

**BOARD OF SELECTMEN**  
**Minutes of October 3, 2005**

**MEMBERS PRESENT:** Chairman Roger Hohenberger called the meeting to order at 7:10 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.

*Mr. Hohenberger* suggested the discussion regarding Settlers Ridge Road be postponed until after 7:45 to allow all interested parties time to arrive. After input from members of the audience, it was determined that all residents planning to attend were currently present.

**ANNOUNCEMENTS:** Mr. Carpenter extended his congratulations to the Fire Department on another successful breakfast event at the Common Man, and his thanks to all who attended.

*Mrs. Crisler* announced that the recent Windham Women's Club coat drive had been very successful, with a total 581 coats and sweaters collected. She advised the public that the next drive was scheduled for November 5, 2005 at the Windham Town Hall.

**LIAISON REPORTS:** Mr. Hohenberger reported that the CIP had, at their last meeting, reviewed and prioritized all departmental requests, and that more meetings would follow to lay out the finalized Capital Improvements Plan.

**SETTLERS RIDGE ROAD:** Mr. Hohenberger opened the discussion by reading two pieces of correspondence, from the Ghazarians of 9 Settlers Ridge Road and the Pappalardos of 15 Settlers Ridge Road, into the record. He then inquired of Mr. Sullivan whether a response had been received from Town Counsel regarding the Board's jurisdiction on this issue. Mr. Sullivan replied he had spoken to Atty. Campbell, who had indicated he could not assist the Board on this matter due to a conflict of interest. Mr. Sullivan noted Atty. Campbell had suggested the Board proceed with this evening's discussion and, if necessary, he would offer a recommendation for alternative counsel.

Mr. Jeff Martin, 16 Settlers Ridge, began the discussion by noting that he himself had yet to experience water shortages on his property. He stressed, however, that nearly all the homes on the street currently have two wells, ranging from 440 to 1860 feet deep. He suggested a moratorium on building be implemented in the area, given Settlers Ridge fragile water supply, and pointed out a survey performed on behalf of the Ghazarians had shown the cause of the shortage to be the newly constructed homes.

Mr. Martin then requested an additional meeting be scheduled for not only the Settlers Ridge residents, but those from other areas of town that may be experiencing water problems.

Mr. Tim McGrath, 10 Settlers Ridge, approached to state that he had owned property on Settlers Ridge for only 2 and a half months, and that the first well on his property had gone dry prior to his purchase. He further stated that his second well is currently very low.

Mr. Mike Jones, 12 Settlers Ridge, approached stating nine out of twelve homes on the road currently have two wells dug at great depths, and 9 have already gone dry. He also noted that the static water level on the road has never been higher than 150', and stated he did not believe drilling additional wells was a solution to the problem.

After a brief discussion, Mr. Breton moved and Mrs. Crisler seconded to enter into the Board of Health. Roll call vote – all members “yes”.

Mrs. Crisler noted that, for future discussion, it would be helpful if all well data were available to the Board, along with divergent data between opposite sides of Settlers Ridge Road and information on Cristy Road, as well. She requested any professional evaluations done on behalf of the residents.

Ms. Sherry Moynihan, 8 Settlers Ridge, stated she moved into the area 2 years ago, and no water issues were disclosed to them, however on the day they moved into their home they had no water. She also noted that the equipment had broken twice drilling her second well, which produces only 5gpm. Ms. Moynihan pointed out that problems exist on both sides of Settlers Ridge, noting that she is on the opposite side of Cristy Road.

Mr. Hohenberger inquired whether blasting on Cristy Road was properly posted. Mr. Turner noted complaints had been received regarding the blasting, relative to the lack of signage on Settlers Ridge and Squire Armour roads. Mr. Turner explained that a door-to-door, pre-blast survey is not required per the Town’s Blasting Ordinance, however reports are required via two (2) seismographs placed at the blasting site. He further noted that those blasts that have registered within the 100’ radius have not been above the allowed fluctuation of 2” per second, and that most blasts in Town average 0.5” per second.

Mr. Hohenberger inquired whether the Cristy Road blasting could be affecting the wells on Settlers Ridge. Mr. Turner replied it is possible, as blasting can cause opening/closing of cracks, but also noted that the water table itself had dropped in the year 2000. Mr. Turner stated that, according to the NH Well Board, the drop in the water table was possibly due to a minor earthquake.

Mr. Turner then presented a map of the watershed in the area of Settlers Ridge Road, and pointed out that water flows in opposing directions on either side of the street. He stated that all the data is not currently available, but there doesn’t seem to be any direct evidence that blasting on Cristy Road is causing the problem.

Mrs. Crisler pointed out that water shortages have arisen in the past on Grandview and Cardinal roads, and at Castle Reach. She noted that those areas now have community water supplies. Mr. Turner added that Netherwood and Stoneywyke roads have also experienced problems. Mr. Crisler felt that the Settlers Ridge association should look into a community water system as the only practical solution.

Mr. Martin clarified that the residents of Settlers Ridge were not an association, and stated that the most current well data is available in the State’s database. He then read an excerpt from the Ghazarian’s survey, which reported that their well problem was due to a decrease in the watershed and aquifer due to new construction in the area.

Mr. Carpenter agreed with the consultant’s determination that blasting may effect surrounding wells, but noted that it usually is a single well within days of the actual blasting. He felt that the current issue seems to be related to the water table, and may exist throughout the town with Settlers Ridge seeing the first negative impact.

Mr. Carpenter further stated that the residents Settlers Ridge could form an association in response to this issue and that if one well has an adequate supply it could, with proper storage, serve the entire community. He suggested the residents explore such a solution further, and perhaps contact Pennichuck Water Works, as well.

Mr. Carpenter then noted that the USGS is currently conducting well monitoring and graphing of the water table at the Seacoast, and suggested the Board consider budgeting funds for equipment to monitor Windham's in similar fashion.

A discussion ensued regarding the current well and blasting regulations and possibly changing the requirements of one or both, monitoring static water levels, conducting a hydro-geological study of the town, and possibly changing the soil-based lot sizing currently utilized.

Mr. Carpenter suggested a meeting be scheduled with the Planning Board to discuss issues such as current lot sizing and possible steps to mitigate issues such as this in the future.

Mr. Hohenberger felt that education of home-owners was important regarding the effects of large irrigation systems, etc., on their neighbors, and way of preserving the Town's water table. He stated he was curious whether the problem is actually regional in nature, or limited to just Windham or Settlers Ridge.

Mr. Martin noted that the State has advised them that the wells on Settlers Ridge are some of the deepest in the NH, and pointed out that Pennichuck generally does not like to go down beyond 1000' due to radon issues and similar concerns. He also noted that the well to which Mr. Carpenter had been referring had an output of 200gpm when it was first drilled, and that it is unknown if it still does.

Mr. Jones approached, stating a community well would only work if the area was further developed, otherwise it is not cost effective. He also noted that, financially, the residents of Settlers Ridge could not implement one on their own.

A discussion again ensued regarding hosting a joint meeting with the Planning Board and establishing the Board's authority. Mr. Martin noted that this is not an easy issue to resolve and that discussion is an important step, as is a joint meeting. He also stated that the residents will continue to meet amongst themselves, and thanked the Board for their time.

Mr. Hohenberger requested that Mr. Sullivan contact the Planning Board and the Conservation Commission to inquire about scheduling the joint meeting.

Mr. Carpenter clarified that the Board of Selectmen/Board of Health and the Planning Board can work cooperatively to mitigate the problem moving forward, but may not necessarily have the authority to help the residents of Settlers Ridge. He again urged them to look into forming an association and exploring means of working with Pennichuck to resolve their specific issue.

Mr. Carpenter then requested that the USGS be invited to attend the joint meeting, that copies of all the information available on Settlers Ridge be made available, and that Mr. Turner update the Town's well data on Settlers Ridge and Cristy for review.

Ms. Peg Landry, 12 Settlers Ridge Road, approached seeking clarification of the blasting ordinance and pre-blast survey requirements. She noted that the ordinance states the requirement for a pre-blast survey is 500', however she had been told it was 100'.

Mr. Turner replied that, for a Type A permit, no pre-blast survey is required. He explained that a Type A permit refers to the 2"/per second discussed earlier. He pointed out that the Town's requirement was based upon State requirements and all information available from local blasting companies when the ordinance was drafted.

Mr. Hohenberger then stated that more information will be forthcoming at the joint meeting, and that the Board was looking forward to receiving the information available from the Settlers Ridge Road residents. He noted that the residents will be advised when the meeting is scheduled.

**BOARD OF HEALTH/61 RANGE RD:** Mr. Hohenberger read the public hearing notice into the record. Mr. Turner explained that the applicant is requesting permission to replace the septic tank at the existing location, which is 75' from the property's well.

Mr. Karl Dubay, MHF Design, was present on behalf of the property owner. He advised the Board that the surrounding septic systems are all beyond the 100' radius required. He also pointed out that the existing septic system is fine, as is the existing well, but that his client asked that an improved system be included in the design. Mr. Dubay stated that this hearing was to get the new septic on record with the Town, and it will not be installed unless the owner wishes to do so. Mr. Dubay further stated that the applicant has agreed to discontinue the well for domestic use if, at any time in the future, Pennichuck agrees to pick up service for the property.

Mr. Hohenberger noted that the new leach field may impact the abutting properties. A brief discussion ensued regarding the abutting properties and those across Range Road, which are all serviced by Pennichuck.

Mr. Carpenter moved and Mrs. Crisler seconded to approve the plan as presented; provided no adverse effects will result to the abutting properties by the moving of the septic system to within 10' of the property line, and all abutting properties are, in fact, serviced by Pennichuck. Passed unanimously.

**SEAVEY POND WATER TESTING:** Mr. Hohenberger clarified that the purpose of this agenda item was to discuss concerns expressed by the residents of the Seavey Pond area regarding the Town's water testing methods. He then read a lengthy letter received from Ms. Michelle Repetto, Vice President of the Seavey Pond Association, into the record.

Mr. Turner advised the Board that he had met with Mr. Sullivan and residents of Seavey Pond to review the differences between the Town's testing method and those utilized by the Association. He explained that the Town utilizes Millepore testing strips, which are a 1ml test that is incubated for a 24 hour period. The strips act as an indicator to determine whether further testing is necessary. The State and the Association utilize a 100ml test. He explained that, after receiving an initial high count at Seavey Pond, he had waited until August to re-test, when the water was almost stagnant.

Mr. Turner then explained that, after the initial count was so high he had attempted to contact the State and been unsuccessful, so he had sent out a notice to the Seavey Pond residents. Afterward, he had revised the notice to a cautionary letter and re-tested the pond. Mr. Turner noted that dye testing was pending, but that in side-by-side comparisons of the testing methods, the State's testing had shown e-coli levels near 80.

Mr. Turner advised the Board that he contacted Town Counsel for an opinion when the Town should notify residents, but had yet to receive a response. He indicated he met with Mr. Sullivan to discuss, in the future, verifying high counts with the State and then proceeding with notification.

Mr. Turner stressed that most of the homes around Seavey Pond are on old holding tanks, and no information is available on warning systems in place. He felt that the dye testing should have proceeded to eliminate the source of the high counts.

Mr. Turner then noted that, moving forward, the Town's testing procedures will be modified to include strip testing first as an indicator, verification of high counts via the State 100ml test, notification as appropriate, and volunteer dye testing.

Mr. Carpenter inquired whether the Town had the authority to test Seavey and other privately owned ponds. The remaining Board members felt it was the jurisdiction of the Board of Health to do so, and Mr. Sullivan noted that at least one resident on Seavey Pond had authorized the Town testing. Mr. Carpenter then questioned the appropriateness of the first letter prohibiting swimming, again noting that Seavey Pond was privately owned. Mr. Sullivan indicated that the first letter had been issued before Mr. Turner had been able to reach the State, and had subsequently been revised to an advisory notice.

Mrs. Crisler noted that, in her experience, the Millipore strips are an excellent indicator of e-coli, which is directly associated with human and/or animal waste. She supported Mr. Turner's testing method as an effective indicator, but noted she would like to see quantification of the results via 100ml samples. Mrs. Crisler noted that the latter can be expensive, and suggested the Board would need to budget funds accordingly. She also recommended that volunteers from the State be utilized to conduct the testing. Mr. Breton suggested that, as part of the budget process, the Board implement 15 mandatory, State tests each year of the various ponds.

Mr. Turner advised Mrs. Crisler that he had spoken to the State regarding the utilization of volunteers, and expressed concern that in those cases the State does not require the samples to be iced. He suggested that volunteers not be utilized, as the testing should be done under more controlled conditions.

Ms. Repetto stated she has been working with Jody Connor of the NHDES, Mr. Sullivan and Mr. Turner to establish the discrepancies between the testing. She also stated she had spoken directly to Millipore, who advised her that the strip does not test specifically for e-coli, but coliform in general.

Mrs. Crisler inquired whether Ms. Repetto had been trained by the DES to conduct testing, and Ms. Repetto replied she receives training each year. Mrs. Crisler then inquired whether Ms. Repetto actually completes the test herself, or forwards the samples to the State. Ms. Repetto stated she completes the testing for phosphorus and e-coli, among other things.

A lengthy discussion ensued regarding the appropriateness of utilizing the test strips, the effectiveness of the strips, dye testing of the holding tanks, number of tests done by the Association and the Town, count comparisons, and testing protocol.

Mr. Bob O'Loughlin, Cobbetts Pond resident, approached stating that residents on the ponds are very interested in water quality. He noted that testing is done by the Associations working cooperatively with representatives from the State, and the Millipore strips have been defined as an indicator only by the manufacture, the State, and others, and are not a valid test. Mr. O'Loughlin expressed concerns that the inference of situations like this is that the water is polluted. He stated that, if the Town were willing to work with the Associations on testing through correct protocol, then that was great.

Mr. Hohenberger inquired whether Mr. Turner could contact the particular Associations prior to testing and invite them to accompany him. Mr. Turner replied in the affirmative, stated he preferred to have a representative participate.

Mr. Breton proposed the new testing procedure be documented and money added to the budget to assist the Associations with testing. Mr. Carpenter asked that the Board of Health be made aware of all testing results and that all related correspondence be generated by the Board.

Ms. Maureen Richard, 8 Hunt Road, approached with concerns about whether correspondence sent on August 29 had been distributed to the Board of Selectmen and Conservation Commission, as she had yet to receive a response. Mr. Sullivan apologized, stating he had received and distributed the correspondence, but had not responded directly as he believed Ms. Repetto had been acting as representative for all the residents of Seavey Pond.

Ms. Richard then explained that her concerns centered around run-off from Lamplighter Village into Seavey Pond. Mr. Turner explained that the DES has inspected the area several times, and found no violations. He noted that a stump dump had, at one point, been discharging water with high bacteria counts but was currently being mitigated, and the investigation of Lamplighter is ongoing.

Ms. Repetto noted that Mr. Connor has conducted a site walk to inspect the berm and swale, and that the run-off is flowing so rapidly that it's filling Murphy's Cove (in Seavey Pond) with silt, as well as picking up fertilizer, road salt, etc. She indicated Mr. Connor would like to see a new swale constructed. Mr. Turner replied that he had not been advised as such, and would contact Mr. Connor himself.

Mr. Wayne Morris, Rock Pond Improvement Association, approached to state that cooperation and communication between the Town and the associations was important. He also suggested that a meeting being arranged between the Town's Stormwater Management Committee and the various pond associations.

Mr. Steve Murphy, 27 Seavey Road, expressed confusion at the Town's testing, noting that a mechanism exists to have the State conduct the testing or train the Associations to do so. He suggested that all the Town ponds be tested as often as possible with Town funds, and that time not be wasted utilizing the strip testing. He felt Mr. Turner's time could be better utilized.

Mr. Hohenberger felt that lots of information had been discussed and a good path of action established. He requested that Mr. Turner arrange for the Associations and the Stormwater Committee to meet, and also monitor the run-off from Lamplighter Village.

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

**BID AWARD/SPORTFIELDS:** Mr. Sullivan advised the Board that two bids had been received for improvements to the athletic infields at Griffin Park, Rogers Field, and Nashua Road as follows:

<i>Hillside Landscaping, Brentwood, NH</i>	<i>\$10,410</i>
<i>Plaza Landscape, Windham, NH</i>	<i>7,450</i>

Mr. Sullivan advised the Board that he had conferred with Mr. Plaza, and his bid did not provide laser grading as specified. A discussion ensued whether laser grading was necessary.

After some discussion, Mr. Carpenter moved and Mr. Stearns seconded to award the bid for athletic infield improvements, as received, to Plaza Landscaping for an amount not to exceed \$7,450. Passed unanimously.

Mr. Carpenter moved and Mr. Stearns seconded that the funds for the athletic infield improvements be withdrawn from the Property Maintenance Trust. After a brief discussion regarding availability of funds, the motion passed unanimously.

**MINUTES:** None.

**CORRESPONDENCE:** Invitation received from the Merrimack Valley American Red Cross to attend their Annual Meeting and Recognition Dinner on October 12, 2005.

*Bond Release/Lamplighter Village:* After a brief discussion, it was the consensus of the Board to table these bond releases until the run-off issue is resolved.

*CTAP Representative Appointment:* Mrs. Crisler explained that \$3.5M has been earmarked for growth control toward mitigating the impacts of the I-93 project and a committee established to discuss disbursement. She noted that it had been determined that each Town along the corridor would appoint one representative and one alternate to meet with the State. Also appointed will be representatives from local non-profit organizations and local agencies. Mrs. Crisler explained that three representatives would be selected from each group to form a Steering Committee, resulting in a much smaller representation of the affected Towns. She noted that Mr. Stearns had spoke adamantly at the last meeting that only the Town representatives should make decisions regarding disbursement of the funds, however, no confirmation was available from CTAP.

After a brief discussion, it was determined that, procedurally, the recommendation to appoint should come from the Planning Board, and Mr. Sullivan will follow up to advise the Planning Board that Mrs. Crisler and Mr. Stearns would like to be appointed to the CTAP committee.

**OLD BUSINESS:** The Board reviewed the revised Technical Advisory Committee Rules of Procedure. Mr. Carpenter requested that the approval be tabled to allow input from the other members of the TAC. The Board concurred.

**NEW BUSINESS:** Mr. Sullivan advised the Board that a new law has been established which allows the Board of Selectmen to accept cash donations under \$5,000 without a public hearing.

*Mr. Sullivan* announced that first annual Harvest Festival will take place on Saturday, October 15 at Griffin Park (rain date, 10/16), and that there would be no cost to the town based upon several donations.

Mr. Sullivan then requested that the Board accept the following toward the Festival: \$250/Jay Yennaco, \$50/Best Mortgage, and \$50/Scanlon. Mr. Carpenter moved and Mr. Breton seconded to accept the donations toward the Harvest Festival with gratitude. Passed unanimously.

**OLD BUSINESS, CONTINUED:** Mr. Sullivan reminded all that the first session of the Special Town Meeting will take place on Friday, October 14, 2005 beginning at 7:00 PM at Golden Brook School.

*Mr. Sullivan* reminded the Board that a site walk of Hopkins Road needed to be conducted prior to next week's public hearing. After a brief discussion, it was determined that the Board would meet at Hopkins Road to conduct the required site walk at 6:00 PM on October 17, 2005.

**CORRESPONDENCE, CONTINUED:** Mr. Hohenberger inquired about correspondence from the Conservation Commission relative Pine Hill Estates. Mr. Sullivan replied that the Commission had previously wished to meet with the Board to discuss this matter, and that it was scheduled for this evening, however the Commission had requested to table the discussion.

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

*Legal:* The Board, Mr. Sullivan, and Mrs. Case were present. Mrs. Case updated the Board on the on going negotiations with Time Warner and Comcast Cable in regards to a transfer agreement of the Town’s cable franchise from Adelphia Cable. Mrs. Case will continue to work with the other communities in our consortium for these negotiations and report back to the Board as needed.

*Personnel:* The Board, Mr. Sullivan, and Mr. Turner were present. The topic of the meeting was the hiring of a new full time building inspector. Mr. Carpenter moved to seal this portion of the non-public minutes. Mr. Breton seconded. Passed unanimously.

*Personnel:* The Board and Mr. Sullivan were present. Mr. Sullivan spoke on behalf of Mr. Poulson, Transfer Station Manager, and recommended a candidate to fill a vacant operator position at the Transfer Station. Mr. Stearns moved to hire the candidate recommended by Mr. Poulson contingent on successful background and medical checks. Mrs. Crisler seconded. Passed unanimously.

*Personnel:* The Board and Mr. Sullivan were present. Mr. Sullivan updated the Board on a personnel matter, with no decisions being made.

*Personnel:* The Board, Mr. Sullivan, Ms. Harriet Spencer, AFSCME Representative, Mr. Sean Boylan, Deputy Town Clerk, Ms. Laura Cryts, Municipal Union Chapter Chariperson, Mrs. Nancy Boylan, Mr. Patrick Boylan, and Ms. Nicole Merrill, Asst Town Clerk were present. The Board met with Sean Boylan and conducted a personnel hearing. Mr. Carpenter moved to suspend Sean Boylan for a period of twenty one (21) days. Mr. Breton seconded. Passed unanimously. The Board indicated that there would be no further comment on the issue as it was a personnel matter.

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

The meeting was adjourned at 12:00 AM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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