

BOARD OF SELECTMEN
Minutes of November 7, 2005

MEMBERS PRESENT: Chairman Roger Hohenberger called the meeting to order at 7:00 PM. Selectmen Galen Stearns, Bruce Breton, and Margaret Crisler were in attendance. Selectman Carpenter was excused. Town Administrator David Sullivan was delayed, and arrived at 7:10 PM. Following the Pledge of Allegiance, Mr. Hohenberger read the agenda into the record.

AMERICAN LEGION POST 109: Post Commander Mort Pearlman, Financial Officer Bob Skinner, and former Commander Wally Ramsden were present. Mr. Pearlman advised the public that the Legion had not arranged any services for Veteran's Day, but asked that all please observe a moment of silence on November 11th.

Mr. Pearlman then explained that the Legion currently does not have any place to store or display military memorabilia, and that at their last meeting utilization of the Town Museum and/or the second floor of the Town Hall had been suggested. Mr. Pearlman noted that the Legion possesses several items, including several old American Flags, an Eisenhower Jacket, and several Naval uniforms.

Mrs. Crisler felt that the Armstrong Building would be an ideal place, especially in light of the war service memorial plaques exhibited in the meeting room. Mr. Skinner pointed out that the Museum is generally for Windham only items, and some of the Legion's pieces are from out of Town.

A discussion ensued regarding the inappropriateness of the Town Hall room, given the amount of traffic, the need for display cases, and possible display of some items in the schools. Mr. Ramsden pointed out that the Legion's need is not immediate, but they wanted the Board to be aware of their wishes. After brief, further discussion, it was the clear consensus of the Board to support the Legion's efforts to preserve and display the items, preferably in the Town Museum.

Mrs. Barbara Coish, School Board, noted that a Veteran's Day ceremony was planned at the Center School on Thursday at 1:00 P.M.

ANNOUNCEMENTS: None.

LIAISON REPORTS: Mrs. Crisler reported that the Planning Board was currently considering two plans, and had recently held a discussion regarding Next 2 Nothing, the adult bookstore, which was seeking to construct a new building on Route 28. Also, Rogers Collision Center was seeking to construct a new parking area, and discussion of the plan was ongoing. Mrs. Crisler also noted that the Planning Board had received a letter requesting a re-zoning of an area near Wall Street from Business Technology to Commercial A.

RECREATION COORDINATOR: Mrs. Cheryl Haas advised the Board that the Maintenance Department had discovered on Friday that the Skateboard Park had been vandalized once again and, as a result, she and Mr. Barlow had determined it should be closed for the season. She noted she had spoken to the builder, who estimated it would cost approximately \$375 to repair the Park for closing. In this incident, three of the rails had been damaged and one of the ramps physically detached and relocated to a different area. Mrs. Haas noted that, unlike the previous incidents, there were witnesses to this vandalism, which occurred on Monday or Tuesday during daylight hours and was perpetrated by 10-12 regular users of the Park.

Mr. Stearns suggested that, in addition to repair costs, a cost to remove the Skateboard Park completely be obtained. Mrs. Crisler noted that several residents had suggested to her that the Skateboard Park be relocated to another area of Town.

Mr. Stearns then moved and Mrs. Crisler seconded to officially close the Skateboard Park for the season and that an estimate be obtained for its removal. Mr. Breton requested that Mr. Stearns remove the latter part of his motion, and after a brief discussion, Mr. Stearns and Mrs. Crisler agreed. The motion to close the Skateboard Park for the season passed unanimously.

After further discussion, it was the consensus of the Board that a cost to remove the park be obtained by Mrs. Haas.

Mr. Breton then requested that the Board be provided a copy of the incident report from the Police Department. A discussion ensued regarding the ongoing investigation. Mr. Stearns expressed displeasure that Mrs. Haas had not been notified that the vandalism had been reported.

Mr. Senibaldi suggested the Town consider selling the equipment, rather than disposing of it. A discussion ensued whether the Board was jumping the gun in considering dismantling the equipment, the potential for injury to users given the continuing vandalism, and the number of times the area has been damaged.

Field Use Policy: Mrs. Haas presented a draft policy to the Board for review. She noted she would like to implement such a procedure in light of several recent occurrences, and cited the difficulty in performing her duties without an established policy to refer to.

Mr. Hohenberger noted that approval of the Policy will eventually require posting and a public hearing, and requested that Mrs. Haas forward a copy of the proposed document to Lacrosse, which Mrs. Haas will provide.

Mrs. Crisler expressed concerns that, as written, it appeared that if the WBSL or Soccer Association had to reschedule their game due to inclement weather some other use may be bumped.

Mr. Hohenberger inquired whether Mrs. Haas had looked into how surrounding towns handled field rentals and/or fees. Mrs. Haas replied she had not, but could do so. Mr. Hohenberger then noted that the suggestion had been made that the fields not be scheduled as to require any overflow parking. A discussion ensued regarding scheduling the fields to avoid overuse.

Mr. Michael Hatem, WBSL, approached noting that there are three fields at Griffin Park and that, with the number of children utilizing each, to avoid overuse the teams would have to utilize only two fields at Griffin Park with the third being sent to a different field. He then noted there were not enough other fields available to do so. Mr. Stearns suggested the start times could be staggered to avoid conflict, and Mr. Hohenberger requested that Mrs. Haas compile a detail of how the scheduling currently works.

Mr. Charlie McMahon, WBSL, approached noting that the League had endeavored to schedule a meeting with Mrs. Haas and Mr. Senibaldi, along with Mr. Carbonello who has now determined that the Griffin Park fields are not suitable for the AAU league. Mr. McMahon felt that the issue at hand had arisen due to conflict between Windham only and mixed-participation leagues, and that the scheduling issue centers around a 45 day season.

Mr. McMahon stated that the WBSL is willing to work with Mrs. Haas and the Board, and suggested that a workshop be scheduled with all. Mr. McMahon then briefly discussed Article 1, and urged all to support the donation at the polls the following week.

Mrs. Haas clarified that the draft policy had not been the result of Mr. Carbonello's request, but rather it was due to difficulties in effectively doing her job as Coordinator without a written policy.

Mr. Senibaldi approached to note that the issue came down to field management, which he felt should be the responsibility of Mrs. Haas and the Recreation Committee. He then urged the Board to support the policy.

Groundskeeping Bids: Mr. Sullivan explained that the Town had reached the third year option on the sports field maintenance contracts. He reminded the Board that, currently, Branding Landscaping handles all the fields except for Griffin Park, and Hillside Landscaping handles Griffin Park plus all infield and irrigation maintenance. Mr. Sullivan inquired whether the Board wished to continue with both at the optioned prices of \$45,000 for Brandin and \$45,800 for Hillside, or whether they wished to bid one or both of the services.

Mr. Senibaldi, Recreation Committee Chairman, approached to remind the Board that the Committee had previously wanted to see Griffin Park put back out to bid, as they had not been pleased with some of the fields. He further stated that the Town should continue with Mr. Brandin, who is very accessible and does a good job. Mr. Senibaldi expressed concern that Hillside subcontracts out the work at a higher cost. He then suggested that, if Griffin Park is put back out to bid, Mrs. Haas, Mr. Barlow, and the Recreation Committee be involved in drafting the Scope of Work.

Mr. Dan Conner, Fields of Green, approached and advised the Board that he handles the mowing for Hillside. He agreed that Hillside does mark up their price by approximately \$500, but had been awarded the bid because they were qualified to do the work. Mr. Connor did not feel the Town would realize a savings by going out to bid, as he did not feel Hillside was overpriced, and urged the Board to consider what the results may be if someone unfamiliar with Griffin Park is brought in.

Mrs. Haas noted that several fields have holes, and inquired of Mr. Brandin and Mr. Conner whether they would be willing to fill them automatically when discovered without being called to do so by the Town. Mr. Brandin replied he had just filled all the sinkholes at the Searles field.

Mr. McMahon approached in support of continuing with Hillside, citing the quality of service and established relationship. He stated that both vendors do a good job, and expressed hope that the Board would not go back out to bid, however, if they did he asked that weed control be included in the specifications. Mr. McMahon further stated that soil storage bins were needed for immediate availability of field mix and loam, and requested the Board authorize greater autonomy for Mr. Barlow to deal with the contractors.

Mr. Senibaldi pointed out that the Board recently saw a significant difference in bid prices for the in-field maintenance. He felt it would behoove the Town to put the work back out to bid, as there are many things that are not in the current Griffin Park contract that should be.

Mr. Ralph Valentine approached representing the Soccer Association to request that the Board go back out to bid, citing that the holes are an issue that the landscapers should be responsible for, including filling and materials. He felt the work should be re-bid to ensure that all necessary items are included, and to obtain the best material and the best price.

Mr. Conner suggested that, if the Town provided soil, he could fill the divots as part of his regular maintenance. Mr. Hohenberger then pointed out that the field may not come back properly afterwards, to which Mr. Conner replied he has enough seed to ensure it does if the Town provides the loam.

Mr. Conner further noted he would be willing to do this under the existing contract.

A discussion ensued regarding development of greater detailed specifications, herbicide/pesticide application, weekly inspections, who bore the responsibility to fill the holes at Roger's Field, and provision of MSDS information and licenses to spray to the Town.

Mr. Breton moved and Mr. Stearns seconded to continue the contracts with Brandin and Hillside respectively. Mr. Stearns then pointed out it would be nice if parents and/or coaches could aide in filling in the holes but, as that may not happen, he asked that Mr. Breton include in his motion that the contractors will do so if they see them.

Mr. Barlow noted that both contractors have always been very responsive when contacted about holes in the fields, which sometimes are not felt by them while on the mowers. Mrs. Crisler suggested that the bins be built and the specifications re-examined for next year. A discussion ensued regarding placement of a soil bin at Griffin Park by the WBSL, with others being addressed by Town staff.

The motion passed unanimously as stated.

BOARD OF HEALTH/27 FIRST STREET: Mrs. Crisler moved and Mr. Stearns seconded to enter into the Board of Health. Roll call vote – all “yes”. Mr. Hohenberger read the notice into the record.

Mr. Turner presented the Board with a proposed plan by the owner for a new septic system to service lots 16R-183B and 16-R-187. Mr. Turner explained that the properties in question were seasonal dwellings that had been converted without approval. He stated this matter had been before the court, which had ruled in the Town's favor. Mr. Turner further noted that one of the properties to be serviced by the proposed system was currently tied into an abutting septic system, however, the owner of that property had requested it be disconnected.

Mr. Turner then noted that the proposed leach field was 95' from the well on lot 16-R-181, 73' from the well on lot 16-R-82, 97' from the well on lot 16-R-183, and 54' from the well on lot 16-R-187. Mr. Turner advised the Board that all the measurements in question had been verified by staff, and stated that one of the purposes of this request was to legally convert the properties to year-round status. Mr. Turner also pointed out that the 54' distance was from the owners' well, which was shared by both properties, as well.

Mr. Hohenberger inquired what the distance would be to Cobbetts Pond, to which Mr. Turner replied approximately 140'. Mrs. Crisler inquired how many bedrooms the system would service, and Mr. Turner replied two (2) in each dwelling. Mrs. Crisler then inquired whether a holding tank had been authorized for the properties, to which Mr. Turner replied that former Inspector Bruce Flanders had approved a holding tank subject to proper permitting.

Mr. Hohenberger inquired whether a legal agreement was in place between the property owners regarding the sharing of the system. Mr. Turner pointed out that both lots were currently owned by the same individual, with one of the dwellings being a rental. He agreed, however, that lack of an agreement could pose a problem should one of the properties be sold, and that one should be in place. Mr. Hohenberger then inquired what, if any, legal ramifications there may be if the Board were to approve the request. Mr. Turner replied that such sharing is done occasionally, and suggested that if the Board were to approve the request the approval should require submission of a legal agreement for continuation of the arrangement.

Mr. Brian Germaine, representing the Delaneys, approached to clarify that the litigation had begun after denial of a variance, and stated that an appeal of the Court's decision is pending.

Mr. Germaine then explained that installation of a Clean System Solution is being proposed, which does not involve a leaching field but rather a distribution field. He further pointed out that the Delaneys well at 54' away is upgrade from the system with a steep down slope, and would therefore be difficult to contaminate. Mr. Germaine then noted that the 73' distance is really 75' if measured to the distribution pipe as is permitted.

Mr. Germaine then agreed with the appropriateness of recording an agreement regarding the two properties, and expressed his willingness to draft the document and record it at the Registry of Deeds.

Mr. Germaine then pointed out that, in 1988, the Town had grandfathered a large number of seasonal homes for year-round use, and noted that the proposal would provide definite improvement to the property and the water quality.

Mr. Hohenberger sought clarification that the requirement was to measure from the distribution pipe. Mr. Justin Zimba, Engineer, replied that all setback requirements do specify measurement to the pipe.

Mrs. Crisler requested that Mr. Zimba provide an explanation of the proposed system. Mr. Zimba explained that, with the Clean System all waste is passed through a three chamber tank to an effluent field, and is highly recommended by all he had spoken to and best suited for the area. He also advised the Board that he had attempted to work the placement of the system on the lot several different ways, and its location as shown cannot be tweaked any better. Mr. Turner inquired whether the properties' gray water discharge will be tied into the new system, to which Mr. Zimba replied in the affirmative.

Mr. Turner then inquired about interference with pedestrian access to the property, as the installation would require regrading of the property all the way down to a retaining wall. Mr. Marty Delaney, property owner, replied that, as part of the regrading, staircases will be built into the retaining wall to allow access. Mr. Zimba then pointed out that the retaining wall will require a waiver, as well.

Mr. Stearns noted that no well was shown on the proposal on lot 16-R-187a, and inquired where that property obtained its water from. Mr. Dennis Root approached to note that the property in question had been vacant since the 1960's and had no well.

Mrs. Crisler inquired whether all the area properties were seasonal. Mr. Delaney replied that there were year-round properties on either side of his, and one other seasonal dwelling.

Mr. Root stated that he was not a direct abutter to the properties in question but did live in the area. He advised the Board that he currently has a septic system that services two properties and leaches onto a third, and urged them to approve Mr. Delaney's request to install a better system.

Mrs. Crisler expressed concern regarding the 54' distance. Mr. Zimba noted that the State will typically grant a waiver with an executed well release form. He felt that neither gentleman he had spoken to at the State was concerned regarding the distance, and stated a buffer is built into their 75' setback requirement. Mr. Zimba then reiterated that the well is at a 10' higher elevation than the system, and advised the Board that the Delaneys will be executing a well release form for this well.

Mrs. Crisler inquired regarding the type and status of the well. Mr. Zimba replied that it was a drilled and cased well. Mr. Delaney noted the well is only 8-10 years old, is over 1000' in depth, and is tested often with no issues to date.

Mr. Turner pointed out that the contours depicted on the plan are critical to the septic design, and he felt a final inspection should be required by the designer after installation and a signed letter submitted. He also stated a maintenance agreement will need to be on file, as well.

Mr. Hohenberger inquired whether, if the property were sold, the new owner would be made aware of the well release form executed by the Delaneys. Mr. Turner replied that, as part of the sale, that information would have to be disclosed.

After further, brief discussion Mrs. Crisler moved and Mr. Turner seconded to grant the waivers as requested, conditional upon the septic designer's certification that the system was built as planned, that a maintenance agreement be filed with the Town, and that a cross easement be executed and placed on file with the Town regarding sharing of the system by the two properties.

Mr. Hohenberger expressed concerns regarding the proximity to the pond, and a brief discussion ensued.

Mrs. Crisler amended her motion and Mr. Turner his second to include that this approval will be subject to all other State permits and requirements being met and placed on file with the Town. Passed 3-2, with Mr. Stearns and Mr. Hohenberger opposed.

RAYMOND REES/ABATEMENT APPLICATION: Mr. Rees indicated to the Board that he had requested a non-public session. Mr. Breton sought clarification whether Mr. Rees had appealed the denial of his abatement to the State, to which Mr. Rees replied he had. Mr. Hohenberger read the BTLA's notice into the record.

A lengthy discussion ensued regarding Mr. Rees' intent in requesting a meeting with the Board, and whether it was to discuss his abatement application or matters pertaining to reputations.

Mr. Rees ultimately determined he did not wish to discuss this matter in public session, nor did he wish to wait to have a non-public with the Board.

CURRENT USE CHANGE TAX ABATEMENT: Tabled.

EQUIPMENT TRADE-IN: Mr. Poulson discussed the future status of the current JCB articulating loader at the Transfer Station, and advised the Board that Casey Equipment has offered to take the loader in trade at a value of \$16,000 for use towards a 4-year extended warranty for the new loader, and an aggressive service agreement. The extended warranty, at a cost of \$5,600, will encompass 6000 hours of use on the full machine, and the service agreement will cover up to 3,000 hours or approximately four years of onsite p/m at a cost of \$8,500. The remaining \$1,900 will then be placed in an escrow account for future incidental supplies and parts. Mr. Poulson stated that the Transfer Station staff did not see the value or rationale to retain the current JCB, as the skid steer loader is available as backup and the new loader should not require major maintenance any time soon.

Mr. Stearns inquired whether the warranty was full coverage in nature, and Mr. Poulson replied in the affirmative.

Mr. Hohenberger opined that the \$16,000 value placed on the existing loader seemed to indicate it remained in good shape, and suggested the Town may want to keep it. Mr. Stearns agreed with the Transfer staff that two pieces of equipment were not necessary in a Station of our size. A discussion then

ensued regarding the warranty and maintenance needs of the existing loader, the benefits of rotating the equipment, and the disadvantages of keeping the old equipment.

Mr. Stearns moved and Mrs. Crisler seconded to trade in the existing JCB as recommended by Mr. Poulson in exchange for a 4-year extended warranty valued at \$5,600 and a 3000 hour service agreement valued at \$8,500 as proposed by Casey Equipment. Passed unanimously.

Chief Lewis then approached to request that the Board authorize him to trade in the following surplus vehicles, having an average mileage of 103,000 towards purchase of a new, unmarked detective vehicle: 1999 Ford Crown Victoria, 1996 Ford Crown Victoria, 2003 Ford Crown Victoria, 2000 Crown Victoria, and a 1997 Ford Crown Victoria. In addition, a cash payment of \$2,000 and a \$128 title/doc fee will be required. Chief Lewis explained that the current detective vehicle has over 100,000 miles on it, and he is concerned regarding that and the age of the vehicle.

Chief Lewis explained that the Gladstone had reviewed each of the vehicles, which were scheduled to go to auction, and will take all five plus the monetary difference in exchange for a 2005 Ford Taurus having 30,000 highway miles. Chief Lewis noted that, unlike the current unmarked detective vehicle, the new Taurus would be indistinguishable as a police vehicle.

Mr. Breton suggested that, prior to any trade-in, an inventory be conducted of all Town vehicles. Mr. Hohenberger inquired what the blue-book values of the surplus vehicles were. Chief Lewis noted that the combined total blue-book value was approximately \$7,000, and the blue book value on the 2005 replacement was approximately \$13,300.

A lengthy discussion ensued regarding the number of vehicles on hand, front-line versus other cruisers, and the Town's Vehicle Maintenance Policy. Mr. Sullivan reminded the Board that all five vehicles were going to be disposed of when Chief Lewis obtained this proposal from Gladstone.

Mr. Breton expressed concerns that the bid process was being circumvented, and Mr. Sullivan replied this trade could be put out to bid if the Board supports the concept.

Mr. Stearns moved and Mrs. Crisler seconded to allow the Police Chief to utilize five (5) excess vehicles to seek proposals to replace the unmarked detective vehicle. Passed unanimously.

TOWN REPORT BIDS: Mr. Sullivan requested this matter be tabled, as he was still waiting for a response to his inquiry to one of the vendors.

CORRESPONDENCE: Letter received from the Local Government Center advising that the Town of Windham had been awarded first place in the Excellence in Annual Reports contest.

Zoning Petition received, regarding lots 3-B-600 and 601. Mr. Hohenberger noted that the signatures had been verified by the Town Clerk, and the petition will now be forwarded to the Planning Board.

Letter received from Mrs. Carole Amabello, Morrison Road, requesting abatement of \$1,125 of her 2004 property taxes. Mr. Sullivan explained that the Amabellos had owned two properties, and on one Mr. Amabello had been receiving the \$2,250 disabled veteran credit. That property had been sold, however the RSA requirement that the credit remain with the property had not been clarified to the Amabellos at the time of the sale, and thus they had only received one-half of their entitled credit for 2004.

After brief discussion, Mr. Stearns moved to deny the request. There was no second.

Mrs. Crisler moved and Mr. Breton seconded to approve the Amabellos request. Passed 3-1, with Mr. Stearns opposed.

Mr. Hohenberger noted that the joint meeting regarding the Pine Hill Estates wetland crossing was still pending. Mr. Sullivan indicated that Mr. James Finn, Conservation Commission Chairman had yet to advise him if they still wished to meet.

Lamplighter Village Bonds Releases: Tabled.

Letter received from resident Robert Coole, suggesting that Taylor Farm Road be explored as an alternative to the Hopkins Road re-classification.

Copy of Dredge and Fill application received relative lot 24-F-30/Eric Fontaine.

Letter received from Carole Amabello relative to gravel used to edge Morrison Road, which is being thrown up into the road. Mr. Jack McCartney explained that it's actually crushed asphalt, not gravel, which had worked better than some previous attempts but is still not a permanent solution. He agreed that the asphalt is an issue and stated placement of more is not planned. Mr. McCartney noted that Morrison Road had been swept many times, but that vehicles driving onto the shoulder and the heavy equipment passing over Morrison will continue to be an issue until a permanent solution is found.

OLD BUSINESS: Mr. Hohenberger inquired whether a swale was planned for Mockingbird Hill Road. Mr. McCartney explained that an under-drain is the planned drainage solution, however swale work may need to be completed to get through the winter.

Mr. Breton inquired whether the Roulston Road area could be posted as "No Thru Trucking", as the roadways are being damaged by the construction vehicles continuous use. Mr. McCartney suggested that the Highway Safety Committee review the matter, and Mr. Sullivan requested the area be looked at for discussion at the November 21st meeting.

Mrs. Barbara Coish approached to state that Golden Brook Road was completed and turned out beautifully.

Mr. Sullivan advised the Board he is currently obtaining proposals to complete the Town Hall painting project, and stated that the one he had received to date was within the residual funds available.

NEW BUSINESS: None.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Stearns seconded to enter into non-public session in accordance with RSA 93-A:3 IIa and b. Roll call vote, all members "yes". The topics of discussion were personnel, and the Board, Mr. Sullivan and Ms. Devlin were in attendance.

The Board reviewed a union grievance. Mr. Stearns moved and Mrs. Crisler seconded to deny the grievance per the Chief of Police's argument and recommendation. Passed unanimously.

Mr. Sullivan discussed proposed cost of living allowances relative to ongoing union negotiations. It was the consensus of the Board that Mr. Sullivan proceed as requested.

Mr. Sullivan updated the Board on the Fire Chief recruitment process. No decisions were made.

Mr. Sullivan updated the Board on an ongoing personnel matter. No decisions were made

Mr. Stearns moved and Mrs. Crisler seconded to adjourn. Passed unanimously.

The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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