre and post the High School and Mrs. Call clarified that the year end balance for 2012, pre-High School, was approximately \$24,000.

Discussion ensued regarding use of the legal budget versus the School Impact fee monies, and the purposes of the latter being to offset the High School bond. Mr. McLeod indicated that, as these refunds can be absorbed in the Town budget, he felt they should be as it was Town issue.

School Board Chairman Mike Joanis indicated his support for refunding the monies for the last three (3) years; and that same be disbursed from the Town's legal budget. Those School Board members in attendance concurred with Mr. Joanis.

Planning Board Chairman Kristi St. Laurent expressed her support of Town Counsel's recommendation; that being refunds for the three (3) year period from the legal budget. Those present from the Planning Board concurred with Ms. St. Laurent.

After brief, further discussion, Mr. Letizio moved and Mr. McLeod seconded to issue refunds based upon the three (3) year statutory limit, netting out over/under payments, to be paid out within sixty (60) days to the entities who paid the fees and that funds for same will come from the legal budget. Passed unanimously.

Mr. LoChiatto then inquired whether any of the guest Board members had any observations or questions regarding the collection procedures put into place. Ms. St. Laurent noted that the Impact Fees are a function of the Planning Board and, while she appreciated the efforts of staff, not much input had been sought from the Planning Board. She suggested that, when the Planning Board completes their annual review of the Impact Fee methodologies, the procedures be reviewed and assessed to see if they are working. Discussion ensued, and several concurred with Ms. St. Laurent.

Planning Board member Vanessa Nysten expressed concerns regarding Community Development staff's removal of floor plans; questioning how the Public Safety Impact fees could be calculated without same. Discussion ensued in that this would fall under Planning Board, not Selectmen, purview and should be placed on the former's agenda. Ms. Nysten then raised several concerns to Mrs. Call regarding grammar/phraseology used on the new forms implemented (eg, should a field currently titled "Name" read "Applicant"). Mrs. Call clarified for Ms. Nysten the information that she uses on her side for tracking, and what she tracks for; adding that a copy of the check is also retained. Discussion ensued.

Ms. Nysten then raised concerns regarding the Department log. Discussion ensued regarding this log and that it is the Planning Board's responsibility to assess fees, which staff has been doing. Mr. LoChiatto noted that the discussion was drifting off topic to Planning Board procedures and public safety fees. Ms. St. Laurent clarified that the current protocol is to assess the fee at Planning Board approval and once the Building Permit is pulled a comparison is made and, if necessary, the fee revised. Discussion ensued regarding the changes made in Community Development procedures, the checks in place at the Department, and that Mrs. Call simply receives the funds.

Building Inspector Michael McGuire approached noting he had worked with Mr. Sullivan on the new protocols, and there are now multiple checks/balances in place to ensure this does happen again. Discussion ensued.

School Board member Jerome Rekart inquired whether staff could provide a status update to the School Board on fees collected prior to July; and Mrs. Call replied in the affirmative.

Ms. Nysten noted that the Planning Board relies heavily on staff to assess the proper fees; and reviewed several proposed changes/amendments to Mrs. Call's forms. Mr. LoChiatto suggested that Ms. Nysten meet with Mrs. Call regarding same. Discussion ensued, and it was agreed that Ms. Nysten will meet with staff.

Planning Board member Alan Carpenter indicated he applauded the check/balance log for reconciliation of when fees should be assessed, but queried how administrative errors would be identified (eg, a property marked "no" fee required). Mrs. Call indicated that an accounting of permits issued is generated straight from the MUNIS system and she would query staff if this report did not match the log; adding that the previous issue of under collecting had been related to grandfathering. Discussion ensued regarding historical data, which is available back to 2000, which both the Finance Director and Building Inspector have on file.

Mr. Carpenter then commended Mrs. Call for identifying the problem and developing the current procedures; and Mr. Sullivan for his work on the impact fee audits. Mrs. DiFruscia concurred, adding that she was very satisfied with their work and felt confident moving forward.

Planning Board member Paul Gosslin noted there had been no discussion relative to interest accrued, and inquired whether same was required to be refunded, as well. Mrs. Call replied that interest had not been included in the analysis calculations, however, very little had been earned on the account. Discussion ensued, and it was the consensus of the Selectmen that interest be included in the refunds.

Ms. Nysten indicated that she would like additional checks beyond the Community Development Department (eg. if a fee was not collected, a determination made of why). Lengthy discussion ensued in that these checks should be occurring within Community Development.

Mr. McLeod extended kudos to Mr. Sullivan and Mrs. Call for their efforts. Mr. LoChiatto and Mr. Letizio echoed those feelings, and extended same to Ms. Scott and Mr. McGuire, as well.

The Chairman called for a brief recess.

ANNOUNCEMENTS: Mr. Letizio noted that, as of the previous August, Mr. Sullivan had served the Town for 25 years; noting he was unaware of any Town Administrator in NH who had served the same community for that length of time. Mr. Letizio noted that Mr. Sullivan's job is not an easy one, however, he remains a consummate professional. He then noted the presence of many employees, former Selectmen, and Mr. Sullivan's wife, Colleen, who were in attendance for this presentation. There were then a number of presentations/accolades offered in recognition of Mr. Sullivan's service, amidst rounds of applause, including:

- State Representative Charles McMahan, also a former Selectman, presented a Declaration from the House of Representatives
- Senator Jim Rausch presented a Senate Resolution
- Mr. Letizio presented a Commendation, signed by nearly all of the twenty-two (22) Selectmen with whom Mr. Sullivan had worked over the years
- Former Selectmen Betty Dunn and Galen Stearns, along with Alan Carpenter, Dennis Senibaldi, and Charlie McMahan, offered anecdotes of their time working with Mr. Sullivan

Mr. Sullivan approached and extended thanks to all; noting it had been a great 25 years and that Windham was, essentially, his second home. He noted his job has been made easier by the great staff he has, as well as a group of tremendous employees. He noted that the residents should be very proud of the Windham staff; adding it had been an honor and privilege to serve with each of those Selectmen over the years. Mr. Sullivan noted that, despite other options over the years, he had remained with Windham because he believed it should be about the people and the camaraderie. Mr. Sullivan then extended special thanks to Colleen for her unwavering support of him over the years.

Mr. LoChiatto then noted that he could not even begin to express the gratitude that the Board has for Mr. Sullivan's service to the Town; sentiments which many concurred with.

Mr. Letizio then noted that this would be the last meeting with Mr. LoChiatto and Mrs. DiFruscia; adding it had been a complete pleasure to work with them. Mr. McLeod concurred, adding that, in his five years of service, this had been his favorite Board hands down. Mr. Letizio then presented service gifts to Mr. LoChiatto and Mrs. DiFruscia.

Mrs. DiFruscia indicated she appreciated the opportunity to serve the Town for the past three years; noting the good fortune of having so many remarkable people working for the Town. Mr. LoChiatto echoed Mrs. DiFruscia's sentiments; adding that working with Town staff had been an eye-opener as to how well the Town is run.

Mr. Letizio then noted that Community Development had recently hosted a Groundwater Resource meeting; which had been very informative and well attended. He indicated that it is available on demand at wctv21.com.

Mr. Letizio indicated that the second in the series of free business seminars would be taking place on 3/20 at Sophisticakes; and will focus on Small Business “dos and don’ts”.

Mr. Letizio noted that on March 25th, from 4P – 7P, Infinite Fitness will be holding a grand re-opening of their expanded facility.

Mr. Letizio advised that the Economic Development Committee would be meeting the following Friday beginning at 7:30 AM at the Community Development Department.

Mr. Letizio reminded all to vote the following day. Polls will be open 7A – 8P at the High School.

Mr. McLeod announced that the 7th Annual 5K Flat & Fast race had been set for June 18th at the Windham Rail Trail; and that the first 250 runners will receive a free t-shirt.

Mr. McLeod extended congratulations to Windham High student Lauren Sullivan for placing 7th overall in the Eastern Regionals Slalom.

Sgt. Bryan Smith approached and announced that the Department would be offering the first ever “Citizen Police Academy” on Thursday evenings, from 6:30 P to 9:30 P at the station. He noted that each week a different topic will be covered, and the program will end with a barbeque at the Fire Department. *Sgt. Smith* advised this is not a training program, but rather an in-depth view of police work. Those interested in attending should contact *Sgt. Smith* at the Department.

Chief McPherson approached and advised that the Department had qualified for the grant monies requested to purchase Mobile Data Terminals for the police/fire vehicles. He noted this is a 50% matching grant, with the cost to the Town being \$9,847, and that the purchase includes all necessary software and hardware. *Mr. LoChiatto* noted that such an award is a testament to the Department’s efforts in seeking out, applying for, and successfully receiving grant funds. Discussion ensued regarding the truck grant.

Mrs. DiFruscia then moved and *Mr. McLeod* seconded to accept the grant funds towards the purchase of mobile data terminals. Passed unanimously.

Chief McPherson then extended thanks to *Mr. LoChiatto* and *Mrs. DiFruscia* for their service.

CORRESPONDENCE: None.

MINUTES: *Mr. McLeod* moved and *Mr. Hohenberger* seconded to approve the minutes of January 23 and 27, and February 10 as written. *Mr. Letizio* noted an inaccurate report in the Pelham/Windham News relative to Board recommendations, which he indicated could be clarified by reading the minutes of 1/23. Motion passed unanimously.

HISTORIC SOCIETY: *Mr. Sullivan* advised that the Society had requested to use the Searles Facility at no charge to host a “History of the Fire Department” on May 21, 2014. He advised that the request is supported by the Searles Coordinator, and there are no conflicts with the date. *Mr. Letizio* moved and *Mrs. DiFruscia* seconded to waive the facility cost as requested. Passed unanimously.

Mr. McLeod recused himself from the Board; indicating he may want to speak on behalf of Soccer on the following agenda item.

SCOUTING JAMBOREE: Recreation Coordinator Cheryl Haas explained the Committee had spent many hours going over this request at three meetings; and had ultimately voted unanimously to support the Scout’s request to host a jamboree from April 4th to 6th at Griffin Park. She advised that the Board would need to waive portions of the Field and Facility Use policy to allow: campfires; use of the lights before the season begins; to be on site after hours, and; field use before the official start of the season.

Mr. Hohenberger inquired whether Boyden Landscaping was under contract to fix any damage caused by the event, and Ms. Haas replied in the negative. She indicated that Boyden would do the repairs, but someone other than the Town would bear the cost; adding that the Scouts are aware they would be responsible to repair any damages. Discussion ensued.

Mrs. DiFruscia inquired whether the event stipulations have been put into writing, and Ms. Haas replied in the affirmative, noting that the Scouts have already signed off on them.

Mrs. DiFruscia then sought clarification that the Scouts had satisfactorily responded to the Recreation Committee's concerns, and Ms. Haas replied in the affirmative citing the unanimous vote of support. Recreation Committee member Dennis Senibaldi approached to further clarify that the field in question will be closed for overseeding/aerating this season anyway. Discussion ensued regarding the overall Scouting mission to leave areas better than when they arrived.

Mr. Fred Nader, Windham Boy Scouts, approached and gave a brief background of the events leading up to the Scout's request, and to clarify that:

- The Jamboree will encompass all the groups: Boys, Girls, and Cubs.
- Friday the 4th will involve setting up/camping out, fires, and various activities (eg skits)
- Saturday will include the benediction, honor guard, and events throughout the day (eg advancements/badges, re-enactments)
- The Jamboree will be open to members of the general public who wish to join in/attend

Discussion ensued as to the proposed location of the Jamboree within the park itself, which Mr. Nader indicated would be the front field near the street. He went on to note that he would not say the back soccer field wouldn't be used, but reiterated there would be no damage. Further discussion ensued regarding the camping and heavy activities being limited to the front field.

Mr. McLeod approached on behalf of Soccer noting that, if there were no damage it would not be an issue; however if repairs are needed after the Jamboree then Soccer will require an alternate space. He asked that the Board instruct the Scouts to avoid the rear turf field; clarifying that Soccer does support the Jamboree, however the group does have concerns regarding the fields.

Chief McPherson approached noting that, if the Board were to approve the use, as it pertained to fire permits the Department will require individual and pre-site walkthroughs regarding locations and materials to be used.

Mrs. DiFruscia sought clarification of the event hours and parking needs. Mr. Nader indicated that the Jamboree will begin at 4P on Friday and be over by noon on Sunday. He noted that 100+/- vehicles were expected, and that participants will be advised to park in the front of the lot, closest to Range Road.

Further discussion then ensued regarding the turf field and the potential for damage to same. Ms. Haas advised that, each spring, the fields are individually assessed and that she plans on evaluating same with the Scouts as the date of the event gets closer.

Mr. Letizio moved and Mr. Hohenberger seconded, per Section IX of the Field and Facility Use Policy, to waive the following for the Scouting Jamboree from April 4-6, 2014: 1) Section IV to allow for cooking fires/devices; 2) Section V to allow for programming of the lights; 3) Section VII to allow Scouts to be in area from dusk to dawn, and; 4) use of the fields before the season begins.

Mrs. DiFruscia asked that a caveat be added that field use will be conditional upon assessment by the Recreation Coordinator on that Friday afternoon. Mr. Letizio and Mr. Hohenberger concurred, and the motion passed 4-0.

Further discussion ensued regarding the planned events/activities, and Mr. Nader advised that one of the things he would like to do involved a re-enactment and a single cannon shot. After discussion, Mr. Hohenberger moved and Mr. Letizio seconded to allow a single cannon blast at noon on April 5 at Griffin Park. Passed 4-0.

Mr. McLeod then sought confirmation that Soccer will have a field available for use, regardless. Ms. Haas replied in the affirmative. Mr. McLeod then resumed his seat with the Board.

BID AWARD: IT Director Eric DeLong approached noting that, if the budget is approved, he would like to move forward on Wednesday morning to purchase the new computers as budgeted for. Mr. Hohenberger sought clarification as to the number of units, and Mr. DeLong replied fifty (50) had been quoted. Discussion ensued in that the Board had already reviewed this request and that Mr. DeLong had obtained additional pricing as discussed and requested by the Board.

Mr. DeLong clarified that the price quote does include a three year warranty, and is reflective of the State bid for same. Mrs. DiFruscia moved and Mr. McLeod seconded to waive the bid process relative to the purchase of fifty (50) computer units. Passed unanimously.

Mr. Letizio then moved and Mrs. DiFruscia seconded to authorize the purchase of applicable Dell computers in the amount of \$41,275.50. Passed unanimously.

FACILITY INSPECTION REPORT: Mr. Sullivan noted that this report highlights the amount of work completed since Mr. McCartney took over the Maintenance Department. Mr. McCartney noted that much of the smaller work had been done in-house by staff (eg painting, etc.,) with larger items being subbed out. He indicated that, in April, the list of items remaining will be updated.

Mrs. DiFruscia extended thanks to Mr. McCartney; noting he does a remarkable job in his dual role. Discussion ensued, and Mr. LoChiatto suggested the listing be prioritized by urgency versus the date of addition to the list. Further, brief discussion ensued regarding future categorization by short/mid/long-term priority.

OLD/NEW BUSINESS: Mr. Sullivan presented the Board with the final version of the lease with the State of NH for the parcel behind the former Rogers Service Station; which will be used for trail parking. The Chairman executed same.

Brief discussion ensued amongst the members as to who will be arriving at the polls, and when, in accordance with their responsibility to be present during the election. Mr. Sullivan then extended thanks, again, on behalf of himself and the staff; reiterating Mr. McLeod's sentiment that this had been a great Board to work with.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mrs. DiFruscia seconded to enter into a nonpublic session in accordance with RSA 91-A:3 II a and e. Roll call vote - all "yes". The topics of discussion were personnel and legal. The Board, Mr. Sullivan, Mr. Norman and Ms. Devlin were in attendance in the first session.

The Board discussed a legal matter relative to a property tax abatement. Mrs. DiFruscia moved and Mr. McLeod seconded to support the settlement as discussed. Passed unanimously.

Mr. Norman updated the Board on a potential legal matter. No decisions were made.

The Board, Mr. Sullivan, and Ms. Devlin were in attendance in the final session; wherein the Board members executed several employee evaluations. No other decisions were made.

Mr. McLeod moved and Mr. Hohenberger seconded to adjourn. Passed unanimously.

Meeting was adjourned at 9:00 PM

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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