

BOARD OF SELECTMEN
Minutes of August 9, 2004

ROLL CALL: Vice-Chairman Christopher Doyle called the meeting to order at 7:10 pm. Those present included Selectmen Bruce Breton, Roger Hohenberger, and Galen Stearns. Mr. Sullivan was also present. Chairman Carpenter was excused. Mr. Doyle read the agenda into the record.

ANNOUNCEMENTS: Mr. Stearns again reminded the public that the Senior Picnic is scheduled for Friday, August 13 at 12:00 PM at the Fire Station.

Mr. Breton announced that there will be a Hazardous Materials Collection on August 14 from 8:00 AM to 12:00 PM at the Nashua Public Works Garage.

LIAISON REPORTS: Mr. Breton noted that there is a Master Plan Meeting to discuss public utilities scheduled for August 11, 2004 from 7:00 PM to 9:00 PM.

The Board discussed their previous plan to hold a public hearing immediately following the Master Plan meeting. Mr. Hohenberger felt it may make more sense to wait, giving people time to absorb the information presented at the Master Plan meeting. Mr. Stearns concurred. After further, brief discussion, the consensus of the Board was that the public hearing previously posted for August 11 will be cancelled and rescheduled for September 13, 2004. Mr. Sullivan will ensure that the cancellation is posted on the Town website.

Mr. Breton reported that the Round Robin tournaments have begun, and reminded all that the 1st Windham Open will be held on August 21 and 22 on all the tennis courts.

OLD BUSINESS: At the Board's request, after discussion of a bond release request at a previous meeting, several recommendations were received and reviewed regarding removal of the temporary connector road between Hancock and Cardiff roads. Mr. Sullivan advised the Board that the Highway Safety Committee had unanimously supported the excavation, regrading, and curbing of the area based upon the following: lack of overwhelming evidence that maintaining the connector would provide any increase in traffic safety; and, the new roadways within the subdivision, once complete, will provide a connection to Cardiff Road for emergency vehicles and thru traffic.

Mr. Turner noted that the Planning Board's last approval of the subdivision had required the removal of the connector.

Mr. Doyle read into the record a memorandum from the Chief of Police which also supported the removal, and Mr. Turner noted that several letters had been received from residents of the area requesting its removal, as well. Mr. Sullivan reported that the owner whose property the connector directly impacts had contacted him directly to request its removal.

When asked if the Fire Chief had submitted an opinion regarding this issue, Mr. Sullivan stated that Chief Messier was in favor of the removal, feeling that an increase in response time to the area would be negligible at best.

Mr. Hohenberger moved and Mr. Breton seconded to release the bond amount of \$1,480 to Castle Reach Development LLC, retaining \$5,000. Passed 4-0.

Mr. Stearns moved and Mr. Breton seconded to recess to the Board of Health. Passed 4-0.

BOARD OF HEALTH: Vice-Chairman Doyle read the public hearing notice into the record. Mr. Turner explained that the applicant was requesting a waiver to allow a new septic system to be installed within 32' of the existing well. The property, owned by John Morton, is located at 106 South Shore Road.

Mr. Turner noted that there is an existing 2-family dwelling on the lot, and that the current septic system is located near the existing well, however, the applicant is proposing in the future to relocate the well. Mr. Turner went on to explain that the property has had septic issues in the past and the owner wishes to install an upgraded, state-of-art system.

After review of submitted plans, Mr. Hohenberger sought clarification on the elevation of the property, and Mr. Turner noted that a gentle slope existed. Mr. Doyle sought more information on the type of septic system currently in place, and Mr. Turner indicated it was a gravity fed system, consisting of a holding tank which feeds into several dry wells serving as a leach field.

Mr. Morton approached the Board and advised them that his engineer had indicated the septic could not be located anywhere else on the property. Mr. Stearns inquired what the setbacks were from the property lot line. Mr. Turner stated that 27' was the shortest distance, which was outside the 10' requirement.

After brief further discussion, Mr. Hohenberger moved and Mr. Stearns seconded to deny the application . Passed 3 -2, with Mr. Doyle and Mr. Turner opposed. Mr. Hohenberger cited the proximity of the property to the lake and the density of the neighborhood as reasons for his motion.

Mr. Breton moved and Mr. Stearns seconded to adjourn the Board of Health. Passed 5-0.

PUBLIC HEARING/DONATIONS: Vice-Chairman Doyle read the notice into the record. Mr. Sullivan explained that, to date, eleven monetary donations had been received toward the senior picnic totaling \$1,025. These funds will be used to defray the Town's cost to host the picnic. Mr. Stearns moved and Mr. Breton seconded to accept with gratitude these generous donations. Passed 4-0.

RAIL TO TRAIL: Mr. Wayne Morris, Windham Rail Trail Alliance (WRTA), updated the Board on the status of their discussions with the State regarding the Windham portion of the Rockingham Recreational Trail. He noted that, when last discussed in May, the Board had several valid concerns regarding the proposed cooperative agreement.

He went on to say that, after further meetings with the Department of Transportation (DOT) and the Department of Resource and Economic Development (DRED), the main concern now seems to be whether to pave the trail or not. DRED does not believe the 4.2 miles of trail in Windham should be paved, while the WRTA feels it should for several reasons including: under the proposed agreement, the Town will be responsible to maintain the trail, and without pavement related costs will be higher as more maintenance will be required, and; donations have been offered of engineering services and pavement for a portion of the trail, totaling \$350,000.

Mr. Morris then requested, on behalf of the WRTA, that the Board send two letters to the State: one to DRED, endorsing the efforts of the WRTA, and the other to the DOT offering the Board's support of pavement on the trail.

A discussion ensued regarding the effects of pavement on the snowmobile users, and the possibility of hard-pack versus pavement.

Mr. John Mangan, WRTA, presented handouts to the Board members regarding a paved trail in Northampton, MA, which is very similar to what is being proposed in Windham.

The discussion moved to the condition of the trail, usages if paved, and the State feasibility study. Mr. Dennis Senibaldi, local business owner, stated that the trail's condition is atrocious in some areas, and that when it was closed to ATVs he lost a large portion of his customers. He offered his opinion that, if paved, usage would increase to the benefit of area businesses, and compared it the Lexington, MA trail, which is heavily used.

Mr. Stearns moved and Mr. Hohenberger seconded to send the letters of endorsement to DRED and the DOT as requested by the WRTA.

Mr. Breton sought clarification from Mr. Sullivan that, should the State reclaim the area, the pavement would have to be removed at the Town's cost. Mr. Sullivan indicated that was correct.

Mr. Doyle requested that Mr. Stearns reconsider his motion and that the subject be postponed until a full Board was available. Further discussion was held regarding pavement versus other surfaces and uses of the trail. Mr. Breton felt the Board should support the recommendation of DRED, which is to not pave the trail.

Mr. Stearns motion resulted in a 2-2 vote, with Mr. Breton and Mr. Doyle opposed.

Mr. Hohenberger moved and Mr. Breton seconded that this subject be readdressed at the next regular meeting of the Board. Passed 4-0. Mr. Sullivan will place this item on the agenda for August 16, 2004.

MINUTES: Mr. Stearns moved and Mr. Hohenberger seconded to approve the minutes of July 12, 19, and 26, 2004 as written. Passed 4-0.

Mr. Breton stated that, to his recollection, the Board had never approved the minutes of March 29, 2004. Mr. Sullivan will check into this.

CORRESPONDENCE: Letter received from Town Counsel regarding the Board's authorization to waive dog license penalties. Mr. Sullivan explained that while not expressly prohibited from doing so, based on existing case law Town Counsel feels the Board should proceed cautiously in granting waivers or refunds of penalties. He then questioned whether the Board wished to rescind their previous decision to waive a penalty paid by a resident based on health issues. After a brief discussion, the consensus of the Board was to let the waiver in question stand and release the refund check.

Letter received from Mr. Mesiti and several property owners in the area of lot 7A-633, requesting that they be authorized to assume maintenance of an existing trail system adjacent to their properties, which is in poor condition. The Board questioned whether this particular trail was Town-owned or not. Mr. Sullivan will research the location and ownership of the trail in question, and also seek input from the Planning Board, for discussion at a future meeting.

NEW BUSINESS: Mr. Hohenberger requested that, in addition to normal budget season procedures, the Board be presented a 0% increase budget over statutory obligations for comparison purposes for 2005.

Mr. Sullivan inquired if the Board had any specific Capital Improvement requests, stating previous requests will also be resubmitted. Mr. Hohenberger felt that the Bartley House should be removed from consideration, as the voters clearly did not support further renovation at this time. Mr. Stearns noted that the first meeting of the CIP Committee is scheduled for September 1, 2004.

The Board reviewed a standard agreement between the State and the Town Clerk's office relative to release of new products by the State for use in Windham. Mr. Sullivan explained the agreement encompassed standard acknowledgments that the equipment and software are state-owned and to be used only for specific purposes. Mr. Stearns moved and Mr. Breton seconded to enter into said agreement with the State of NH relating to hardware and software for use in the Town Clerk's Office, and to authorize Mr. Sullivan to sign on behalf of the Town. Passed 4-0.

OLD BUSINESS: Mr. Breton inquired as to the status of the engineering meeting summary which Mr. Sullivan was to prepare for the Board. Mr. Sullivan noted that he is still monitoring the meetings, and expects to complete his report in September.

Mr. Breton noted that, to date, the Board had not received a complaint log for July. Mr. Sullivan responded that he had not prepared one because no complaints had been received, however if the Board wished, he would draft a memorandum stating same.

NEW BUSINESS, CONTINUED: The Conservation Commission approached the Board to request that the Selectmen, on behalf of the Commission, appeal a variance granted by the Zoning Board of Adjustment on July 13, 2004.

Jim Finn, Chairman of the Conservation Commission, explained that the Commission felt that relevant information had not been available to them at the time of their review, and that their opinion on the project may have differed if taken into consideration.

Mr. Breton raised several points including: applicants to the ZBA are not required to have Conservation Commission approval; new evidence must be presented for an appeal; and that the Commission, per the RSA's must be an advocate for the WWPd regulations, and not willing to "trade" one thing for another.

Mr. Finn countered that the Commission was not claiming to have rights to deny the application, but that better information should have been provided them to allow them to speak properly to the issue.

After a lengthy discussion with input from Jim Tierney, Building Inspector; Lisa Linowes, Conservation Commission; and Dennis Senibaldi, Conservation Commission; the consensus of the Board was that no new information had been provided to justify an appeal. Mr. Stearns moved and Mr. Hohenberger seconded to deny the Conservation Commission's request for re-hearing of the Zoning Board of Adjustment's decision regarding lot 19B-2019. Passed 4-0.

Mr. Sullivan presented the Board with proposed regulations for the skateboard park for discussion at a future meeting.

Mr. Senibaldi approached the Board expressing concerns that children are utilizing the area, despite it being taped off. He requested the Board explore a better way to secure the area. Suggestions were made to borrow snow fencing from the State, or to utilize silt fencing/staking. Mr. Sullivan will look into the matter further.

OLD BUSINESS, CONTINUED: Mr. Hohenberger inquired as to where the large loam pile at Griffin Park had been relocated to. Mr. Sullivan stated it was now at the old landfill on Marblehead Road.

Mr. Hohenberger suggested that the swale between the basketball court and the walkway at Griffin Park should be looked at by staff, as erosion and standing water is evident. Mr. Sullivan will inspect the area with Planning and Maintenance staff.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Stearns seconded to enter into a non-public session in accordance with RSA 93-A:3 a and d. Roll call vote – all members “yes”. The topics of discussion were personnel and land acquisition.

Land acquisition: The Board, Mr. Sullivan and the following members of the Conservation Commission were in attendance: Pam Skinner, Dennis Senibaldi, Lisa Linowes, and Jim Finn.

Mr. Breton moved and Mr. Hohenberger seconded to seal the minutes of this discussion. Passed 4-0.

Personnel: The Board and Mr. Sullivan were in attendance to discuss a personnel matter. No decisions were made.

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

The meeting was adjourned at 10:10 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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