

**BOARD OF SELECTMEN**  
**Minutes of November 21, 2005**

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

**ANNOUNCEMENTS:** State Representative Charles McMahon approached to report that he had recently met with Commissioner Stevens, the Director of NH Health and Human Services to discuss the avian flu. Mr. McMahon noted that the flu is currently the number one issue at the DHHS, and that Ms. Maryann Cooney and Dr. Jose Montero have developed a presentation to explain the State's efforts and provide greater information to the public. Mr. McMahon then provided a videotape of the presentation to the Board and requested it be aired on WCTV, and noted he is endeavoring to arrange a live presentation, as well. He indicated he would update the Board as to the date and time once established.

At Mr. Hohenberger's request, Mr. McMahon gave a brief description of the symptoms and treatments of avian flu. Mr. McMahon indicated that, at this time, there is no cure for the illness, but there are preventative medications. He noted that the biggest issue pertaining to innoculation is manufacturing capacity, and stated the flu is being monitored very closely in efforts to stop its spread. Mr. McMahon noted that the illness passes very easily between humans, which could lead to quarantine issues. He encouraged residents to contact Ms. Kerren Vigroux at the Derry Public Health Office with any questions they may have, as she serves as the regional liaison to the State.

Mr. Al Turner, Planning Director, approached to note that residents may also contact him with any questions or concerns, as he has extensive information on the avian flu, as well as contact information for the State, Federal, and local areas. Mr. Turner further stated that the Town is endeavoring to incorporate this issue into the Town's Emergency Management Plan. Fire Chief Don Messier noted that members of the Windham Emergency Management Committee had met the previous week in Derry as part of a consortium of ten area Towns working to modify the existing small pox quarantine plan. Chief Messier assured the Board that the Town was working to be prepared if an outbreak occurs.

*Mr. Hohenberger* extended congratulations to U-Mass Lowell for winning the Division 2 National Field Hockey Championships, and to his daughter Sara who was named to the All-Tournament Team and All American.

**LIAISON REPORTS:** Mrs. Crisler reported that the Historic District/Heritage Commission was currently working with the School Board to preserve "London Bridge". She noted that this unique structure was built sometime in the 18<sup>th</sup> century, and that the HDC has conducted a site walk of the area.

*Mrs. Crisler* announced that the Planning Board would be meeting the following Tuesday to conduct a public discussion of proposed zoning and zoning map changes.

**BUILDING INSPECTOR:** Mr. Hohenberger introduced Mr. Michael McGuire, who recently joined the staff at the Planning Department. Mr. Hohenberger noted that Mr. McGuire comes to Windham from the Town of N. Andover, MA, and has 17 years of experience as an Inspector.

Mr. Turner noted it was a pleasure to have Mr. McGuire, and Mr. McGuire extended his thanks to all and stated he looked forward to working with the residents and the Town.

**LIBERTY MUTUAL FIREMARK AWARD:** Chief Messier introduced Mr. Steve Schott of Liberty Mutual, and explained that each year one firefighter is chosen by their peers to receive the Firemark Award.

Mr. Schott noted it was a great honor to present this year's award to Firefighter Diana Nault, and extended his thanks to the Board and the Department.

**ANNOUNCEMENTS CONTINUED:** Mr. Sullivan noted that the Annual Senior Christmas Party was scheduled for December 14<sup>th</sup> at Castleton beginning at noon.

**PUBLIC HEARING/DONATIONS:** Mr. Hohenberger read the public hearing notice into the record. Chief Messier explained that both the Police and Fire Departments had been awarded \$1,500 each in grant monies from Wal-Mart. He noted that the Fire Department would utilize their \$1,500 to purchase digital cameras for the Department for use in fire prevention, accident scenes, investigations, etc. Chief Messier noted a similar grant had been utilized by the Department in 2004 toward the purchase of the fire extinguisher training pan.

Chief Lewis extended his thanks to the Board for their support in accepting these donations, and noted the Police Department would likely utilize their \$1,500 for cameras as well, or for other training aides.

Mrs. Crisler moved and Mr. Breton seconded to accept the donation in the amount of \$3,000 from Wal-Mart. Passed unanimously.

Chief Messier extended his thanks to the Board, noting this would be his last meeting with them as Chief. He stated he has enjoyed working in Windham and will miss the town. Mr. Hohenberger pointed out for those watching that Chief Messier was leaving to return to his home town where his family resides, and extended the Board's thanks for the Chief's years of service.

*Mr. Sullivan* requested that the Board call a brief non-public session.

**NON-PUBLIC SESSION:** Mr. Carpenter moved and Mrs. Crisler seconded to enter into non-public session in accordance with RSA 93-A:3 IIa. Roll call vote, all members "yes". The topic of discussion was personnel, and the Board, Mr. Sullivan, and Chief Lewis were in attendance. The Board reviewed Chief Lewis' recommendation for a new hire.

Mr. Carpenter moved and Mr. Breton seconded to resume the public portion of the meeting. Passed unanimously.

Mr. Breton then moved and Mr. Stearns seconded to accept the Police Chief's recommendation relative to hiring. Passed unanimously. Mr. Hohenberger noted for the record that this patrolman hire was that approved at the previous Town Meeting.

**MINUTES:** Mrs. Crisler moved and Mr. Stearns seconded to approve the minutes of November 7, 2005 as written. Passed 4-0-1, with Carpenter abstaining due to absence.

**CORRESPONDENCE:** Letter of resignation received from Chief Messier. Mr. Breton moved and Mrs. Crisler seconded to accept the Chief's resignation with regret. Passed unanimously.

*Mr. Hohenberger* noted that there were several pieces of correspondence relative to the scheduling of the next subject for discussion, that being the Pine Hill Subdivision wetland crossing.

**CONSERVATION COMMISSION/PINE HILL:** Mr. James Finn, Conservation Commission Chairman, noted that the Commission had requested this meeting as the proposed Pine Hill Subdivision included a substantial wetland crossing. He noted that the Commission had conducted a

site walk and that, among other things, an area heron rookery would be impacted by the crossing. Mr. Finn advised the Board that the Commission would like to see the wetland crossing eliminated, and provided photographs of the area to the members.

Mrs. Crisler inquired whether this should be addressed by the Planning Board rather than the Selectmen and Mr. Finn replied that this pertained to the Board's earlier re-classification of Pine Hill Road. Mr. Sullivan clarified that, in April of 2004, the Board had authorized the re-classification of 400' of Pine Hill to a Class V roadway, which had included the crossing in question.

Mr. Peter Zohdi, Herbert and Associates, further explained that in 2004, the Board had approved the re-classification subject to intersection with Jackman Ridge Road. Since then, the Conservation Commission had been approached as part of the dredge and fill permit process, and the Commission had not supported the connection to Jackman Ridge Road.

A discussion ensued regarding the Board's previous motion, with clarification from Mr. Sullivan, and possible reconsideration of the motion in question to remove the requirement to connect.

Mr. Zohdi noted that, if the Board were to remove the requirement, then he could proceed with the Planning Board and Conservation Commission. He noted that, at this time, he cannot go before the Planning Board.

Mr. Turner, Planning Director, noted that the connection to Jackman Ridge was clearly a requirement in the motion, and had been the result of resident concerns at the time. He did not feel the Board should remove the requirement without an additional public hearing.

A discussion ensued regarding the need for another public hearing, the concerns of the residents, and notification requirements of the project. Mr. Sullivan sought clarification whether the Board would intend to go through the entire reclassification process again, or just another public hearing to possibly remove the requirement. The consensus of the Board was the latter.

Mr. Finn noted that, at their recent discussion regarding this matter, no abutters had been present. Mrs. Linowes then stated that all the residents in the area objected to the cut-through.

After further, brief discussion, Mr. Carpenter moved and Mrs. Crisler seconded to schedule this for public hearing at the next meeting, provided ample time was available to notify the residents of Sheffield Road. Passed unanimously. Mr. Sullivan will verify with Town Counsel if this is appropriate and, if so, schedule this discussion for December 5<sup>th</sup>.

**NEW BUSINESS:** Mr. Hohenberger noted that a right-of-way permit request had been received from Pennichuck Water Works. Mr. Turner explained that Pennichuck was requesting a trenching permit from an area near Woodvue Road to their treatment plant on West Shore Road to allow installation of a 2" pipe. A discussion ensued regarding the length of the trench, which is approximately 400', and the \$3,500 bond as noted in the application.

Mr. Breton moved and Mr. Carpenter seconded that staff revisit the application and recommend a more appropriate bond amount. Mr. Turner noted he would prefer the Board simply make a notation on the application to double the bond and then execute the permit.

Mr. Carpenter then moved and Mr. Breton seconded to approve the trenching permit including a bond amount of \$7,000 as recommended by Mr. Turner. Passed unanimously.

**CONSERVATION COMMISSION/NATURE CONSERVANCY:** Mrs. Lisa Linowes introduced Mr. David Moffett of the Nature Conservancy to the Board, and gave a brief background of the status of those properties purchased by the NHDOT in 2004 as part of the I-93 mitigation. These properties total 275 +/- acres, which Mrs. Linowes noted was large for the Conservation Commission to monitor as stewards.

Mrs. Linowes then explained that the Commission had contacted the Nature Conservancy to inquire if they had an interest in overseeing the property, and had discovered this land was already listed by the Conservancy as deserving of protection. Mrs. Linowes noted that, after a site walk, research into whether the property fit the Conservancy's criteria, and whether it could be monitored by the Conservancy as it had been purchased with State funds, the Commission was recommending that the Town take ownership of the lands as mitigation and that a conservation easement be granted to the Nature Conservancy.

Mr. Carpenter inquired what the advantages would be to the Conservancy having an easement to the property. Mrs. Linowes explained that ownership of the property was a positive for the Town and, as it was bought for conservation purposes it must remain as such. She further noted that any violations would be difficult for a small group of volunteers to enforce, whereas the Conservancy is better equipped to handle any issues.

Mr. Mark Lauren, State Bureau of the Environment, approached and advised the Board of the following: a landowner cannot hold an easement against themselves; a conservation easement will be required for the NHDOT as part of the I-93 permit; and that the State desires someone to hold an easement on this property and feels the Nature Conservancy is an appropriate choice.

Mr. Stearns inquired whether, if the land were accepted under the stewardship of the Conservation Commission, the permit requirements would be met. Mr. Lauren replied in the negative.

Mr. Breton pointed out that the property would be an asset to the Town and, if town-owned, the Board could determine how best to monitor it.

A discussion ensued regarding the State retaining the property with the Town as stewards via an easement, and the possibility of the State disposing of the property in the future.

Mr. Moffett advised the Board that the Conservancy operates in every state plus 20+/- other countries, and in NH works to protect over 100,000 acres. He noted that the Conservancy holds dozens of easements and currently has 6,000 +/- members. Mr. Moffett stated the Conservancy is concerned about the global and national significance of this particular swamp area, and is very interested in helping to protect it. He further stated the Conservancy has been working for two years with the Conservation Commission on this matter.

A discussion ensued to clarify which properties were being considered for monitoring by the Conservancy. Mrs. Linowes clarified that the former Mesiti parcels, as purchased by the State and totaling 500+/- acres, comprised the area in question. Mr. Moffett noted, however, that the Conservancy was interested in the entire area, including the adjacent Lord and Stolarz properties totaling approximately 150 acres, which are currently owned by the Town.

Mrs. Crisler inquired about funding for enforcement/defense of any violations. Mr. Moffett indicated that funds are available for annual monitoring, and Mrs. Linowes noted that a one-time fee of \$12,000 would be required, which the State would pay.

Mr. Carpenter inquired whether it had ever been the case that the Conservancy had to approach a Town for additional funding, to which Mr. Moffett replied not to his knowledge. Mr. Carpenter then asked whether the Town could ever dissolve the agreement, and Mr. Moffett replied in the negative, stating it would remain in perpetuity.

Mr. Senibaldi approached to state that Mr. Bill Cass of the NHDOT had advised him that, until the State obtains their permit, the requirements will not be known. He further noted that restrictions will accompany any easement and urged the Board to review the matter carefully to ensure that the residents are not affected.

Mr. Hohenberger inquired of Mr. Cass whether, if the property were given to the Town that evening, the State would require an easement. Mr. Cass replied in the affirmative, stating the State must ensure the property is preserved. A discussion ensued regarding the pros and cons of taking ownership of the property.

Mr. Wayne Morris, Conservation Commission, approached noting that “forever” is a wonderful term as far as land remaining designated Conservation, and felt that the Commission’s recommendation was a win/win situation for all involved.

Mrs. Crisler noted that the Board could not speak for future members and what they might do, and felt that all they could do now was ensure that the land will remain conservation always. She also noted that conservation land is not simply nice to have, but is essential to water supply and air quality.

Mr. Hohenberger stated he would like additional information about the Conservancy and its ability to defend the property. Mr. Moffett indicated his willingness to provide further information to the Board.

It was the consensus of the Board that further information on the Conservancy be provided by Mr. Moffett, input from Counsel be obtained, and a copy of the proposed agreement be submitted for their further review. A discussion then ensued regarding the time frame and easement requirements, and Mr. Sullivan noted that granting of any easement would require a Town meeting vote.

Mrs. Linowes stated that the Commission’s goal is that the Town receive the land already encumbered, and Mr. Sullivan suggested the Board resume this discussion on December 19<sup>th</sup>.

Mrs. Linowes then raised the matter of the adjacent Town-owned land, however the Board requested it be deferred to allow for a public discussion to decide on the entire parcel area. Mr. Stearns then suggested the Commission look into other organizations that handle such stewardship, as well. Mrs. Linowes replied that the Commission had, however, the smaller organizations had been deterred by the size of the parcels.

**ANNOUNCEMENTS, CONTINUED:** Mr. Senibaldi noted that the Christmas Tree Lighting had been scheduled for 2:00 P.M. on December 10.

The Chairman then called for a five minute recess.

**TAX ABATEMENT REQUEST:** Mr. Norman presented a current use abatement request to the Board. Mr. Norman explained that the applicant, Fieldwood Homes, had purchased four lots in the Castle Reach subdivision, all of which had been in current use, at a total cost of \$181,500/each. Fieldwood was appealing the assessment of the current use land tax of \$18,000/lot, stating it had been included in the purchase price. Mr. Norman explained that, after reviewing sales throughout the Town, he was comfortable with the value of \$180,000/lot, and recommended that the Board deny the abatement as the claim of double taxation was not substantiated.

After a brief discussion, Mr. Carpenter moved and Mrs. Crisler seconded to deny the abatement as recommended by the Assessor for lots 7-A-767, 817, 818, and 819 owned by Fieldwood Homes. Passed unanimously.

*Mr. Norman* presented a similar abatement request from Castle Reach, LLC for lots 7-A-780, 782, 776, 765, 766, 781, 779, 774, 775, 808, 809, 810, 816, and 778.

Mr. Carpenter moved and Mrs. Crisler seconded to deny the abatement as recommended by the Assessor. Passed unanimously.

*Mr. Norman* then presented an abatement request from the Sarney's for their property at 5 Oakwood Road. Mr. Norman explained that he had attempted to conduct an inspection based on building permit activity, however, he had initially been unsuccessful and had assumed the attic to be finished. Subsequently, upon inspection, he had found the attic remained unfinished and had adjusted that property by \$10,000 resulting in an abatement of \$194.60.

Mr. Breton moved and Mrs. Crisler seconded to grant the abatement amount as recommended by the Assessor. Passed unanimously.

**OLD BUSINESS:** Mr. Sullivan advised the Board that two bids had been received for the printing of the Annual Report as follows:

<i>Commonwealth Printing, Newburyport, MA</i>	<i>\$ 9,300</i>
<i>E-Print, Hudson, NH</i>	<i>15,980</i>

Mr. Sullivan stated he had spoken to Mr. Maurais of E-Print to verify the accuracy of his bid, and had been advised that no error existed. He also noted he had researched those references provided by Commonwealth, which brokers out their printing to Countrywide Press of Middlebury, MA. He then recommended the bid be awarded to Commonwealth for their bid price of \$9,300.

Mr. Carpenter moved and Mr. Breton seconded to award the bid for the printing of the Annual Town Report to Commonwealth Printing for their bid amount of \$9,300. Passed unanimously.

*Mr. Sullivan* advised the Board that the Library Trustees had requested that the Board appoint Richard Koeke as a Trustee until March to fill the term of Mr. Keller. Mr. Sullivan noted that Mr. Koeke has previously served as a Trustee, from 2001-03.

Mr. Breton moved and Mr. Stearns seconded to approve the Trustees' request. Passed unanimously.

*Mr. Sullivan* reported that the Highway Safety Committee had met that afternoon regarding Mr. Breton's request to consider "No Thru Trucking" signs on Roulston Road. Mr. Sullivan stated the Committee had observed the area from Stonehedge Road, and had witnessed a large number of commercial vehicles utilizing the area as, in the collective opinion of the Committee, a cut-through. He advised the Board that it was the unanimous recommendation of the Committee that signage be placed at the intersections of Searles and Roulston and at Route 28 and Roulston.

Mr. Carpenter moved and Mr. Breton seconded to approve the Highway Safety Committee's recommendation, and that Cyr Lumber be notified.

After a brief discussion, it was suggested by Mrs. Crisler and Mr. Sullivan that Jones Road be posted, as well. The Board concurred and the motion passed unanimously.

A brief discussion ensued regarding the massive tree on Roulston Road, which the Highway Safety Committee had looked at at Mr. Breton's request, as well. It was the consensus of the Board that, as the Town cannot remove

the tree, the Highway Agent mark it with a reflector. Mr. Sullivan will advise Mr. McCartney accordingly.

*Mr. Sullivan* presented a proposed budget meeting schedule to the Board, and asked that they check their calendars and advise him accordingly.

*Mr. Sullivan* noted that Mr. Carpenter had previously requested that the Technical Advisory Committee Regulations be tabled to allow for input from the Committee. He advised the Board that no comment had been received to date.

After a brief discussion, Mrs. Crisler moved and Mr. Breton seconded to approve the Regulations as written. 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, c, and e. Roll call vote, all members “yes”. The topics of discussion were personnel, reputations, and land acquisition.

*Land Acquisition:* The Board, Mr. Sullivan, Mr. Senibaldi, Mr. Finn, Mrs. Linowes, Mr. Morris, and Ms. Devlin were in attendance.

The Conservation Commission discussed a proposed land purchase with the Board. Mr. Carpenter moved and Mr. Breton seconded to seal this portion of the minutes.

*Reputations:* The Board, Mr. Sullivan, Mrs. Linowes, and Ms. Devlin were present. The Board and Mrs. Linowes discussed the status of her residency. No decisions were made, and Mrs. Linowes will follow-up accordingly.

*Personnel:* The Board, Mr. Sullivan, and Ms. Devlin were in attendance. Mr. Sullivan presented a request for leave from Mr. Ron Preble, Building Inspector. Mr. Breton moved and Mrs. Crisler seconded to grant Mr. Preble’s request. Passed unanimously.

After further, brief discussion, it was the consensus of the Board that Mr. Turner arrange for temporary help during Mr. Preble’s leave.

*Personnel:* The Board, Mr. Sullivan, and Ms. Devlin were in attendance. After a lengthy discussion regarding an ongoing personnel matter, Mr. Carpenter moved and Mr. Stearns seconded to continue this non-public session until November 22, 2005. Passed unanimously.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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