

**BOARD OF SELECTMEN**  
**Minutes of September 20, 2004**

**ROLL CALL:** Chairman Alan Carpenter called the meeting to order at 7:05 pm. Those present included Selectmen Bruce Breton, Christopher Doyle, Roger Hohenberger and Galen Stearns. Mr. Sullivan was also present. Mr. Carpenter read the agenda into the record.

**ANNOUNCEMENTS:** Chief Don Messier announced that the Department will be hosting an open house at the Fire Station on October 2 to kick-off Fire Prevention Week. Activities will begin at 10:00 AM and continue until 4:00 PM, and will include among other things, a chili cook-off and refreshments provided by the Cub Scouts.

*Chief Messier* also announced that the Windham Professional Firefighters Local 2915, as a result of their month-long boot drive and annual breakfast, had raised over \$25,000 for the Muscular Dystrophy Association. Windham firefighters collected the highest amount overall in the State, 100% of which will remain in New Hampshire.

**LIAISON REPORTS:** None.

**SCOTT BOGLE:** Mr. Bogle, a Transportation Planner with the Rockingham Planning Commission, and Mr. Fred Roberge of Special Transit Services in Manchester, conducted a slideshow presentation to the Board regarding the background and goals of the Greater Derry-Salem Regional Transit Coordination Initiative. The Town has been approached to join the program and asked to consider placing the Town's Senior Van into the pool of available vehicles. Windham currently contributes \$2,500 annually to the Regional Transportation Council, which Windham residents can contact for transportation when necessary.

Mr. Bogle explained that the program is intended to provide expanded demand response transit through a centralized brokerage approach, in which one agency would coordinate scheduling for participating agencies' vehicles. The communities eligible to participate, provided they contribute funding, would include: Atkinson, Chester, Danville, Derry, Hampstead, Londonderry, Pelham, Plaistow, Salem, Sandown, and Windham. The estimated annual contribution for Windham's participation would be around \$2,500 in the first year and gradually increase to \$7,115 by year three. Mr. Bogle explained that it was also estimated that available rides to Windham residents would increase by approximately 20% through participation in the program.

Mr. Hohenberger began the question and answer portion of the presentation by inquiring if Windham residents have been turned away by the RTC based upon the Town's level of contribution or if, between the available agencies, no ride at all has been available to a Windham resident. Mr. Bogle was unsure about the RTC, but Mr. Sullivan did note that there have been times the Town could not drive someone due to lack of a driver for the town van, but that we have been able to handle the majority of calls received.

Mr. Hohenberger asked if the estimated \$7,100 was above and beyond the \$2,500 already being contributed, and Mr. Bogle indicated it was. Mr. Stearns asked what the ongoing cost would be after the initial three-year phase in of the program. Mr. Bogle stated that amount had not been established as yet. A lengthy discussion ensued regarding future costs, liability, and placement of the Town's van in the pool.

Mr. Tom Case, Windham representative to the Transportation Advisory Committee, approached the Board to seek clarification of what happens

when Windham is unable to transport a resident for whatever reason. Mr. Sullivan responded that, if the appointment cannot be rescheduled then staff refers the resident to the RTC, however probably 9 out of 10 residents are accommodated. Mr. Case noted that, if that were the case, then the Town may not need to participate in the brokerage, unless one included the residents driven by him who do not currently use the van.

Mr. Carpenter asked if Mr. Case felt the Town should participate. Mr. Case felt it may be worth a try, provided the Town had the option to withdraw, however there were a lot of variables to consider.

Mr. Bogle suggested that the Town could raise the additional funding for the program through supplemental vehicle registration fees which municipalities may collect in an amount up to \$5/registration. He noted that, based on the total registrations issued in 2001, the Town would have collected \$56,000 for the year at the \$5/registration level.

Further discussion ensued regarding responses received from other communities approached by the Initiative to date, calculations of contributions, and whether the issue would need to go to Town Meeting or could be included as part of the budget.

Mr. Sullivan indicated that the first year's contribution could be included in the 2005 proposed budget. Mr. Carpenter requested that Mr. Bogle draft language for a proposed Warrant Article and submit it to the Board for use in the event they wish to proceed. Mr. Hohenberger and Mr. Stearns clarified for the record that they were not in support of the Town's joining the brokerage.

Mr. Breton suggested that the senior residents of Windham be polled about the level of transportation service they are receiving. Mr. Carpenter asked if Mr. Case would be willing to speak to the seniors. Mr. Case indicated he would do so, but reiterated that his service must be taken into consideration as there will be many more refused when he someday stops providing transportation.

The Board extended their thanks to Mr. Bogle and Mr. Roberge for their presentation.

**RIGHT OF WAY/MILLER:** Mr. Sullivan gave a brief review of the situation, which pertained to a request to allow a split-rail fence that the owners of 33 Mockingbird Hill Road had constructed approximately 8' into to the Town's right of way to remain.

Mr. Miller approached to explain that he and his wife had installed the fence approximately a year ago to deter their children from entering the street. He stated that, while he had checked into the existence of restrictive covenants on the property prior to building the fence, he had not known permission was needed from the Town to proceed.

Mr. Sullivan advised the Board that according to RSA 41:11, the Board of Selectmen has the authority to regulate the use of highways and rights-of-way, and that the Supreme Court had determined that for municipalities to authorize permanent structures within the right-of-way was contrary to the state statute. He noted that the Board could proceed in one of two ways: send a letter to the Millers noting that they cannot authorize the fence to remain, but taking no action on its removal until it is deemed a nuisance, or order its immediate removal or relocation out of the right-of-way.

Mr. Sullivan advised the Board that the Highway Agent had been consulted, and upon review of the area, did not view the fence as an impediment to

normal operations. Mr. Breton also did not view the fence as a problem, and felt the Board should send the letter as suggested by Mr. Sullivan. Mr. Hohenberger and Mr. Stearns concurred, noting that language should be included in the letter stating the Town assumes no liability or responsibility for the fence.

Mr. Stearns moved and Mr. Doyle seconded to take no action on the Miller's request other than sending a letter as discussed. Passed unanimously.

Mr. Sullivan reminded Mr. Miller that the decision of the Board did not exempt him from adhering to code requirements.

**FIRE PERMIT FEES:** Mr. Carpenter read the public hearing notice into the record. The Board, with input from Fire Inspector Diana Nault reviewed and discussed the following proposed changes to the fire permit fees:

Permit Type	Old Fee	New Fee
Fire Pumps	\$25.00	\$50.00
Cistern – Installation/Testing	New	\$50.00
Heating Units – Oil/LPG	\$20.00	\$25.00
Gas Inserts/Space Heaters	New	\$25.00
Water Heaters – Gas or Oil	\$20.00	\$25.00
Day Care – Centers	\$15.00	\$35.00
Daycare – Groups	\$15.00	\$25.00
Wood or Coal Stoves	\$15.00	Free
Reports Fire/EMS	\$2.00/page	\$10/report
Oil Tank Inspection	New	Free

Mr. Breton suggested that the fee for cistern inspections be raised to \$250/cistern, based upon the manpower and time necessary to inspect and test them. A lengthy discussion ensued regarding installation, permitting, and testing procedures for cisterns.

After discussion of the remaining proposed changes, Mr. Doyle moved and Mr. Breton seconded to approve the following permit fee changes:

Permit Type	Old Fee	New Fee
Fire Pumps	\$25.00	\$50.00
Heating Units – Oil/LPG	\$20.00	No change
Gas Inserts/Space Heaters	New	\$20.00
Water Heaters – Gas or Oil	\$20.00	\$25.00
Day Care – Centers	\$15.00	\$35.00
Daycare – Groups	\$15.00	\$25.00
Wood or Coal Stoves	\$15.00	\$20.00
Reports Fire/EMS	\$2.00/page	\$2.00/page (\$10 max)
Oil Tank Inspection	New	Free

The proposed change to the cistern fee will be reposted by staff. Mr. Stearns indicated he would rather re-post all the changes, however the remainder did not concur. Motion passed 4-1, with Mr. Stearns opposed.

Mr. Sullivan will re-post the proposed cistern fee.

**MINUTES:** Mr. Stearns moved and Mr. Hohenberger seconded to approve the minutes of March 29, 2004 as written. Passed unanimously.

Mr. Doyle moved and Mr. Hohenberger seconded to approve the minutes of August 2, 2004 as written. Passed unanimously.

Mr. Doyle moved and Mr. Stearns seconded to approve the minutes of August 9, 2004 as written. Passed unanimously.

Mr. Doyle moved and Mr. Stearns seconded to approve the minutes of August 23, 2004 as written. Passed unanimously.

**BOND RELEASE/MITCHELL POND ROAD EXT:** Request received to authorize a partial bond release in the amount of \$367,909 to JRV Homes, retaining \$134,900 for the final coat, drainage, loam, and erosion control.

Mr. Doyle moved and Mr. Hohenberger seconded to approve the partial release as requested. Passed unanimously.

**CORRESPONDENCE:** *Request received from Assessor Rex Norman, to allow for inclusion of basic parcel information on the Town's website, including owner name, mailing address. Mr. Doyle moved and Mr. Breton seconded to authorize information as shown in the Assessor's request. Passed unanimously.*

*Letter received from the Department of Economic Development clarifying their reluctance to pave the Windham portion of the Rockingham Recreational trail as supported by the Windham Rail Trail Alliance, and expressing their concerns that they had been unable to attend the recent meeting between the Department of Transportation and the WRTA.*

*Mr. Carpenter read several emails into the record, sent in support and praise of the efforts of the Planning and Development staff. Also included was an email from Mr. Hohenberger to Mrs. Virginia Gray, Planning Secretary, stating it was good to see so many expressions of support since the Board's discussion regarding sensitivity training. Also received was a letter of support from Sylvestri Development.*

**OLD BUSINESS:** Mr. Sullivan advised the Board that four proposals had been received regarding the Cardinal and Oriole road engineering study, which will be reviewed by staff and a recommendation made to the Selectmen at the next meeting.

Mr. Stearns inquired when the new traffic study would be conducted on Cardinal and Oriole roads to gauge the effects of lowering the speed limit. Mr. Sullivan noted that the Highway Safety Committee was still working on prioritizing the top 20 list, but would focus temporarily on Faith, Cardinal, and Oriole Roads if the Board wished.

*Mr. Sullivan updated the Board on the bench program initiated by Mr. McMahon. To date, 37 benches have been committed. Mr. McMahon suggested that 12 be placed on the perimeter of the tennis courts with the remainder around the walking path.*

Mr. Stearns questioned the amount, as only 21 had been authorized. Mr. Breton felt that some of the existing Town-owned benches could be

relocated to other areas to accommodate the excess, if necessary. The consensus of the Board was that they would like to see a plan depicting the proposed layout.

*Mr. Carpenter* noted that, regarding the skate park, when the police are present there seem to be less children and more helmet use, with the reverse being the case when police are absent.

*Mr. Breton* noted that the bathroom facilities are complete, and that they are waiting only for the proper hinges to arrive to hang the stall doors.

Mr. Hohenberger inquired as to whether the water in the multi-purpose building had been tested yet. Mr. Sullivan and Mr. Breton indicated it had not, but no problems seem to be evident.

*Mr. Doyle* inquired as to how the Boy Scout recruitment had gone, being the first official function use of the building. Mr. Sullivan believed it had gone well. Mr. Carpenter noted that parking will need to be addressed at some time to accommodate such functions coupled with regular park visitors.

*Mr. Breton* advised the Board that, at a future meeting, the members will be approached by an Eagle Scout regarding construction of the bridge at the Park.

**NEW BUSINESS:** Mr. Sullivan reviewed a request received by the Highway Safety Committee to install a “Slow Children” sign on Copps Hill Road, which the HSC does not endorse. He also noted that the request included lowering of the speed limit to 25MPH, and that the Committee is currently conducting a traffic study for future recommendation to the Board.

Mr. Stearns moved and Mr. Doyle seconded to deny the request for a “Slow Children” sign on Copps Hill Road. Passed unanimously.

**NON-PUBLIC SESSION:** Mr. Doyle moved and Mr. Breton seconded to enter into a non-public session in accordance with RSA 93-A:33-II a and b. Roll call vote – all members “yes”.

*Land Acquisition:* The Board, Mr. Sullivan, and the following members of the Conservation Commission were in attendance: Lisa Linowes, Jim Finn, Dennis Senibaldi, and Bruce Anderson. At the request of the Conservation Commission, Mr. Peter Zohdi was also present.

Mr. Doyle moved and Mr. Breton seconded to seal the minutes of this discussion. Passed unanimously.

*Personnel:* This portion of the non-public session was tabled.

Motion by Mr. Doyle and second by Mr. Breton to adjourn. Passed unanimously.

The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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