

BOARD OF SELECTMEN
Minutes of April 3, 2006

MEMBERS PRESENT: Chairman Galen Stearns called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger, Margaret Crisler, and Dennis Senibaldi were present, as was Mr. Sullivan. Selectman Carpenter was excused. Following the Pledge of Allegiance, Mr. Stearns read the remainder of the agenda into the record.

LIAISON REPORTS: Mrs. Crisler noted that the Planning Board had met the previous week with the Rockingham Planning Commission to review the RPC's options and plans for Windham.

ANNOUNCEMENTS: Mr. Senibaldi noted that the Skateboard Park had opened that day, and that efforts were underway to form a committee of some sort to police the area.

Mr. Senibaldi also reminded all that the Easter Egg Hunt will be held on the 8th at 10 AM, and the Daddy/Daughter Dance will be that evening from 6-8PM at Windham Center School.

Mr. Sullivan advised the Board that the signs are up at the Skateboard Park, and noted that Maintenance Supervisor Al Barlow had requested permission to hang additional signs stating "No Helmet – No Skating" and "Skateboarding Permitted in Skateboard Park Only".

After some discussion, it was the consensus of the Board that Mr. Barlow proceed with installing the additional signs as requested.

Mr. Stearns reported that he had spoken with the Chairman of the Pelham Board of Selectmen relative to the closing of the Castle Hill Road bridge, who had apologized for canceling the joint meeting with Windham. Mr. Stearns noted a meeting has tentatively been scheduled for Saturday, April 8th at 8 AM at the Tallant Road bridge to review the area and discuss the towns' options.

Ms. Gina Stearns, Girl Scout Troop 2337, approached to request the Board's permission to place drop-boxes in the Town Hall as part of her Silver Award project. Ms. Stearns is conducting a fund-raiser on behalf of the Salem Animal Rescue League, and endeavoring to collect items such as cat litter, pet food, dog bones, office supplies, and similar items.

Mrs. Crisler moved and Mr. Hohenberger seconded to authorize placement of a drop box at Town Hall. Passed 4-0.

Ms. Stearns thanked the Board, and noted the fundraiser will run from April 5th to the 22nd, and the boxes emptied 2-3 times per week. Any questions should be directed to her at 886-4736.

Fire Chief Tom McPherson advised the Board that a call for a brush fire had been received at approximately 2PM the previous day. The fire actively consumed 42-46 acres of land in the Windham/Pelham area, near the power lines. Chief McPherson reported there were no injuries or structural damages, and that communities from Lowell, MA to Hollis, NH had responded to the call for mutual aid. He noted that the fire had been extinguished by 1 PM that afternoon, and no hot spots were evident. The cause of the fire has yet to be determined.

Chief McPherson stated a great job was done by all, including the Windham Police Department and surrounding fire departments.

Chief McPherson noted that boating season has arrived, and reminded residents that the water remains very cold and swimming should be avoided. He urged boaters to utilize flotation devices, and reminded all the Fire Department continues to offer PFD loans to residents free of charge.

Sergeant Carl Wagner introduced Bryan Smith, new officer to the Department. He noted that Officer Smith had just completed 12 weeks at the Police Academy, and that Town Clerk Joan Tuck would arrive shortly to conduct his swearing in ceremony.

HDC INTERVIEWS: The Board interviewed four residents interested in positions on the Historic District/Heritage Commission: Beth Talbott, Kay Normington, Nancy Kopec, and Carolyn Webber.

A discussion ensued regarding the number of available openings on the Board and the lack of provision for alternates. The Board will discuss this matter further in non-public session at the end of the meeting under reputations.

ANNOUNCEMENTS, CONTINUED: Ms. Tuck arrived and swore in Officer Smith. Congratulations were extended by the Board and those in attendance.

Tax Assessor Rex Norman advised the Board that Commerford, Nieder, and Perkins, LLC had accepted the Town's counter-offer to inspect 2400 parcels at a cost not to exceed \$70,000, however the additional parcels required extending the time frame for the project slightly. He noted that CNP was requesting an August 1st deadline for the first 2000 parcels, and an additional month for the remaining 400. He also stated that the contract had been re-written and a clause added to allow the Town to assess a per diem fine for each day over the deadline, if necessary.

After a brief discussion, the Board executed the contract as presented by Mr. Norman.

PUBLIC HEARING/SEPTIC ORDINANCE: Mr. Stearns read the public hearing notice into the record.

Mr. Turner stated that, at the Board's request, he had reviewed the document relative to the 100' distance requirement, drafted changes and submitted to local septic companies and engineers for comment. He stated some good recommendations had been received, which were incorporated into the revised document. He highlighted the following changes:

- ◆ No soil absorption system will be permitted within 75' of any well. Separation over 75' may be required if determined by the Health Officer.
- ◆ All systems shall adhere to DES requirements and be approved by the Health Officer.
- ◆ A minimum of 4' of clean fill will be required to raise the bottom of the leaching area above the seasonal water table, which can be reduced to 3' for cause or increased if deemed necessary by the Health Officer.
- ◆ Holding tanks must meet DES requirements.
- ◆ Test pits must be closed.
- ◆ Other verbage changes for clarification purposes only, with no change of intent.

Mr. Hohenberger expressed concerns that the Town approves such plans prior to their submission to the State, and expressed discomfort at the Board of Health waiving the State requirement of 75'. He did not feel the local Board of Health had the necessary expertise/staffing to waive the State's distance. Mr. Turner agreed that the same level of staffing/expertise was not available to the Town, however many State departments rely on the Town's approval of items prior to their review. He further noted that if the State does not approve the waiver request there will be no installation.

Mr. Hohenberger suggested a language change from a “waiver” to a “recommendation to reduce” the distance requirements, noting he felt more comfortable with the State determining whether under 75’ was acceptable rather than the Board of Health. Mr. Turner noted that the DES will not even review any submitted plans unless they have been approved by the Town. Mrs. Crisler noted that the Board of Health is not actually waiving on behalf of the State, and Mr. Hohenberger replied he remained concerned regarding the impact of the Board of Health’s decision on the State.

A lengthy discussion then ensued regarding the 4’ requirement for clean fill, and the State’s requirement versus the Town’s.

Ms. Carolyn Webber approached to express concerns relative to Sections 103.2 and 103.3, which she felt were contradictory and discriminatory. She felt that holding tanks should be an adequate system for year-round use and conversion purposes. Mr. Turner replied that the language in the regulations was taken directly from the State relative to the conversion restriction. A lengthy discussion ensued regarding this matter, previous State approvals, and the inclusion of the waiver provision.

Mr. Dick Forde approached seeking clarification of the term “seasonal”. Mr. Turner noted it includes continual use throughout the months of June through September, however, it does not preclude occasional visits in the off-season.

Mr. Wes Aspinwal, Herbert Associates, approached in support of the changes. He noted, however, that a straight 75’ requirement may be better than inclusion of the language allowing the Health Officer to increase the distance. He also pointed out that, when read, Section 103.1 appeared to require that all existing soil be removed and a full 4’ of new soil put in to replace it.

Mr. Karl Dubay, Engineer, approached to opine that 103.1 was well-written, and when taken in whole did not indicate replacement of the entire 4’ was required. Mr. Dubay also noted that Sections 103.2 and 103.3 did mirror the State regulations, and stressed that the Town can encounter problems if they are less restrictive.

Ms. Kristen Donovan, resident, approached to state that she felt holding tanks were a safe option and should be allowed for conversion purposes. She also noted that most seasonal residents are currently not residing in Town to offer their input on the proposed changes.

A discussion ensued regarding seasonal zoning ordinances, State regulations, and conversion requirements.

Mr. Senibaldi inquired of Mr. Turner why there were prohibitions on converting from seasonal to year-round use. Mr. Turner replied that the primary concern is the load on the septic system, as well as that most cottages were not constructed to code.

Mr. Stearns closed the discussion to the public and, after further discussion, Mrs. Crisler moved and Mr. Hohenberger seconded to amend the proposed regulations to remove the first sentence of paragraph 3 of Section 103.1, allowing reduction of the fill to 3’, and to approve the document as amended. Passed 4-0.

PUBLIC HEARING/WATER SUPPLY REGULATIONS: Mr. Stearns read the public hearing notice into the record. Mr. Turner reviewed the proposed amendments as posted, which included: reduction of distance requirement from leaching fields from 100’ to 75’, a 25’ setback from surface water or drainage culverts, and a 50’ setback from all lot lines; addition of a waiver clause requiring Board of Health approval for any distance less than 75’; and language changes to clarify that the authority to

adopt/amend this document lies with the Board of Selectmen rather than the Board of Health.

Mr. Senibaldi inquired why the lot line setback requirement was being proposed at 50', as opposed to the State required distance. Mr. Turner noted that 75' from the lot line, as previously required, was too great a distance, however he felt that the 10' requirement that the State utilized was too short and 50' offered better protection to neighboring properties.

A discussion ensued regarding yield amounts, lot line waivers, testing requirements, and surface water language.

Mrs. Crisler moved and Mr. Hohenberger seconded to approve the proposed document as written. Passed 4-0.

The Chair called for a five minute recess.

R.O.W. PERMIT/JOHNSON STREET: Mr. Turner presented a plan of the area, noting that the applicant was proposing to extend a new cul-de-sac onto his property, which required going 100' into the Town's right of way to blend the pavement into the existing roadway. He further noted that bonding will be in place for the project.

Mrs. Crisler noted that this "tear-drop" shaped cul-de-sac had been recommended by the Planning Board to allow for greater ease in navigation by the School busses and Highway Department vehicles.

After further, brief discussion, Mrs. Crisler moved and Mr. Hohenberger seconded to grant Century Builders the right to work on the proposed cul-de-sac on Johnson Street as per the proposed plans provided that all construction be bonded. Passed 4-0.

CHEMICAL TOILET BIDS: Mr. Sullivan advised the Board that four bids had been received for Chemical Toilet services for the Town from Handy House of Foxboro, MA, Dave's Septic Service of Bedford, NH, Allied Septic/Trombley Enterprises of Manchester, NH, and NE Restrooms of North Reading, MA.

Mr. Sullivan noted the bids had been reviewed by him, Mrs. Dana Call, Mr. Allan Barlow, and the Recreation Committee, and all concurred to recommend the bid be awarded to Dave's Septic for their total bid amount of \$7,272.25, which includes a 5% pre-paid discount.

Mr. Senibaldi clarified that the Recreation Committee had not taken a formal vote to recommend Dave's Septic, however all members consulted had concurred. He then moved and Mrs. Crisler seconded to award the bid for Chemical Toilets to Dave's Septic for their bid amount of \$7,272.25. Passed 4-0.

Mr. Senibaldi then requested that the surplus funding from the \$9,550 budgeted be utilized toward immediate placement of toilets at Griffin Park. A representative of Dave's Septic, who was present, advised the Board that he will arrange to have toilets placed at Griffin Park on Wednesday at no additional charge to the Town.

LEAD REMEDIATION BIDS: Transfer Station Manager reviewed the following bids received for removal of lead contaminated soil from the old firing range on Route 111:

CleanHarbors Environmental Services	\$ 8,760
Charter Environmental	9,680
ENPRO Services, Inc.	9,850
MARCOR Environmental	10,650
DL King & Associates, Inc.	16,200

Mr. Poulson recommended that the bid be awarded to CleanHarbors, and noted that this should completely clean out the contamination.

After a brief discussion, Mrs. Crisler moved and Mr. Senibaldi seconded to grant the contract for hauling of contaminated soil to CleanHarbors Environmental Services for their bid amount of \$8,760. Passed 4-0.

OLD BUSINESS: Mr. Sullivan reviewed with the Board their liaison requests. He noted that the following requests were uncontested:

Cable Advisory Board	Mr. Carpenter
CIP Alternate	Mr. Stearns
CTAP	Mr. Stearns
HazMat District	Mrs. Crisler
HDC	Mrs. Crisler
Historic Committee	Mrs. Crisler
Planning Board	Mrs. Crisler
Planning Board Alternate	Mr. Carpenter
JLMC	Mr. Senibaldi
Welfare Overseer	Mr. Stearns
Fire Union	Mr. Carpenter
Municipal Union	Mr. Stearns
Housing Authority	Mr. Senibaldi
Fire Safety Committee	Mrs. Crisler
Route 93 Task Force	Mr. Stearns
Strategic Planning	Mr. Hohenberger

Those liaison opportunities having more than one interested member were as follows:

CIP	Mr. Hohenberger/Mr. Senibaldi
Police Union	Mr. Hohenberger/Mr. Senibaldi
Recreation Committee	Mr. Carpenter/Mr. Senibaldi

Mr. Sullivan also noted that liaisons were needed for the Technical Advisory Committee, Depot Advisory Committee and as a Union alternate. As to the former, Mr. Carpenter had indicated his willingness to continue as TAC liaison, if necessary.

A discussion ensued, in which Mr. Stearns agreed to withdraw his request to be CIP alternate liaison, allowing Mr. Senibaldi to do so. Mr. Senibaldi agreed to the alternate, and thus Mr. Hohenberger would be the CIP liaison.

Mr. Hohenberger and Mr. Senibaldi will both serve as liaison to the Police Union.

Liaison to the Recreation Committee was discussed, and as it was determined that Mr. Senibaldi can continue his appointment as a member of the Committee, he deferred the liaison position to Mr. Carpenter.

Mrs. Crisler agreed to be liaison to the Depot Advisory Committee, Mr. Stearns alternate liaison to the Union, and it was determined Mr. Carpenter will continue as TAC liaison.

Mrs. Crisler then moved and Mr. Hohenberger seconded to adopt the liaison appointments as selected. Passed 4-0.

Industrial Drive: Mr. Sullivan advised the members that the Notice of Offer had been received relative to the Industrial Drive easement in the amount of \$500.

A discussion ensued relative to the value of the land to the State for the project, the new road to be gained versus loss of the existing, and whether to refuse the offer and pursue the matter in court to prove a higher value.

Mrs. Crisler moved and Mr. Senibaldi seconded to accept the State's offer of \$500 for the Town's rights to the roadway for Industrial Drive, as the Town will receive replacement access. Passed 3-1, with Mr. Hohenberger opposed.

Street Names: Mr. Sullivan presented a listing of suggested street names as reviewed and approved by the Historic District Commission and Highway Safety Committee. He noted that, if approved by the Board, the list will be forwarded to the Planning Department/Board for use by developers.

After a brief discussion, Mrs. Crisler moved and Mr. Senibaldi seconded to support the names as presented and submit them to the Planning Board for use. Passed 4-0.

Mr. Sullivan requested that the Board add the Windham Endowment Group to the approved list of non-profit organizations permitted use of Town facilities. Mr. Hohenberger moved and Mrs. Crisler seconded to approve the non-profit use of Town facilities by the Windham Endowment Group. Passed 4-0.

Mr. Sullivan advised the Board that a proposal from Windham Tree Service for removal of trees at Roger's Field and the Tokanel Road tennis courts, and a hazardous branch at Griffin Park had been received. Mr. Devaney has indicated a willingness to work with Town Highway Department staff to facilitate the removal at a cost of approximately \$1,200.

Mrs. Crisler moved and Mr. Senibaldi seconded to approve the removal of trees as requested for an amount not to exceed \$1,200. Passed 4-0.

Mrs. Crisler inquired as to the status of the new well at the Griffin Park multi-use building, which was to have been drilled by May 1. Mr. Sullivan noted that he had spoken with Mr. Breton and Mr. McMahon, and if not completed by this weekend it will be done shortly thereafter.

Mr. Senibaldi inquired as to the School Board bids for the access road and when they were expected to be received. Mr. Sullivan noted they would have to be back prior to the public hearing, so it should be sometime within the next 30-45 days.

CORRESPONDENCE: Letter received from Louise Peltz inviting the public and the Board to attend the Windham Performing Arts production of "Joseph and the Amazing Technicolor Dreamcoat" at the Derry Opera House. Remaining show times are April 7th at 7:30 PM, and April 8th at 2:00 PM and 7:30 PM. Tickets are \$15/adults, and \$10/students and seniors.

Letter received from Kathleen DiFruscia, CPIA, regarding the proposed parking area for Griffin Park. Mr. Sullivan noted that Town Counsel has been asked for a legal opinion on this matter.

MINUTES: Mrs. Crisler moved and Mr. Hohenberger seconded to amend the previously approved minutes of March 13th to clarify that she was in favor of Pine Hill as a connector, but had concerns. Passed 3-0-1, with Mr. Senibaldi abstaining.

NEW BUSINESS: Mrs. Crisler advised the Board that she had been asked by a resident to review a recent ZBA decision pertaining to installation of a sign at The Commons, which the Board can do within 30 days of the ruling.

Mr. Sullivan suggested the members review the ZBA ruling for discussion on April 10th. The Board concurred.

NON-PUBLIC SESSION: Mrs. Crisler moved and Mr. Hohenberger seconded to enter into non-public session in accordance with the provision of RSA 93-A:3-Iic and e. Roll call vote – all members "yes". The topics of discussion were reputations and legal, and the Board, Mr. Sullivan, and Ms. Devlin were in attendance.

Reputations: Mr. Sullivan reviewed a request from a former welfare client to subordinate the Town's welfare lien to allow them to refinance their home. After a brief discussion, Mr. Hohenberger moved and Mrs. Crisler seconded to subordinate the Town's lien as requested. Passed 4-0.

Reputations: Mr. Hohenberger moved and Mrs. Crisler seconded to appoint Beth Talbott, Kay Normington, Carolyn Webber, and Nancy Kopec as regular members of the HDC, provided four positions are available, otherwise Ms. Talbott shall be appointed as a Regular member and the remaining candidates as Alternates, if possible. Passed 4-0.

Legal: Mr. Sullivan updated the Board on a request to purchase a piece of Town-owned land, noting that during the title search process, it had been discovered that the property had been tax-deeded to the Town incorrectly. Town Counsel had recommended returning the parcel to the owner of record for payment of back taxes.

Mrs. Crisler moved and Mr. Senibaldi seconded to begin the process of reconveying the property known as 13-J-95. Passed 4-0.

Legal: Mr. Sullivan discussed two (2) ongoing legal cases with the Board and related proposed settlement agreements. After some discussion, Mrs. Crisler moved and Mr. Senibaldi seconded to accept the settlement agreements as described by the Town Administrator. Passed 4-0.

PUBLIC SESSION: At the request of Mr. Bob Coole, the public portion of the meeting was called back to order at 10:30 PM. Mr. Coole expressed concerns regarding the method in which the Board's liaison requests had been handled earlier in the evening, particularly as it pertained to the Planning Board.

After some discussion, no changes were made.

Mr. Senibaldi moved and Mr. Stearns seconded to adjourn. Passed 4-0.

The meeting was adjourned at 10:40 P.M.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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