

BOARD OF SELECTMEN
Minutes of September 26, 2005

MEMBERS PRESENT: Chairman Roger Hohenberger called the meeting to order at 7:05 PM. Selectmen Galen Stearns, 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.

LIAISON REPORTS: Mrs. Crisler reported that the Planning Board is moving forward with planning for the Village Center District, and will be updating the Board of Selectmen in the near future. She reminded the Board that this proposal includes significant impacts, one of which is to relocate Route 111 to the other side of the Library.

Mr. Carpenter reported that the recent Katrina fund-raiser at Castleton had been very well attended by approximately 225 people. He noted that the group, headed by Coco Early Associates and others, had raised \$15,000 to be contributed to the Red Cross, and had garnered expenses under \$1,500 for the event.

APPOINTMENT INTERVIEW: Mr. Glen Yergeau was present to introduce himself and field questions from the Board relative to his request for appointment to the Recreation Committee.

After a brief discussion, Mr. Carpenter moved and Mr. Breton seconded to appoint Mr. Yergeau as a regular member of the Recreation Committee. Passed unanimously.

FINANCIAL UPDATE: Mrs. Dana Call, Finance Director, and Chief Lewis were present to update the Board on funding of contracted details.

Chief Lewis began by reiterating Mrs. Call and Mr. Sullivan's statements from a previous meeting that the \$200,000 appropriation for contracted details will be fully exhausted prior to the year-end, due primarily to the coverage needs of Continental Paving and Verizon. Chief Lewis noted that, after speaking to both companies, based upon current and anticipated projects, it's estimated that an additional \$95,000 will be necessary to finish out the year. Chief Lewis explained this estimate is based primarily upon 2 officers/5 days per week for Continental, which is one less officer than requested, and Verizon's need for 2 officers/3 days per week.

Chief Lewis advised the Board that requests for details would now be carefully screened before approval, as there are some where an officer isn't necessary. After further discussion, Mr. Hohenberger inquired whether fatigue should be a concern for the detail officers. Chief Lewis replied it is a concern, noting that although outside details have been ceased at the moment, officers contractually are allowed to work up to 16 hours per day. Anything beyond 16 hours requires the Chief's authorization.

Mrs. Crisler requested the Chief elaborate on the safety concerns in utilizing flagmen versus officers for projects in Town. Chief Lewis replied that the biggest difference was training, noting that officers are trained in traffic control. He also noted that flag men have no authority, and there is no obligation by the public to obey them. Officers, on the other hand, have the authority to control traffic, change the layout of traffic control and/or signage, or shut the project down, if necessary. Utilization of a cruiser during details adds an additional, visual signal that an officer is present.

Discussion moved to the additional funding required, which Mrs. Call noted must be absorbed into the General Fund of the Town. Mrs. Call noted that several personnel issues, including extended medical absences, have resulted in some unexpected funds being available in various departments, which the

Department Heads have been advised they cannot use to cover budgetary shortfalls. Mrs. Call noted that, to date, approximately \$108,000 is available, which she will continue to monitor. Mrs. Call noted that, though the full \$95,000 cannot be committed, it does look like the details can continue for the time being. She asked that the Board allow the Chief to over-expend the Police Department over-time budget, which could then be covered by the excess funds.

A lengthy discussion ensued regarding bottom line over-expenditure versus surplus funds for next year; the large number of employees out on disability; establishment of the now permitted revolving fund; procedures regarding the revolving fund once established; and other budgetary items.

Mr. Breton moved and Mrs. Crisler seconded to allow Chief Lewis to over-expend the Police Department over-time budget.

Mr. Stearns inquired whether the Board wished to establish a cap for the over-expenditure. After some discussion, Mr. Breton amended his motion that the over-expenditure not exceed \$95,000.

Mr. Sullivan pointed out that the over-expenditure will not only be the \$95,000 as just discussed, but more as the budget is already over-expended. Mr. Sullivan then suggested that Mr. Breton reconsider his amendment, which he did not.

A brief discussion ensued regarding periodic review of this issue. Mr. Sullivan suggested that the Board do so on a monthly basis.

Mrs. Crisler then amended her second, and the motion passed unanimously.

CORRESPONDENCE: Letter received from Planning Director Al Turner regarding Continental Paving's request to utilize a portion of the Rockingham Recreational Trail for the duration of their current project.

Mr. Sullivan noted that Continental is still considering the Board's motion to approve the request provided the area is paved upon completion of the use and has, as yet, offered no commitment to do so.

Bond Release/Cardiff Road: Mrs. Crisler moved and Mr. Stearns seconded to approve the partial bond release of \$4,416 to Castle Reach Development, LLC. Passed unanimously.

Bond Release/Leeds Road: Mr. Stearns moved and Mr. Breton seconded to approve the partial bond release of \$5,700 to Castle Reach Development, LLC. Passed unanimously.

Bond Release/Butterfield Road: After a brief discussion, Mrs. Crisler moved and Mr. Breton seconded to approve the partial bond release of \$176,520 to Mako Development. Passed unanimously.

Bond Release/Cardiff Road: Mrs. Crisler moved and Mr. Stearns seconded to approve the partial bond release of \$4,416 to Castle Reach Development, LLC. Passed unanimously.

Bond Release/Lamplighter Village: Mr. Breton suggested this and additional Lamplighter bonds be tabled until Mr. Turner is present to discuss the ongoing run-off issue in the area. After a brief discussion, the Board concurred and the bonds were tabled.

Letter received from the Recreation Committee expressing their support of the conceptual plan presented for the property on Range Road across from Griffin Park.

Mr. Hohenberger noted that two letters had been received from residents of Settlers Ridge Road relative to water problems. Mr. Carpenter stated that water supply issues are occurring in the area, which are effecting several

residents. He suggested this matter be scheduled on the agenda as a discussion with the Planning Board about development in that area of town.

A discussion ensued regarding review of the Town's blasting ordinance and water supply regulations, and that the members may have greater jurisdiction in this matter as the Board of Health.

Mr. Sullivan will follow up to schedule this item on an upcoming agenda and obtain Town Counsel opinion on jurisdiction.

Letter received from the NH Department of Transportation regarding their recently received approval to proceed with the Community Technical Assistant Program (CTAP). This is a \$3.5M growth management initiative, which will provide technical assistance to the 26 towns and cities influenced by the I-93 widening project.

The correspondence noted that a meeting to discuss Windham's role in the CTAP planning process had been scheduled for Wednesday, September 28 at 7:00 PM at the Town Hall. Mr. Stearns and Mrs. Crisler noted they would both be attending, and the other Board members will endeavor to do so, as well.

Letter received from the NH Department of Transportation, noting that their bureaus of Transportation Planning and Municipal Highways have been merged to form the Bureau of Planning and Community Assistance.

Letter received from Mr. Raymond Rees, 8 Heritage Hill Road, regarding ongoing concerns he has with the denial of his abatement request and property assessment.

Mr. Sullivan provided the Board with a response drafted by Mr. Rex Norman, Tax Assessor. After the Board's review of Mr. Norman's letter, it was the Board's consensus that the response be sent and, if after receipt, Mr. Rees still wished to meet with the Board, Mr. Sullivan will arrange time on an upcoming agenda.

Mr. Hohenberger noted that several EEE updates had been received.

Mr. Hohenberger noted that correspondence had been received from property owners regarding water testing at Seavey Pond. Mr. Sullivan advised the Board that Mr. Turner had subsequently completed side-by-side testing of the Pond with area residents, to compare the Town utilized "strip" testing with the container method.

After a brief discussion, it was the consensus of the Board that a Board of Health discussion be scheduled. Mr. Sullivan will place this item on the October 3rd agenda.

MINUTES: None.

LAND DONATION: Mr. Hohenberger read the following proposed Special Town Meeting warrant article into the record:

"To see if the Town will vote to accept the donation of parcel 17-L-15 (112 Range Road), along with the buildings located on said parcel, to be used for purposes related to recreational activities, and further to accept the donation of services from the current owner to renovate the present buildings and to construct a parking area on the land along with associated landscaping improvements. The parking area is intended to provide additional parking for the users of Griffin Park as well as the buildings on the site. The land is approximately 1.68 acres in size and is located at the corner of Horseshoe Road and Range Road. Further, the donation is contingent on the parking area and building improvements being completed and will be considered null and void should these not occur."

The owner of the property, Anthony Mesiti, was present to field questions from the Board of Selectmen.

Mr. Mesiti was asked, by several Board members, if the timing of the article was sufficient for his needs. Mr. Mesiti replied that, although finishing the project by year-end was preferable to him, the timing was not a concern for tax purposes if the land were accepted this year and the improvements completed in 2006.

Mr. Carpenter inquired how long the project would take to complete should this article be placed on the March ballot as opposed to holding a Special Town Meeting. Mr. Mesiti stated he would prefer to have the winter to line up his contractors for the project, and begin work in the spring.

Mr. Hohenberger inquired whether Mr. Mesiti could be prepared in time for the Deliberative Session with finalized plans, etc. to present to the voters. Mr. Mesiti replied in the affirmative.

Mr. Stearns inquired as to whether confirmation had been received from the NHDOT relative to the crossing on Range Road. Mr. Charlie McMahon approached to reply that no answer had been received to date, but Mr. Zohdi was working on a new plan for submission to the NH DOT. Mr. McMahon then inquired whether the Board had any further requests regarding the plan, to which the members responded they did not.

Ms. Carol Pynn, Historic District/Heritage Commission, approached to inquire who would be funding the Special Town Meeting. Mr. Hohenberger indicated the Town would.

Ms. Pynn then expressed concerns as to what would happen to the house located on the property, which is listed on the Town's Historic Resource list. Mr. Stearns and Mrs. Crisler replied that there are no plans to destroy or raze the house, but that the intent is to use the building for Town purposes. Ms. Pynn then noted the house would need alteration to make it accessible, and stated the HDC would like to see all plans for proposed changes to the structure.

Ms. Carolyn Webber approached to state she did not see the need for a special town meeting, and urged the Board not to make a quick decision on this matter. She also expressed concerns that much of the Town's history has been lost already to development, and stated that Range Road is an attractive road to travel and she did not wish to see another "blight" along it.

Mr. McMahon noted that the house had been in danger of being torn down, and that the architect has been asked to develop a plan for the house to include handicapped access in the rear of the building in order to maintain the appearance. He also noted that the interior rooms would be left as they are to every extent possible, and would be used as small meeting rooms, etc.

Mr. Patrick Schena, HDC Chairman, approached to inquire what types of "recreational" uses would be permitted in the building. The Board members felt administrative uses would be primary, but noted they had yet to discuss this subject. Mr. Sullivan stated he was under the impression that the donation was conditional upon use of the property for recreational purposes, and noted that the Warrant article was worded to that effect. He felt that, if the article passed, the Board could then discuss details of the building's use.

A discussion ensued about necessary renovations to the building, and whether or not that same work would be done by Mr. Mesiti.

Mr. Schena sought clarification that work would be done on the building at a future time, allowing the HDC/HC to have input. The Board replied in the affirmative.

Mr. Schena then sought clarification of “recreational uses”, and Mr. Carpenter pointed out that the purpose of that evening’s discussion was to review the warrant article language.

A discussion ensued regarding adding the word “cultural” to the warrant article, in addition to “recreational” activities.

Ms. Gail Webster approached to urge the Board to use caution regarding the language, so as not to limit them in the future. Mrs. Crisler pointed out that detailed plans for the entire project will be available for review at the Deliberative Session.

Mr. Michael Hatem approached to remind those present that a donor, such as Mr. Mesiti, is always entitled to apply restrictions to their donation. He further stated he did not see any reason to wait until the March Town Meeting, as the parking issue needed to be addressed. He opined that even a gravel lot would be better, and saw no reason for the Board to delay.

Mrs. Webber reiterated her desire for some assurances that the building will never be demolished.

Town Clerk Joan Tuck approached to clarify the time-line for the Special Town Meeting as presented by Mr. Sullivan.

Mrs. Crisler inquired as to the estimated cost for the Special Town Meeting, and Mr. Sullivan replied approximately \$2,500. He also urged the Board to not lose sight of the second warrant article, relative to the Contracted Services Revolving Fund, also planned for the Special Town Meeting warrant.

Mr. Carpenter extended his thanks to Mr. Mesiti for his outstanding offer, which could potentially solve many issues. He went on to state that, he believed there is a difference between the residents doing something unsafe and the Board potentially creating an unsafe situation. He then questioned the wisdom of rushing the project, given that Mr. Mesiti has expressed his willingness to wait until the March Town Meeting. Mr. Carpenter also felt waiting until March would afford a much higher level of participation by the voters.

Mr. Carpenter then moved to reconsider the Board’s motion of the previous week to move forward with a Special Town Meeting. Mrs. Crisler seconded the motion for discussion.

Mrs. Crisler stated that, although Mr. Carpenter had presented a persuasive argument, she felt the Board should move ahead with the Special Town Meeting on both articles.

Mr. Stearns also indicated his understanding for Mr. Carpenter’s concerns, but felt that the Town should not leave Mr. Mesiti hanging. He felt there were issues that needed to be worked out, but felt the Board should move forward.

Mr. Breton noted that he and Mr. McMahon had been working on this project for over two years, and that Ed Herbert Associates was currently working on the plans. He further stated that the NH DOT has been contacted in efforts to schedule a meeting when the plans are completed, and that the architect is looking at the building. He urged the Board not to stop the project’s momentum.

Mr. Hohenberger opined that the Deliberative Session will allow for ample public input, on a larger scale than the Board of Selectmen, and expressed hope that the discussion exhibited this evening would carry through to the Deliberative Session. He noted that, prior to this discussion, he had felt some pressure to rush the project, but after speaking with Mr. Mesiti and

clarifying his willingness to hold off on the work until next spring, he felt better about proceeding.

Mr. Carpenter inquired who would determine the final plan. Mr. Hohenberger stated he assumed Mr. Mesiti would work with the Town boards and staff, to which Mr. Mesiti replied in the affirmative. Mr. Mesiti then stated that it behooves all to make sure that proper plans for the project are in place, and assured the Board he would not proceed without the proper approvals and permits.

Mr. Hohenberger called for a vote on Mr. Carpenter's motion, which was defeated 1-4, with all opposed except Mr. Carpenter.

Discussion resumed regarding inserting "cultural" into the warrant article. Mr. Mesiti stressed that his intent in donating this parcel was to help the children by providing a safe, alternative parking area and a central place for the Recreation Director and others who serve the children to operate from.

Mr. Carpenter suggested that, as opposed to "cultural", the word "primarily" be inserted prior to "recreational activities". Mr. Mesiti agreed.

A discussion ensued regarding the renovation of the buildings as worded in the proposed article, and the contingency language. Mr. Sullivan explained that the intent of the project was to provide additional parking for Griffin Park, and the contingency clause assures that Mr. Mesiti's wish to complete the parking lot will occur.

Mr. Mesiti clarified that his intent was never to renovate the interior of the building, but rather to donate the land and buildings and construct a parking area with proper buffers, landscaping, pavement, and curbing. A discussion ensued, in which it was determined that all references to building improvements will be removed from the warrant article.

Mr. Breton moved and Mr. Stearns seconded to approve the wording as amended for Article 1 of the Special Town Meeting warrant. A discussion ensued whether the Board should establish a recommendation for the article. Mr. Sullivan reiterated Town Counsel's standing opinion that it is inappropriate to do so on non-appropriation articles.

The motion passed unanimously.

Mr. Breton then moved and Mr. Stearns seconded that the Board of Selectmen recommend Article 1 to the voters. Mr. Stearns explained that he felt it was the Board's responsibility to exhibit their feelings on all warrant articles. Passed unanimously.

Mr. Breton moved and Mr. Stearns seconded to recommend Article 2 to the voters as printed. Passed unanimously.

Mr. Hohenberger called for a five-minute recess.

OLD BUSINESS: Mr. Sullivan noted that the Board had previously postponed discussion of the drainage/hydroseeding project at the Griffin Park playground. He reminded the Board that \$1,500 would be received from the Playground Group toward the project, and recommended the Board take the remaining \$2,350 from the Property Maintenance Trust.

A discussion ensued regarding the design of the drain and available funding in light of the Contracted Services issue. Mr. Sullivan noted that, if funds were available at year-end, a journal entry could be done to replace the funds in the Property Maintenance Trust.

Mr. Breton inquired why the funds could not be utilized from the Recreation Improvement Fund, as it could be considered a capital improvement. Mr. Stearns disagreed stating this was more of a maintenance issue. Mr. Breton

did not feel it qualified as maintenance, as it was not an ongoing issue but a one-time repair.

After a brief discussion, Mrs. Crisler moved and Mr. Breton seconded to utilize funds from the Property Maintenance Trust toward completion of landscaping for the drainage project at the Playground in the amount of \$2,350. Passed unanimously.

Mrs. Cheryl Haas, Recreation Coordinator, updated the Board on the status of the advertised use of Griffin Park by NE Storm for AAU tryouts. She advised the Board that she had sent a letter to Mr. Carbonello as per the Board's request, and had received a return call. Mrs. Haas felt that the issue seemed to center around communication as, after speaking with Mr. Carbonello, she believed he had spoken to the appropriate individuals at the time. She went on to note that this is a one-time event exclusively for Windham children, and would pose no conflict.

Mrs. Haas stated that this was a perfect example of why a scheduling procedure was needed, and advised the Board that she had forwarded a letter to all civil groups that she should now be considered the contact person for recreational events.

After a brief discussion regarding the percentage of Windham children in the program and whether Mr. Carbonello intended to utilize the field on a permanent basis in the future, Mr. Carpenter moved and Mr. Breton seconded to allow the use of Griffin Park as requested by NE Storm.

Mr. Hohenberger expressed concern that Board had previously held a public discussion on whether or not to rent town fields to for profit, non-Windham organizations such as NE Storm. He inquired whether or not the Board wished to re-open that discussion, as this was one of several waivers granted.

After a brief discussion, the motion passed 4-1, with Mr. Stearns opposed.

Mr. Breton inquired of Mrs. Haas whether a Certificate of Liability was on file for the organization. Mrs. Haas replied in the negative, stating the Mr. Carbonello did not have one to provide. A brief discussion ensued, in which it was established that the Town's exposure was no higher than in any other situation, and a certificate was not necessary.

Mr. Breton requested that Mrs. Haas contact Mr. Carbonello to advise him that the field should be left in the same condition as found.

Mr. Breton requested that Mrs. Call release the remainder of approved funding to Kyle Cole toward completion of his Eagle Scout Project. Mrs. Call will follow-up.

NEW BUSINESS: Mr. Stearns noted that the Federal Government had begun appropriating State funds for use toward Katrina relief, and moved that a letter be forwarded to Senators Gregg and Sununu urging that funding for the Route I-93 project not be utilized toward the Katrina relief effort. Passed unanimously.

NON-PUBLIC SESSION: Mr. Carpenter moved and Mrs. Crisler seconded to enter into non-public session in accordance with RSA 93-A:3 IIa and c. Roll call vote, all members "yes". The topics of discussion were personnel and reputations.

The Board, Mr. Sullivan, Chief Lewis, Captain Yatsevich, Mr. Al Barlow, and Ms. Devlin were in attendance in the first session.

The Board discussed a potential security issue, and it was the consensus of the Board that Mr. Barlow proceed as recommended to correct the issue.

Mr. Carpenter moved and Mrs. Crisler seconded to approve expenditure of funds from the Property Maintenance Trust to upgrade security alarm measures to current code. Passed unanimously.

The Board, Mr. Sullivan, Chief Lewis, Captain Yatsevich, and Ms. Devlin were in attendance in the second session.

After a lengthy discussion of an ongoing personnel matter, Mr. Carpenter moved and Mr. Breton seconded to maintain Heather Newell, presently Police Prosecutor, as a contracted legal assistant at the pay rate of \$28/hour; and that this matter shall be re-assessed when Ms. Newell re-takes the legal bar exam in February, 2006. Passed unanimously.

The Board, Mr. Sullivan, and Town Clerk Joan Tuck were present in the final session.

After a lengthy discussion regarding an ongoing personnel matter, Mr. Carpenter moved and Mrs. Crisler seconded that Deputy Town Clerk Sean Boylan be placed on paid administrative leave for a period of five (5) days pending further investigation into the matter. Passed unanimously.

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

The meeting was adjourned at 11:35 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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