

**BOARD OF SELECTMEN
Minutes of September 12, 2005**

MEMBERS PRESENT: Chairman Roger Hohenberger called the meeting to order at 7:00 PM. Selectmen Galen Stearns, Alan Carpenter, Bruce Breton and Margaret Crisler were present. Town Administrator David Sullivan was also present. Following the Pledge of Allegiance, Mr. Hohenberger read the agenda into the record.

ANNOUNCEMENTS: Mrs. Crisler extended her thanks to all who had expressed concern for her sister-in-law who makes her home at the Gulf Coast. She reported that the family was currently back home with their power restored.

Mr. Carpenter announced that a group of Windham residents had organized a fundraiser for the Katrina Relief Fund to be held on September 22, 2005 at Castleton.

Mr. Breton announced that the dates for basketball registration had been scheduled and posted in the Windham Independent. Sign-ups will run from 7-9 PM at Windham Center School on September 13, 15, 20, and 22nd.

Mr. Hohenberger announced that the CIP Committee was scheduled to meet for a second time on the upcoming Thursday evening beginning at 6:30 PM at the Planning and Development Department. Mr. Hohenberger also noted that a Strategic Planning Committee meeting was scheduled for the same evening.

LIAISON REPORTS: None.

PUBLIC HEARING/DONATION: Mr. Hohenberger read the public hearing notice into the record relative to donations toward the Recreation Tennis Tournament as follows: The Prime Butcher, \$100; Cyr Lumber, \$75; and, Rockingham Toyota-Nissan-Scion, Inc., \$650. Mr. Sullivan noted that other donations, of lesser amount, had also been received for goods and services, and that Mr. Senibaldi was expected momentarily with additional information.

Mr. Breton moved and Mrs. Crisler seconded to accept the donations as noted with gratitude. Passed unanimously.

MINUTES: The Board briefly discussed the minutes of July 25. Mr. Hohenberger requested that his comments of that evening be included in the minutes to clarify that he had not been opposed to working with Derry relative to the re-classification of Hopkins Road, but that his opposition was to the timing of the public hearing. Mr. Carpenter requested that the minutes be changed to reflect that Mrs. Crisler's motion relative to the Hopkins Road issue had been "*amended to include*" reaching out to Derry to schedule a joint meeting. Finally, the vote on this motion shall be corrected to reflect the correct count of 3-2, with Mr. Hohenberger and Mr. Breton opposed.

Mr. Carpenter moved and Mrs. Crisler seconded to approve the minutes of July 25 as amended. Passed unanimously.

Mr. Dennis Senibaldi, Recreation Chairman, arrived and requested permission to speak relative to the donations accepted by the Board. He reported that the Tournament had been very successful, and read the following, complete list of donors into the record:

Emit Horgan/Rockingham Toyota-Honda-Nissan-Scion, \$650
Kevin Cyr/Cyr Lumber, \$75
Cathy Doucette/Coco Early Associates, \$200
Barbara Sterin/Coco Early Associates, \$200
The Prime Butcher, \$100

Klemm's Bakery, pastries
Coffee Roasters International, coffee

Mr. Senibaldi extended his thanks to all who assisted in set-up, clean-up, etc. throughout the day.

MINUTES, CONTINUED: Mrs. Crisler advised the Board that the meeting with Derry regarding Hopkins Road, as discussed on July 25, had been scheduled for November 30, 2005.

Mr. Stearns moved and Mrs. Crisler seconded to approve the minutes of August 15, 2005 as written. Passed 4-0-1, with Mr. Breton abstaining due to absence.

Mrs. Crisler moved and Mr. Stearns seconded to approve the minutes of August 22, 2005 as written. Passed 4-0-1, with Mr. Breton abstaining due to absence.

Mrs. Crisler moved and Mr. Breton seconded to approve the minutes of August 29, 2005 as written. Passed unanimously.

Mrs. Crisler moved and Mr. Breton seconded to approve the minutes of August 30, 2005 as written. Passed unanimously.

Mr. Breton requested that staff forward a copy of the August 30 minutes, which pertained to Pennichuck Water Works, to Mr. Gregory, Chairman of the Salem Board of Selectmen. Staff will follow-up to do so.

CORRESPONDENCE: Mr. Hohenberger noted that response had been received from Comcast to general inquiries raised at the recent consortium meeting. Mr. Hohenberger highlighted two points: that Comcast will not consent to a transfer agreement and that the email addresses of Windham's customers will require a change from Adelphia.net to Comcast.net.

Mr. Hohenberger noted that a response had been received from Comcast relative to Windham-specific concerns submitted by the Board, which included Comcast's assurance that the franchise fees currently paid to the Town will be held by them at 5% as currently paid by Adelphia.

Carbon copy of letter to the Salem Board of Selectmen received from William Schroeder, expressing concerns relative to the use of road salt in the area of Canobie Lake. Mrs. Crisler stated that, while she agreed with Mr. Schroeder, the chloride levels were likely to increase with the widening of I-93, and noted that the Town had no control over the Department of Transportation salt use. A brief discussion ensued regarding the planned shifting of the interstate lanes, which may serve to alleviate some of the problem.

Letter received from Continental Paving advising the Town of their ongoing resurfacing work on Route 111 on behalf of the Department of Transportation. Work began on Tuesday, September 6, and was planned to continue through that week.

Letter received from Charles McMahon urging the Board to reach out to the Greater Lawrence Sanitation District to inquire whether they had any interest in entering into a long-term contract with Pennichuck Water Works to accept their brine backwash.

Mrs. Crisler felt that, while the Board may want to recommend to Pennichuck that they contact Lawrence, as this issue involved a private corporation the Board should not be involved. Mr. Hohenberger believed Mr. McMahon may be referring to the Town's allotted gallonage of brine. After a brief discussion, it was the consensus of the Board to keep abreast of the Nashua agreement for the time being.

Bond Release/Orchard Blossom Road: After a brief discussion, Mrs. Crisler moved and Mr. Breton seconded to approve the partial bond release of \$177,926.52 to Sam Nassar. Passed unanimously.

Mr. Hohenberger reported that several updates had been received regarding the Eastern Equine Encephalitis issue, and praised the Department of Health for an excellent job in maintaining public notifications.

Carbon copies of letters received from Mr. Turner to residents of the Shadow Lake, and Seavey and Rock Pond areas relative to high e-coli levels in recent water tests. Mr. Hohenberger noted that Shadow Lake had tested high on August 3, Rock Pond on August 10, and Seavey Pond on July 21 and 28. The letters cautioned residents to swim at their own risk, and noted that dye testing may be conducted in some areas to determine if any problem septic systems existed.

SEARLES ROOF BID AWARD: Mr. Peter Griffin, representing the Historic Committee, advised the Board that after careful review of the bids received, the Committee recommended award to Old Timers Slate Roofing of Somerville, MA for a total bid amount of \$18,745.

Mr. Sullivan explained that \$15,000 had been set aside in the reserve fund for this project, and that the Committee was seeking expenditure of the additional \$3,745 from the Property Maintenance Trust, in which funds should be available.

A discussion ensued regarding the original intent of the Searles Building to be a self-sustaining facility, and whether awarding the bid as requested would commit the Town to use of the same vendor for phase two of the project next year.

Mr. Sullivan noted that, in all likelihood, the Committee would approach the Board in 2006 to request waiver of the bid process to proceed with the same vendor.

Mrs. Crisler moved and Mr. Stearns seconded to award the bid for repairs to the Searles School and Chapel roof to Old Timers Slate Roofing for their bid amount of \$18,745. Passed unanimously.

Mrs. Marion Dinsmore, Historic Committee Chair, noted that the Garden Club has donated money to the Committee for use toward landscaping at the Searles building, which will commence shortly.

BID AWARDS/HIGHWAY AGENT: *Old Mill Road Culvert:* Mr. Jack McCartney, Highway Agent, reported that three bids had been received:

Nesenkeag, Litchfield, NH	\$37,100.00
Tate Bros. Paving, Hudson, NH	29,840.00
WH Shurtleff Co., S Portland, ME	3819.50 (materials only)

Mr. Stearns inquired whether all vendors had bid the same materials. Mr. McCartney replied in the affirmative, and recommended the bid be awarded to Tate Bros.

Mr. Stearns moved and Mrs. Crisler seconded to award the bid for the replacement of the Old Mill Road culvert to Tate Bros. for their bid amount of \$29,840. Passed unanimously.

Roadway Striping: Mr. McCartney advised the Board that one bid had been received from Markings, Inc. of Pembroke, MA, and that the bid did not include parking lot striping as specified. He recommended the project be re-bid for completion in the spring.

A discussion ensued regarding proceeding with the roadway striping and bidding the parking lots separately.

Mr. Stearns moved and Mr. Carpenter seconded to award the bid for roadway striping to Markings, Inc. for the bid their amount of \$2,832.72, contingent upon their use of paint that is in compliance with Department of Transportation standards. Passed unanimously.

Winter Salt: Mr. McCartney advised the Board that one bid had been received from International Salt Co., LLC of Clark's Summit, PA. After a brief discussion regarding estimated tonnage, which Mr. McCartney noted was approximately 1,200, Mr. Stearns moved and Mr. Carpenter seconded to award the bid for the Town's winter salt to International Salt Co. for their bid amount of \$44.70/ton. Passed unanimously.

Winter Sand: Mr. McCartney advised the Board that one bid had been received from Manchester Sand & Gravel of Hooksett, NH, which is the same vendor the Town has been utilizing for several years.

Mr. Carpenter moved and Mr. Stearns seconded to award the bid for the Town's winter sand to Manchester Sand and Gravel for the bid amounts of \$10.70/ton delivered and \$6/ton picked up. Passed unanimously.

Paving Projects: Mr. McCartney advised the Board that three bids had been received as follows:

<i>Brox Industries, Dracut, MA:</i>	
Golden Brook Rd.	\$102,000
Marblehead Rd.	60,000
Johnson St.	74,000
Castle Hill Rd. (alternate)	33,000

<i>Pike Industries, Belmont, NH</i>	
Golden Brook Rd.	\$140,632
Marblehead Rd.	73,942
Johnson St.	139,195
Castle Hill Rd. (alternate)	43,972

<i>Tate Bros. Paving, Hudson, NH:</i>	
Golden Brook Rd.	\$98,420
Marblehead Rd.	54,502
Johnson St.	64,127
Castle Hill Rd. (alternate)	27,665

Mr. McCartney recommended that the bid be awarded to Tate Bros. for their total bid amount of \$244,714. A lengthy discussion ensued.

Mr. Carpenter moved and Mr. Stearns seconded to approve award of all four (4) paving projects to Tate Bros. for their total bid amount of \$244,714. Passed unanimously.

BOARD OF HEALTH/21 FISH ROAD: Mr. Stearns moved and Mr. Breton seconded to enter into the Board of Health. Roll call vote – all members “yes”. Mr. Hohenberger read the public hearing notice into the record.

Mr. Al Turner, Planning Director, explained that this applicant had been denied by the Board of Health over a year ago, and was re-submitting essentially the same request, however, more specifics were now available. Mr. Turner also noted that this issue had gone to court, which had ruled in the Town's favor, and that the applicant's building permit request was now under review. Mr. Turner then noted that the Board must determine if enough of a change was present in the application to proceed with the public hearing, citing the following submitted as “new information” by the applicant: the waiver request has been updated with greater specifics; the proposed septic system is now one that is approved for use by the State of NH; and, the applicants are proposing to move the property's well, which would place it 75' from the septic as opposed to 57 feet.

After a brief discussion, Mr. Breton moved and Mrs. Crisler seconded to proceed to a public hearing based upon new information and a significant change in distance. Passed unanimously.

Mr. Turner presented a plan of the area for the Board's review, on which the applicant had pinpointed where the new well would be dug in order to increase the distance to 75' from the septic system. Mr. Keenan explained the well would be relocated to the lower right corner of the lot, placing it within the State's requirement of 75' from the septic system and the Town's requirement of 20' from the property line. A discussion ensued regarding the adequacy of the plans and the need for greater detail of the surrounding properties.

Ms. Chris Fiorello, 6 Ash Street, approached seeking clarification of the Keenan's intent to move the well, noting that her leach field runs adjacent to their property line.

Ms. Catherine Rondeau, 17 Fish Road, approached to express concerns that this request has been denied on three previous occasions, and noted that the property can't be changed. She noted that the existing well had been dug prior to the Keenan's purchase without issuance of a permit, and that the Keenan's had purchased the property "as-is". She noted the abutters did not wish to see the property converted to year-round use, as it would ruin the Pond.

Mr. Kevin Malone, 15 Fish Road, noted that currently he shares his neighbor's well and inquired whether this would cause a problem for him if, in the future, he needed a well on his property. He also noted that the area where the Keenan's wished to drill a new well is where the surface water percolates before running off into the pond, and that his septic system leaches out at the edge of the Keenan's property. He expressed displeasure that the Board was rehearing the Keenan's request.

Mr. Carpenter replied that it didn't appear that this issue would affect Mr. Malone's property should he need to drill a well in the future. Mr. Carpenter further noted that the Board's responsibility was to treat all residents equally and that, given the applicant could obtain 75' versus 57' of distance, the Board was hearing the matter again.

Ms. Patricia Barry, abutter, inquired whether a new survey would be completed to include the properties across the street from 21 Fish Road. Mr. Hohenberger replied that the Board would request everything within 100' be detailed. Ms. Mari Brown, abutter, inquired who would conduct the survey. Mr. Hohenberger replied the Board would require a certified surveyor be utilized.

Ms. Fiorello inquired how the area residents could be sure the plans would be available for the next meeting, noting some travel some distance to attend.

After a brief discussion, Mr. Carpenter moved and Mrs. Crisler seconded that the applicant be required to return with certified drawings of not just the subject property, but all properties within a 100' radius, detailing all well and septic system locations; that said drawings be made available at the Planning and Development Department 48 hours prior to the next scheduled meeting for review by interested parties, that staff work with the Assessor ensure that the lot lines depicted are accurate; and that this hearing be continued to October 24, 2005 at 7:30 PM. Passed unanimously.

Mr. Stearns moved and Mr. Breton seconded to exit the Board of Health portion of the meeting. Passed unanimously.

Mr. Hohenberger called for a five minute recess.

JACKMAN RIDGE ROAD: Mr. Sullivan advised the Board that a request had been received from the residents of Jackman Ridge Road to allow use of Town-owned property between numbers 6 and 8 as a turn-around for the school bus. Mr. Sullivan explained that, since the cul-de-sac had been removed, parents were required to accompany their children to the intersection at North Lowell Road for pick-up. Mr. Sullivan noted that Mr. McCartney had indicated maintenance of the area was not an issue for the Highway Department, but that Laidlaw required an area of brush approximately 6' to 8' back needed to be removed.

After a brief discussion, Mr. Stearns moved and Mr. Breton seconded to allow the Highway Agent to clear the brush as necessary to make the area an adequate turn-around for busses. Passed unanimously.

OLD BUSINESS: Mr. McMahon approached to present a detailed proposal relative to expanded parking for Griffin Park. Mr. McMahon gave a brief history of events leading up to this proposal, explaining that parking issues exist at the Park, and that the previous owner of the property in question, Mr. Driscoll, had agreed to hold off selling his property until a means of purchase could be found by the Windham Baseball Softball League. Mr. McMahon noted that the property had ultimately been purchased by Mr. Anthony Mesiti, who would now like to improve the property to provide for 101 additional parking spaces for the Park, as well offering additional storage via the existing barn/garage and office space within the existing home. Mr. McMahon noted that a local architect has volunteered to inspect the house for ADA compliance issues. Once the project is complete, including paving, landscaping, curbing, and lighting, Mr. Mesiti would then donate the parcel to the Town prior to year end. Mr. McMahon expressed belief that this solution would greatly increase safety to the Park users, and greatly decrease the existing parking issues. Mr. McMahon also noted that the Chief of Police has endorsed the proposal, as has the Highway Safety Committee with minor modifications.

A lengthy discussion ensued, wherein the Board expressed several concerns regarding the proposal, including: lack of confirmation from Division 5 regarding installation of a crosswalk and/or on-demand light; the possibility of small children running into Range Road; the size of the lot relative to the amount of pavement intended; and the possible need for additional street lights. The Board made several requests relative to the plan, including: relocation of the planned crossing to the center of the property line; installation of an on-demand light at the crosswalk; elimination of the right turn out onto Range Road, instead directing all exiting traffic onto Horseshoe Road; and inclusion of additional handicapped spaces.

Mr. Breton explained that, during Festiball, he had counted 137 cars parked along Range Road and that this property will serve to handle such overflow parking in the future. He also advised the Board that Chief Lewis had been involved in the process from the start, and believed a controlled environment such as this was safer. Mr. Breton also stated that, once accepted, the Town would have gained an asset valued at approximately \$700,000.

A lengthy discussion ensued regarding required procedures the Board must follow relative to acceptance of this parcel. Mr. Sullivan noted that this matter would require scheduling of a Special Town Meeting, the cost of which would be minimal and well spent for such a potential gain. Mr. McMahon reminded the Board that time is of the essence for Mr. Mesiti to complete the improvements and turn over the property prior to year-end, and urged the Board to schedule a Town Meeting as suggested by Mr. Sullivan.

Mr. Hohenberger noted that if the proposal involved lighting at the Town's expense, then the Board would either have to approach the Court to appropriate the funds via Special Town Meeting, or the installation would

have to wait until March. Mr. McMahon replied that, if that were the case, the property could be gated until the lighting issue is resolved.

Further procedural discussion ensued, as well as discussion regarding Town regulations governing such construction in a residential district. Mr. Sullivan noted that the Special Warrant Article would be for acceptance of the raw land only, after which the Board would control the property, thus exempting the improvements from the Town variance requirements.

Mr. McMahon noted that the voters can always opt not to accept the parcel, but voiced his hopes that the Board would support the project concept. Mr. McMahon then clarified that Board's modification requests included construction of one, centered crossing with an on demand light; that exiting traffic will utilize Horseshoe Road; and traffic will enter only from Range Road, which the Board confirmed.

Mrs. Jennifer Colvin, Griffin Park Playground Committee, approached to voice her support of Mr. McMahon's proposal, citing that during construction of the playground she had been frequently asked what the Town was planning to do to resolve parking issues at the Park. Mrs. Colvin did not feel that crossing Range Road was anymore dangerous than walking up the side of the roadway, and stated she would be disappointed if the Board did not support the project.

Mr. Dennis Senibaldi, Recreation Committee Chair, advised the Board that the Committee was scheduled to meet the following Thursday, and that review of this proposal would be scheduled on their agenda. He stated the Committee would subsequently submit their position to the Board in writing.

Mr. Brad Chase, Windham Baseball/Softball League, approached to state that, as a coach, he has witnessed major parking issues. He noted that use of Griffin Park has grown, and that the parking needed to be addressed. He voiced understanding for Mrs. Crisler's concerns regarding the amount of pavement involved, but urged the Board to consider Griffin Park as a whole with this new area.

Mrs. Crisler suggested that the proposal be forwarded to the Planning Board to review and comment on. Mr. Hohenberger inquired if Mr. Mesity will be amenable to possible acceptance of the land only at a Special Town Meeting. Mr. Sullivan stated the project, as a whole should be presented at the Deliberative Session, and approval of the warrant article conditional upon its completion. Mr. Sullivan further stated he could establish the timetable for the Special Town meeting by the next week, if not sooner.

Mr. Hohenberger expressed the opinion that the matter of the buildings should be left out of the discussion for the time being. The remaining Board members concurred.

Mr. Sullivan advised the Board that Transfer Station Manager Dave Poulson was requesting the Board's authorization to sole source a bid for repairs to the Transfer Station steel bin. After a brief review of documents submitted, Mrs. Crisler moved and Mr. Stearns seconded to grant Mr. Poulson's request to single source repairs to the Transfer Station steel bin in an amount not to exceed \$3,000. Passed unanimously.

Mr. Sullivan advised the Board that, due to ongoing large-scale projects within Town, the appropriation of \$200,000 for police details would be exceeded. Mr. Sullivan noted that some funds are currently available, however only enough to cover until October, requiring the Board to be prepared to make a decision at the meeting scheduled for September 26th regarding how to address the detail issue.

A brief discussion ensued, in which Mr. Sullivan noted that, for example, Continental Paving was requesting three (3) officers, six (6) days per week

during their work on I-93. Also, Routes 111 and 28 will require full coverage details. Mr. Sullivan will compile further information for discussion on the 26th.

Mr. Stearns inquired whether officers from surrounding towns could be utilized to help defray the detail cost. Mr. Sullivan replied that, contractually, the Town couldn't address the issue in this manner. Mr. Stearns stated that he understood the requirements of the union contract, however, safety was a priority issue, and union requirements were secondary if the Town is unable to fund the details.

Mr. Sullivan raised the ongoing issue of the Hancock Road cistern, which has been in place for over two (2) years. He noted that the Board had added an additional \$10,000 to the bond amount for cistern maintenance. Mr. Sullivan noted that the Town has in hand a check for \$23,160, and the original bond is in place. He then suggested that the Board not hold the additional \$10,000, as it was not originally included.

Mr. Hohenberger reiterated his earlier position, noting that Hancock Road has not been accepted as a Town road, and he believes it unacceptable that Town funds may have to be expended in the event the infrastructure should fail. Mr. Sullivan noted that the cistern was not a requirement of the subdivision when it was approved, and stated the developer in question would be attended the next scheduled meeting.

Mr. Breton requested that staff compile a list of all cisterns currently in Town.

Mr. Sullivan advised the Board that Continental Paving had requested permission to utilize a portion of the railroad bed to convey materials during their ongoing project in the Route 28 area. After a brief discussion, Mr. Carpenter moved and Mr. Breton seconded to approve the request, provided Continental Paving is willing to grade and pave the area when they have completed using it. Passed unanimously.

Board Appointments: After a brief discussion regarding the need for candidate interviews, Mr. Stearns moved to appoint Bruce Breton and Pam Skinner as Regular members, and Wayne Morris as an Alternate member of the Conservation Commission.

Mrs. Crisler expressed concerns regarding a member of the Board of Selectmen sitting on the Commission. She cited potential conflicts in regards to land acquisition and voting issues. After a brief discussion, Mr. Sullivan noted that Mr. Breton's appointment would ensure an active liaison to the Commission, and he did not feel a conflict issue existed as Mr. Breton could abstain from voting as necessary.

Mr. Carpenter seconded Mr. Stearns' motion. Passed 4-0-1, with Mr. Breton abstaining.

Mr. Earl Bartlett, Recreation Committee, approached with an emergency request from Central Catholic High School to utilize the soccer fields at Griffin Park due to field issues in Lawrence. Mr. Bartlett noted this use would be for two (2) fields on two (2) separate days from 3:00 PM to 5:00 PM. Mrs. Cheryl Haas, Recreation Coordinator, noted that she had attended the Soccer Association's meeting earlier that evening, and they had no issue with Central Catholic's request.

After a brief discussion regarding the Board's established position on such requests, Mr. Hohenberger felt the Board would need to reconsider their previous motion prior to making a decision.

Mr. Senibaldi interjected that he did not believe the Board needed to reconsider their previous motion, as this was an emergency request to facilitate a couple of games for one school.

Mr. Carpenter moved and Mr. Breton seconded to approve the use of the Griffin Park soccer fields by Central Catholic High School on September 13th and 20th as requested. Passed 3-2, with Mr. Stearns and Mr. Hohenberger opposed.

After a brief discussion regarding liability concerns, Mrs. Crisler moved and Mr. Breton seconded to reconsider the previous motion. Passed 4-1, with Mr. Stearns opposed.

After further discussion, Mr. Breton moved and Mrs. Crisler seconded to approve the use of the Griffin Park soccer fields by Central Catholic High School on September 13th and 20th as requested, provided a Certificate of Liability insurance is submitted to the Town. Additionally, the cost to repair any damage to the fields as a result of this use is to be borne by Central Catholic. Passed 3-2, with Mr. Hohenberger and Mr. Stearns opposed.

Mr. Stearns moved and Mr. Carpenter seconded to adjourn. Passed unanimously.

The meeting was adjourned at 10:50 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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