

BOARD OF SELECTMEN
Minutes of July 24, 2006

MEMBERS PRESENT: Chairman Galen Stearns called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger, Margaret Crisler, Alan Carpenter, and Dennis Senibaldi were present, as was Town Administrator David Sullivan. Mr. Stearns read the agenda into the record, followed by the Pledge of Allegiance.

MINUTES: Mrs. Crisler noted an amendment to the minutes of July 17th to clarify that Mr. Stearns represents the School Board on the CIP Committee, and Mr. Senibaldi is the Board of Selectmen Alternate. She then moved to approve the minutes of July 17th as amended, and the minutes of June 12th and 19th, and July 10th as written. Passed unanimously.

CORRESPONDENCE: Mr. Stearns noted that several letters had been received from residents expressing concerns and requesting waiver of the \$25 civil forfeiture for failure to license their dogs. A discussion ensued, in which Mr. Sullivan clarified that the Town Clerk did not send out reminder postcards as in previous years, and that the Board cannot waive the penalty as it is a statutory requirement. Mr. Hohenberger suggested that Mrs. Tuck be asked to attend the next week's meeting to discuss this matter further. Mr. Carpenter requested that, in the interim, Mr. Sullivan check with Town Counsel to ascertain the Board's options.

ANNOUNCEMENTS: The Board interviewed two candidates for Alternate to the Recreation Committee: Michele Langlois and Mags Adamchek. Mr. Stearns noted that the possible appointment of these individuals would be discussed in non-public session later in the evening.

OLD/NEW BUSINESS: Mr. Carpenter noted that, at the previous meeting, the members had discussed and placed their recommendation on the Special Town meeting articles. He then requested that: 1) the Board set a standard regarding whether their recommendation and related vote count will appear on the ballots, and; 2) that the recommendations be reconsidered to reflect his vote, as he had been absent at the time.

A discussion ensued regarding showing the recommendation versus not, and the possible development of a policy or amendment to the Board of Selectmen by-laws to standardize the process. Further discussion ensued regarding whether inclusion of the selectmen votes would bias the voters. Mr. Sullivan will follow-up to draft an amendment to the Board of Selectmen Rules of Procedure.

Mr. Senibaldi then moved and Mrs. Crisler seconded to reconsider the Board's previous motion to recommend Articles 1 through 3. Passed 4-0-1, with Mr. Carpenter abstaining.

Mr. Senibaldi moved and Mrs. Crisler seconded to recommend Article 1 as written. Passed unanimously.

Mr. Senibaldi moved and Mrs. Crisler seconded to recommend Article 2 as written. Discussion ensued whether this article should reflect a recommendation, and concerns were expressed that no time constraint was included in the article. Mrs. Crisler noted that the Board could, if it so chose, include an article on the March ballot to require that all future agreement be presented to Town meeting vote for approval. Mr. Sullivan noted that some time frame could also be established simultaneously.

After further, brief discussion, the motion passed 3-0-2, with Mr. Carpenter and Mr. Hohenberger abstaining based upon belief that the voters should not be biased regarding this matter.

Mr. Carpenter moved and Mrs. Crisler seconded to recommend Article 3 as written. Passed unanimously.

BUILDING PERMITS ON CLASS IV ROADS:

11 & 14 Rocky Ridge Road: Mr. Sullivan advised the Board that the standard RSA 674:41 waivers had been executed and comments had been received from Fire and Police on both requests. He further noted that the Planning Board had only commented on #11, but felt that the Board could approve both, with a contingency on #14 that no issues are raised by the Planning Board.

Mr. Joe Maynard, Benchmark Engineering, approached representing Brian Harvey, owner of #14, and Roland and Nancy Shrull, owners of #11. He presented a plan of the area to the Board, and explained that the owners intended to work cooperatively to alternate their properties as staging areas during the construction to ensure the roadway remains open, which was a requirement cited by the Police, Fire, and Planning Board.

A discussion ensued, after which Mr. Carpenter moved and Mrs. Crisler seconded to approve the issuance of a building permit for #11 Rocky Ridge Road, provided no further Planning Board requirements are submitted, and at #14 Rocky Ridge Road as requested. Passed unanimously.

Horne Road: Mr. Charbonneau, property owner, approached. He did not present a plan to the Board for review, but explained that he would be constructing a detached garage on a .65 acre lot, which offered ample staging area during the construction period.

After some discussion, Mr. Hohenberger moved and Mr. Carpenter seconded to approve subject to execution of the standard waiver and adherence to all building and health codes the issuance of a building permit on a private road as requested. Passed unanimously.

OLD/NEW BUSINESS, CONTINUED: Mr. Carpenter expressed concerns regarding the Board's decision the week prior to wait one year to re-address the ownership of the Griffin Park multi-use building. He took issue with an outside agency owning and operating a building on Town property.

Mr. Hohenberger noted that the outstanding note obtained by the Windham Baseball/Softball League had been a concern to the Board in taking ownership of the building, and Town Counsel had since stated it would not be a problem for the Town unless the WBSL defaulted. He also noted that, for him, the decision to wait a year had been due in part to allowing the WBSL time to pay off the loan, which keeping ownership of the building might facilitate.

A discussion ensued regarding liability, precedent, and the Roger's concession stand which the Town has also not taken ownership of, as yet.

Mr. Carpenter felt that, as the note was not the Town's, it was poor management by the Board to not take ownership of the building. Mr. Hohenberger questioned what the Town gained by taking ownership of the building, outside of increased liability.

After further, brief discussion, no change was made to the Board's previous decision.

Mrs. Crisler stated that the steps at the Library are in poor condition, and requested the Mr. Sullivan have Mr. Barlow and Mr. Heidenblad look at possibly replacing them with granite steps. Mr. Sullivan will follow-up.

Mr. Senibaldi inquired whether DeCola Paving had responded to efforts to contact them regarding Griffin Park. Mr. Sullivan replied they had not, as yet.

Mr. Carpenter extended congratulations to the Town and Conservation Commission on their recent purchase of 50 +/- acres on Route 28, formally known as the Cyr property. He noted that with this purchase, there are now 200 +/- acres of contiguous conservation land in that area of Town.

PUBLIC HEARING/DONATIONS: Mr. Stearns read the public hearing notice into the record. Mr. Sullivan noted that cash donations had been received from the following for the Senior Picnic:

Brad Dinsmore/Dinsmore Associates	\$100
Monique Donovan Law Office	100
Prizio Realty	50
Cyr Lumber	100

In addition, gifts totaling approximately \$500 in value for use as door prizes were received from the following:

- Dunkin Donuts
- Movie Scene
- J. Stewarts Flower Shoppe
- Photo Time
- Windham Barber Shop
- Klemm's Bakery
- Gourmet Grille
- Klemm's Mobil on the Run
- Cyr Lumber
- Woof it Down
- Village Bean
- Brooks Pharmacy
- B & H Oil Co.
- Coca-Cola
- Windham Terrace

Mr. Hohenberger then moved and Mr. Senibaldi seconded to accept all with many thanks. Passed unanimously.

NON-PUBLIC SESSION: Mrs. Crisler moved and Mr. Senibaldi seconded to enter into non-public session in accordance with RSA 93-A:3 IIa, c and d. Roll call vote, all members "yes". The topics of discussion were personnel, reputations, and legal. The Board, Mr. Sullivan, Chief McPherson, and Ms. Devlin were in attendance in the first session.

The Chief reviewed the Deputy Fire Chief candidates with the Board. After a lengthy discussion, Mr. Senibaldi moved and Mr. Hohenberger seconded to extend an offer of employment to the recommended candidate, subject to successful background and physical checks. Passed unanimously.

The Board, Mr. Sullivan, and Ms. Devlin were in attendance in the remaining sessions.

Legal: Mr. Sullivan updated the Board on an ongoing legal issue. No decisions were made.

Reputations: Mr. Senibaldi moved and Mr. Hohenberger seconded to appoint both Michele Langlois and Mags Adamchek as alternates to the Recreation Committee. Passed unanimously.

Mr. Stearns resumed the public portion of the meeting by calling for a five (5) minute recess.

PINE HILL ROAD RECLASSIFICATION: Mr. Sullivan noted that this public hearing had been opened in March of 2006, and continued several times since then. He also advised the Board that, with each continuance, courtesy notices had been sent to the abutters and the residents of Sheffield Road.

Mr. Stearns read correspondence from the Conservation Commission, Highway Safety Committee and Planning Board into the record. The Conservation Commission is opposed to the required connection to Jackman Ridge Road, the Highway Safety Committee supports the re-classification with a second egress, and the Planning Board recommends the re-classification with the removal of the requirement to connect to Jackman Ridge Road.

Mr. Peter Zohdi, Herbert Associates, presented the Board with current plans detailing the project with and without the Jackman Ridge Road connection. He noted that the Board had previously approved the re-opening of this section of Pine Hill Road, subject to the connection and that, since that time, Jackman Ridge Road has been extended and the Conservation Commission has expressed their opposition to the connection. Mr. Zohdi requested that the Board remove the condition, and proposed construction of a loop road instead, which will offer frontage for future development and possible connection to Wall Street. Mr. Zohdi also noted that, since the previous public hearing, the subdivision has been changed to an open space development, which will shorten the length of the loop.

Mr. Carpenter inquired what the entire length of the temporary cul-de-sac would be, as proposed, and Mr. Zohdi replied 3,283'.

Mr. Hohenberger inquired whether the Board could make the reclassification contingent on a connection to Wall Street. Mr. Zohdi noted that two properties are involved in the subdivision, and that he represents both owners. He noted, however, that the property required for a Wall Street connection is owned by others and he does not have control over that; however a right-of-way will be left for future re-classification.

A discussion ensued regarding options for the reclassification and the level of impact to the area wetlands.

Mr. Jim Finn, Conservation Commission, approached to clarify that the Commission is opposed only to the additional length to connect to Jackman Ridge, and does not oppose the revised project as proposed.

Mrs. Crisler expressed opposition to the connection to Jackman Ridge, and concerns regarding the impact of the subdivision to the area. She suggested the Board reconsider their decision to even re-open Pine Hill Road. She pointed out that the heron rookery would be impacted by the open space development, and that to connect to Wall Street would link a commercial area to a residential area, which is not the norm.

Discussion ensued regarding possible other future connections, such as Lancelot Road.

Mr. Finn stated that the Conservation Commission environmentalist had determined that a loop road would be better for the area, and would not present much of an impact to the rookery. With due diligence in the development, it may not be an issue.

A discussion ensued regarding adding a contingency to connect to Wall Street in the motion. Mr. Zohdi noted that the Planning Board often waives the length requirement in cases of a temporary cul-de-sac, citing Blossom Road as an example, as they are connected through future development. Mrs. Crisler opined that the connection of a commercial and residential zone was unlikely, and that the cul-de-sac would end up staying. She then suggested that the Board wait to make a decision until the Rockingham Planning Commission completes the Wall Street corridor study.

Mr. Senibaldi did not feel it was fair to bind the developer to a connection through property he did not own. Mr. Hohenberger pointed out that the proposed cul-de-sac length is a violation of the Town's regulations and, if

the Board were going to approve it then the requirements should be changed. He noted that if the Jackman Ridge connection didn't work, then perhaps the plan didn't work as proposed.

Mr. Carpenter clarified that the Board agreed that Jackman Ridge Road was not a viable connection. The consensus was they did not. Mr. Carpenter then noted that, if that were the case, then what the Board was really considering was the length of the cul-de-sac, which was the Planning Board's purview. He expressed concerns that the Board may be stepping on the Planning Board's toes by not reclassifying the 200' section, as the plan would have to be presented to them again anyway. He then noted that he did not have an issue with the reclassification.

Mrs. Crisler reiterated that she would like to see the RPC's recommendation, and felt this hearing should be continued until then. A discussion ensued. Mr. Zohdi pointed out that, if necessary, he can connect over the wetlands as previously approved, but he would rather not. Mr. Senibaldi suggested that the condition be removed.

Mrs. Crisler pointed out that either a public safety problem or wetlands impact will result if the Board approves the reclassification.

Mr. Carpenter inquired whether the Planning Board had heard this matter yet, and Mr. Zohdi replied it had. Mr. Phil LoChiato, Planning Board Chairman, approached to clarify that the Board had voted 4-1 to remove the connection condition; however the subdivision still had to be heard.

Mr. Walter Kolodziej, resident, approached to point out that the rookery had not been damaged by the Jackman Ridge development, and that the new subdivision shouldn't be an issue.

Mr. Don Levesque, 12 Sheffield Road, approached expressing opposition to the development and the connection to Wall Street. He noted that he might, if necessary, support a loop road. He then questioned the benefits of a Wall Street connection in relieving bottleneck conditions.

Mr. Carpenter replied that the Board had asked the RPC to study the benefits of diverting traffic off of Route 111 earlier, via Wall Street. He noted that Pine Hill and County roads are also being looked at as part of the study.

Mr. Levesque felt that other options were available, and reiterated his opposition to a Wall Street connection.

Ms. Jackie Hopkins, Sheffield Road, approached in opposition, noting that the existing properties are surrounded by natural areas, and that property values will be negatively affected by the development. She also noted that any connection in the area will result in a speedway through the residential area.

Mr. Wayne Morris approached to point out the differences between a cul-de-sac and a loop road. He also opined that if the Board were to deny the request, they would be putting Mr. Zohdi in the position to have to cross the wetlands. He inquired whether the Board had ever requested that the NHDOT explore an exit/access to I-93 from North Lowell Road. The Board replied it had, that DOT had refused.

Mr. Bruce Breton, approached noting that originally the Board's responsibility had been to consider reopening 200' of Pine Hill Road, and that the Board had done so with a condition to connect to Jackman Ridge Road. He noted that, since then the Conservation Commission had requested a loop road instead in efforts to save the wetlands corridor. He also noted that when the condition had been placed on Mr. Zohdi, Jackman Ridge had been undeveloped and that, as it now is, the Conservation Commission had sent Mr. Zohdi back to the Selectmen.

Mr. Zohdi stated that if the revised plan were not acceptable to the Board, he would have to cross the wetlands as previously approved by the Board. He noted that several changes had been made to the proposal at the Conservation Commission's request.

Mr. Senibaldi then moved that the Board stay with their previous motion to re-open Pine Hill Road, and that the requirement to connect to Jackman Ridge Road be removed.

Mr. Sullivan clarified that this was a new hearing, and that Mr. Senibaldi should move to re-classify a section of Pine Hill Road as proposed.

Mr. Senibaldi withdrew his previous motion, and made a new motion as per Mr. Sullivan's language.

Mr. Sullivan suggested that Mr. Senibaldi add "from station 2500 to 2950". Mr. Senibaldi amended his motion accordingly.

A discussion ensued regarding the previous motion becoming null and void if Mr. Senibaldi's motion is approved.

Mr. Carpenter seconded the motion for discussion.

Mr. Hohenberger noted that this is a very dynamic area, the RPC is involved, and there is a potential for future development. He noted that the RPC may recommend a roadway in this area as part of their ongoing study, which would allow for a connection, and suggested the Board wait.

A discussion ensued regarding the changes already imposed on the developer, the length of time this hearing has been going on, and whether or not to wait for the RPC study to be complete.

Ms. Hopkins inquired whether there was a way for the Board to maintain safety as a priority in their approval, and some way to control speed in the area. Mr. Stearns noted that those matters would be under the Planning Board purview in hearing the subdivision plan.

Mr. Breton approached to point out that, just a few weeks previous, the Board had approved a very similar situation in reopening London Bridge Rd.

Mrs. Crisler sought clarification that, if the motion failed, the previous decision would still be valid. Mr. Sullivan replied in the affirmative, noting that if the motion passed, the residents could appeal the decision to the courts if they wished.

The motion passed 4-1, with Mr. Hohenberger opposed.

OLD/NEW BUSINESS CONTINUED: Mr. Carpenter noted he had seen correspondence regarding approval by the Planning Board of installation of a large propane tank in a residential neighborhood, and inquired whether the Board had any recourse in reversing the approval. Mr. Sullivan replied in the negative, and a brief discussion ensued.

Mr. Sullivan advised the Board that Town Clerk Joan Tuck was requesting permission to hire a part-time staff member at rate of \$5.75/hour to assist with answering the phones and opening the mail during her ongoing staffing shortage. After a brief discussion, Mr. Carpenter moved and Mr. Hohenberger seconded to approve the hiring of temporary staff by the Town Clerk for a period not to exceed eight weeks. Passed unanimously.

Mr. Stearns announced that the Board had discussed the possible hiring of a Deputy Fire Chief in non-public session, and had moved to hire the recommended candidate contingent upon successful completion of health and background checks. Mr. Sullivan noted that, if everything worked out, an announcement would be made at the next meeting.

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

The meeting was adjourned at 10:05 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.