

**BOARD OF SELECTMEN**  
**Minutes of October 18, 2004**

**ROLL CALL:** Chairman Carpenter called the meeting to order at 7:00 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:** None.

**LIAISON REPORTS:** None.

**OLD BUSINESS:** Mr. Sullivan presented the updated traffic study summaries of Oriole, Faith, and Hardwood roads to the Board. He noted that, upon preliminary review, reduction of the speed limit to 25 MPH does not seem to have greatly affected the average speeds in these areas, pointing out that on Oriole Road the first study in April had shown the average speed to be 35 MPH in a 30 MPH zone, and that the latest study showed the speed to be an average of 33 MPH. The Board briefly discussed the summaries, with Mr. Carpenter believing that some of the higher speeds appeared to have been reduced on Oriole Road, while Mr. Stearns noted that did not appear to be the case on Faith Road.

*Mr. Sullivan* advised the Board that the recruitment process for Chief Moeckel's successor was beginning, and requested that the Board make a formal decision on the residency requirement as discussed at a previous workshop. Mr. Stearns moved and Mr. Hohenberger seconded to amend the Police Chief's job description to include that residency be required within a maximum of 12 minutes response time to the Station. Passed unanimously.

*Mr. Sullivan* discussed upcoming budget workshops with the Board, noting that Saturdays do not seem to be convenient for all parties. He suggested that a series of approximately 9 meetings be held between November 8 and December 9, and asked that the Board review their schedules and email confirmation to him so that he may contact the Department Heads.

**BID AWARD/DIGITAL ORTHOPHOTOGRAPHY:** Mr. Rex Norman, Tax Assessor, presented the Board with his recommendation for the Digital Orthophotography bid. He explained that, after presentations made at a previous meeting by three of the four bidders who met all the required criteria, he and Assistant Planner Rebecca Way had worked to resolve any remaining questions and to check references submitted by the vendors. Mr. Norman noted that one bidder previously under consideration, East Coast Mapping, had been eliminated due to poor references from previous clients. The three remaining for consideration were; Cartographic, \$122,295; CDM, \$75,000; and James Sewall Co., \$94,296, all whom possessed excellent references.

Mr. Norman recommended the bid be awarded to CDM, who is currently performing the same project for Londonderry and has previously completed Nashua, Derry, and several other communities. CDM could begin the project in spring of 2005 with the fly-over, and be completed by October, 2005.

A discussion ensued regarding the necessity to complete full deed research and future website implementation.

Mr. Hohenberger moved and Mr. Stearns seconded to award the bid for digital orthophotography to CDM for a sum not to exceed \$75,000.

Mr. Turner was asked if he would like to offer any input prior to the Board's decision. He declined, stating he was comfortable with Mr. Norman and Ms. Way's recommendation.

The motion passed unanimously.

**ROCKY RIDGE R.O.W.:** Mr. Sullivan advised the Board that two separate opinions had been received from Town Counsel relative to the stairway constructed within the Town-owned right-of-way on Rocky Ridge Road. The preliminary response had assumed the situation to involve a Town-owned right-of-way on a Town road, however given that Rocky Ridge is a private road, Counsel had amended his opinion. Mr. Sullivan summarized the latter, noting several points including: as it is Town-owned land the Board could give permission for the stairs to remain, on a year to year basis, provided they do not impede the usage rights of others and meet all relevant codes and requirements; that if allowed to remain, the Town assumes liability related to them, as municipal immunity would not apply in this situation; and under RSA 675:15, the abutting owner, Mr. Jacobs, could bring action against the Town for allowing them to remain. Mr. Sullivan noted that Town Counsel felt the Board may wish to consider giving up this right-of-way based on the liability issues.

Attorney Mark Kanakas, representing Mr. Larry Jacobs, presented a plan of the area to the Board for their review. A discussion ensued regarding who has access to the right-of-way. It was determined that as it is Town-owned, the right-of-way is public property despite being located on a private road.

Mr. Turner reminded the Board that a permit had not been obtained to construct the stairway, which had not been built to code. He stated the stairway is currently blocked off, and would have to be torn down and rebuilt, however set-back requirements cannot be met in this area.

A discussion ensued regarding the accessibility of the area without the stairway, removal of the stairway, and possible exploration of any benefit to retaining the property. Mr. Sullivan advised the Board that Mr. Jacobs had expressed an interest in purchasing the right-of-way from the Town. Mr. Turner suggested that, if the property were to be sold, the Town consider retaining some form of easement to the pond for future use, if necessary.

Attorney Kanakas approached the Board to encourage their removal of the stairs. He also noted that, even if sold to Mr. Jacobs, the deeded rights to pass and re-pass over the property would still be retained by the five other property owners on Rocky Ridge.

Mr. Breton moved and Mr. Hohenberger seconded to instruct Planning Department staff to work with the individual who constructed the stairway to arrange for its removal from Town-owned property no later than November 11. Passed unanimously.

Mr. Breton moved and Mr. Doyle seconded to make public the legal opinion regarding the Rocky Ridge right-of-way to Attorney Kanakas and any other interested parties. Mr. Carpenter expressed concerns that such a motion would be setting an unfavorable precedent affecting future legal correspondence. The motion and second were withdrawn.

Mr. Breton moved and Mr. Doyle seconded that, as the majority of the legal opinion had been read into the record, the document be made public. Passed 3-2, with Mr. Hohenberger and Mr. Stearns opposed.

Mr. Tom Case approached to inquire why the Board had not instructed removal of the dock also located at the right-of-way, as well. Mr. Sullivan explained that the dock pre-dated the Town's ownership of the area, and that potential issues relating to its remaining have not been clearly established. The Board requested that Mr. Sullivan seek further legal opinion regarding the dock for future discussion.

## **CORRESPONDENCE:**

*Bond release - Windham Restaurant:* Mr. Doyle moved and Mr. Breton seconded to approve the full bond release of \$1,334 to Focal Point Renovations. Passed unanimously.

*Bond release - Duston Road:* Mr. Doyle moved and Mr. Hohenberger seconded to approve the partial bond release of \$58,632 to H & B homes, retaining \$509,358. Passed unanimously.

*Bond release - Northland Road:* Mr. Doyle moved and Mr. Hohenberger seconded to approve the partial bond release of \$174,715 to H & B Homes, retaining \$479,471. Passed unanimously.

**BID AWARD/SENIOR CENTER ROOF:** Mr. Sullivan explained that bids had been solicited to repair the Bartley House side of the Senior Center roof, which needs to be completed prior to winter. He stated the invitations to bid had been in circulation for approximately four weeks, and that numerous copies had been mailed to local contractors, however only two bids had been received in response.

After reviewing those bids received, Mr. Doyle moved and Mr. Stearns seconded award the bid for repairs to the Senior Center roof to CJ Miers and Son for an amount not to exceed \$5,275. Passed unanimously.

Mr. Doyle noted for the record that the second bid was from D&D for a total bid price of \$8,000.

**PUBLIC HEARING/DOG REGULATIONS:** Mr. Sullivan read the public hearing notice into the record, and reviewed those amendments to the proposed regulations resulting from the previous public hearing which included, primarily, revisions to the penalty and amendment sections.

Mr. Hohenberger suggested that Section V be renamed "Prohibitions" rather than "Permissions", and questioned the necessity of Section VIIc, which references private property.

At the request of a member of the audience, Mr. Carpenter gave a brief history of the reasons for the Board's considering implementation of such regulations.

To Mr. Hohenberger's suggestion, Mr. Sullivan noted that subsection "c" had been included to explicitly exhibit that the Town was not attempting to regulate private property, but that it could be removed if the Board so desired. It was the consensus of the Board that this subsection should be removed.

Mr. Carpenter raised a question regarding limiting dogs to the "outside perimeter" of the paved walkway at Griffin Park. Ms. Sandy Parthum, resident, approached the Board expressing her belief that this restriction should be removed. She felt that all dog owners should not be penalized because of the behavior of some, and that dogs should be allowed on all grassy areas with the exception of athletic fields.

After a lengthy discussion regarding this restriction, it was a 4-1 consensus that the text restricting dogs to the outside perimeter of the paved walkway at Griffin Park be removed. Mr. Stearns was opposed.

Ms. Donna Morgan approached to reiterate her comments from the previous public hearing, and to present a proposed amendment to the ordinance allowing an exception for permitted training programs. Mr. Stearns suggested that it apply only to training programs hosted by residents or non-

profit organizations. After review of Ms. Morgan's submission and brief discussion, it was the consensus of the Board that it be added as a new subsection under "Exceptions".

Mr. Tom Case approached seeking clarification of procedures to handle violations and enforcement. Mr. Sullivan noted that such cases would be handled by the Town Prosecutor at the Salem District Court, and that the expectation is that enforcement would be handled more by the Police staff than the Animal Control Officer.

Ms. Tonia Chase, resident, approached to express concerns that implementation of the regulations infringed on her rights as a responsible dog owner, and that the existing Dog Control Law affords more opportunity for the Town to cite violators than the proposed regulations. She encouraged the Board to seek alternative means of control, such as electronic leashes.

Mr. Hohenberger reiterated his previous sentiments that Griffin Park should be an area where people can go without having to be fearful, noting that some people possess an innate fear of dogs. He stated that the Park is primarily a place for people to enjoy, and that dogs have increasingly become a source of concern.

The question of regulating Town roadways was raised, and Mr. Sullivan suggested that a paragraph be added under "Exceptions" regarding traveled rights-of-way. The Board concurred.

Ms. Mary Devlin, resident, felt the regulations were highly restrictive. She also inquired about the inclusion of Herbert Memorial Field as an athletic field under "Prohibitions", and suggested that the Board look closer at its current status. She stated she had witnessed it being used responsibly by dog owners on numerous occasions. A discussion ensued whether or not remove Herbert Field from the list of prohibited athletic fields, and the consensus of the Board was to remove it from the list.

Mr. Bob Hoff, resident, expressed concerns about enforcement and felt more facts should be obtained before implementation of the regulations. Mr. Breton noted that the Board is attempting to make the Park work for all, and that unfortunately the majority dog owners using the area are doing so in an irresponsible manner. Mr. Carpenter stated that by keeping the animals off the athletic fields, enforcement of the regulations will be easier. He also did not find an 8' leash too restrictive; noting that there were numerous other areas in Town where one could go to let their dogs run loose if desired.

Staff will encompass the changes made by the Board, and Mr. Sullivan will re-post for another public hearing. Mr. Seifert, Animal Control Officer, will be invited to attend this future hearing.

The Board called for a five minute recess.

**BUILDING PERMIT/PRIVATE ROAD:** 35 Turtle Rock Road: Mr. Carpenter read the request for input from the Planning Board into the record, along with their response requesting that the applicant exhibit the availability of off-street parking for construction vehicles. Mr. Carpenter noted that the Fire and Police departments had voiced no concerns, other than that the roadway remain clear at all times during construction to allow for emergency access.

Mr. Shawn Quaglietta, owner, presented the Board with a plan of the area detailing the availability of off-street parking as requested. He also indicated that he would be onsite during the construction, and thus be able to ensure the roadway remains clear.

Mr. Breton moved and Mr. Stearns seconded to approve the request for a building permit for 35 Turtle Rock Road. Passed unanimously.

*Fletcher Road:* Mr. Carpenter read the request for input and responses into the record. The Planning Board again requested proof of off-street parking, and no concerns were noted by the Fire Department. The Police Chief, however, expressed some concern that this project would require renumbering of the existing 38 Fletcher Road to 40 Fletcher Road.

Mr. George Fredette, Engineer, was present representing property owners Dale and Susan Higgins. He explained that this request pertained to a 1200' driveway over an easement previously deeded to the owners, and he believed Selectmen approval was necessary as the property had no frontage on a Class V roadway.

After some discussion regarding the intent of RSA 674 pertaining to private roads and permits, the Board determined that approval of this permit was not within their purview.

**MINUTES:** Mr. Doyle moved and Mr. Hohenberger seconded to approve the minutes of October 4 and 5 as written. Passed 4-0-1, with Mr. Stearns abstaining.

**CORRESPONDENCE CONTINUED:** Request received from Candi Cosgrove, Bal-A-Vis-X instructor, to utilize the Searles School and Chapel at a reduced rental rate. Based upon the for-profit status of the program, Mr. Stearns moved and Mr. Hohenberger seconded to deny this request. Passed unanimously.

**OLD BUSINESS CONTINUED:** Highway Agent Jack McCartney advised the Board that only one response had been received to invitations to bid on paving projects. Mr. Breton inquired where the invitations to bid had been circulated. Mr. Sullivan replied that postings had been placed in the local newspaper, with Construction Summary, on the Town's website, and in the Dodge Report. A discussion ensued regarding re-bidding the projects, the time frame necessary for this project, and possibly bidding all road projects at once in 2005.

Mr. Stearns moved to award the bid for paving projects to Brox Industries for their bid amount of \$84,486. After further discussion regarding the bid process and the availability of these funds next year, Mr. Hohenberger seconded the motion.

Mr. Breton noted that, provided a signed contract was in place by December 31, the funds will continue to be available next year. Mr. Carpenter felt that if the projects were going to wait until the ensuing year, then they should all be re-bid at once. Mr. Hohenberger withdrew his second.

Mr. Hohenberger then moved and Mr. Doyle seconded to re-bid this project in a paper of major circulation and authorize the expenditure of funds to do so, and to award this bid prior the end of the year. Passed 4-1, with Mr. Stearns opposed.

*Mr. Carpenter* sought an update on the bathrooms at Griffin Park, noting that on weekends when the park is full the porta-potties are unusable by the afternoon. He requested that either more porta-potties be ordered for the Park, or the bathrooms be opened. Mr. Sullivan and Mr. Breton will work with Mr. McMahon to address this issue tomorrow.

**NEW BUSINESS:** Mr. Jerry Bowes, owner of Bowes Landscaping, approached the Board with concerns regarding visibility issues at the intersection of Route 111 and Ledge Road. He explained that, since opening his business, he has noted a distinct problem with visibility due to brush, etc. He indicated that he had spoken to the State, and been advised that the area in question was Town property.

Mr. Bowes stated that Mr. McCartney had reviewed the area at his request, and agreed that the trees and brush needed to be cut back, and presented photographs of the area for the Board's review. He did note that, with the leaves falling, visibility is increasing in the area. Mr. Sullivan pointed out that all the trees to be removed are marked, and asked that the Board visit the location for future discussion. Mr. Stearns requested that the Highway Safety Committee also be consulted for their recommendation.

**OLD BUSINESS CONTINUED:** Mr. Stearns stated that he had been advised that the Fire Department was not answering their phone over the weekend and that the voice mail system was also not available. Mr. Sullivan will look into this matter.

**NON-PUBLIC SESSION:** Mr. Doyle moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 93-A:3-II. Roll call vote – all members “yes”.

*Reputations:* The Board (with the exception of Mr. Doyle who stepped out at 9:40), Mr. Sullivan, Chief Moeckel, and Robert and Carole Amabello were in attendance.

Mr. Stearns moved and Mr. Hohenberger seconded to seal the minutes of this portion of the non-public session. Passed 4-0.

*Personnel:* The full Board, Mr. Sullivan, and Chief Moeckel were in attendance. After discussion, it was agreed that the Town would enter into a service contract with the Town Prosecutor, through March 15, of 2005.

Recruitment of additional police staff was discussed, and the Board was in agreement to support the Chief of Police in his intended direction on how to fill the vacant patrolman position.

Motion by Mr. Stearns and second by Mr. Hohenberger to adjourn. Passed unanimously.

The meeting was adjourned at 11:20 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant