

**BOARD OF SELECTMEN**  
**Minutes of June 4, 2007**

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

**ANNOUNCEMENTS:** Mr. Breton presented Don Zimmer's new book to Mr. Sullivan, noting it contained a picture of Windham's Zimmer Field.

*Mrs. Crisler* noted the success of Saturday's Strawberry Festival, and that a good time appeared to have been had by all.

*Mrs. Crisler* reported that she had attended a CTAP meeting the previous Thursday, at which the members had discussed the Committee's goals and other available resources. She presented a document compiled by the Committee outlining this information for the Board's review. Mrs. Crisler then noted that she had been asked, and had accepted, to be on the CTAP Steering Committee.

*Mrs. Haas* announced several upcoming items, including:

- Fest-a-Ball has been cancelled for 2007.
- Town Day is scheduled July 1 from 1 PM to 4 PM at Griffin Park.
- Recreation program registration begins tomorrow evening at the Town Hall from 5 PM to 7 PM.
- Windham Wonderland Playground has been powerwashed, sanded and sealed, and is now open. Several, smaller items are pending and will be completed shortly.
- Work at the Town Beach began last week and will be finished on Tuesday. The sand is scheduled for sifting next week.
- The new gate at the boat launch donated by the CPIA has been installed.
- Tokanel Field will be opened for use by the Girls' Instructional Softball only.

Mr. Senibaldi inquired whether the regional SWAT vehicle would be at Town Day. Chief Lewis replied he was working on it.

Mr. Senibaldi then inquired of Mrs. Haas whether those who had pre-paid their admission to Fest-a-Ball would be receiving refunds. Mrs. Haas replied she was referring all such inquiries to the Windham Baseball Softball League.

Mrs. Crisler then asked whether a shuttle service would be provided on Town Day to alleviate parking issues. Mrs. Haas replied in the negative, noting one had never been offered. Mr. Senibaldi noted that one side of Range Road would be blocked off, and several side streets available for parking on that day.

*Mr. Brian Christiansen*, Comcast Representative, approached to clarify the notice received by residents relative to the availability of HD channels. He noted that Comcast had changed the service to eliminate the need for an additional digital package tier to receive the HD service. This means that

there will be no incremental pricing associated with the HD channels, and that HD subscribers should see a price reduction in their billing.

Mr. Christiansen then fielded several questions from the members regarding the availability of high speed cable access and bundled packages to Windham residents. He noted that Comcast's phone service had just been soft launched within the previous 6 weeks, and that the advertised bundled packages/pricing should now be available to all Windham residents.

**MINUTES:** Mr. Breton moved and Mr. Hohenberger seconded to approve the minutes of April 2<sup>nd</sup>, 9<sup>th</sup>, 16<sup>th</sup>, 23<sup>rd</sup>, and 30<sup>th</sup> as written. Passed unanimously.

Mr. Breton moved and Mr. Hohenberger seconded to approve the minutes of May 17<sup>th</sup> as written. Passed 4-0-1, with Mrs. Crisler abstaining due to absence.

Mr. Breton moved and Mr. Hohenberger seconded to approve the minutes of May 7<sup>th</sup> and 14<sup>th</sup> as written. Passed unanimously.

**ANNOUNCEMENTS CONTINUED:** Chief Lewis approached to introduce newly hired officer, Brian Landry. Officer Landry comes to the Department from the Town of Wilton, and is currently undergoing the FTO program with Officer Fedele. It is expected that, as he is an experienced officer, he will be on the road on active duty within a short time. Officer Landry expressed his excitement at joining the Windham Department, and thanked the Board members for the opportunity.

*Chief Lewis* then announced that a benefit had been organized by Department staff on behalf of Officer Mark Knight, who is seriously ill with cancer. The "Knight Ride" and cookout will take place on June 23<sup>rd</sup> and will consist of the following: motorcycle riders will leave Park Place Lanes at 9 AM and ride out to the seacoast, and then make a return trip to the Derry/Salem Elks on Shadow Lake Road where a cookout will be held beginning at noon. Cost to ride will be \$25/rider and an additional \$10/passenger. Cost to attend the cookout will be \$20, and you do not have to participate in the ride to attend the cookout.

Chief Lewis then advised the Board that it had been requested to allow the Department motorcycle to escort the group during the Knight Ride. He stated he supported the request, however, there was only one authorized operator of the motorcycle and June 23<sup>rd</sup> was not a scheduled shift for him. Chief Lewis indicated that he had concerns regarding liability issues if the motorcycle were used while Officer Rogers was off-duty, and inquired whether the Board would support allowing him to be on-duty for the approximately 3 hour ride. It was the consensus of the Board to allow Officer Rogers to work an unscheduled shift to escort the Knight Ride to the seacoast.

Chief McPherson then approached noting that the Fire Union was coordinating the cook-out for the fundraiser, and had requested use of the Town's grills for the event. After a brief discussion regarding the specifics of the grill donation, it was the consensus of the Board to grant a special exception to allow the Fire Union to utilize the grills for the fundraising event.

Mr. Senibaldi then noted that Police are also raffling off a Harley Davidson motorcycle as part of the fundraising. Tickets are available at the Police Department and sales will be limited to 300. Cost is \$100/ticket.

**CORRESPONDENCE:** Letter received from Sgt. Charles Occhipinti, advising that he will be retiring after nearly 30 years of service to the Police Department, effective June 30<sup>th</sup>.

Mr. Breton moved and Mr. Senibaldi seconded to accept Sgt. Occhipinti's resignation with regret and thanks for many years of service to the Town. Passed unanimously.

*Letter received* from Highway Agent Jack McCartney relative to release of a \$50,000 bond to Tennessee Gas Pipeline. Mr. Sullivan explained that this bond was required two years ago relative to work conducted in the Bridle Bridge and Romans Road areas. Mr. McCartney and Mr. Turner have inspected the areas, and support the bond release.

Mr. Hohenberger moved and Mr. Senibaldi seconded to authorize the release of the bond in the amount of \$50,000 to Tennessee Gas Pipeline as recommended. Passed unanimously. Mr. Sullivan indicated that Mr. McCartney will sign off on the release accordingly.

*Letter received* from Mr. Steve Whipple, 107 Nashua Road, requesting reimbursement of the cost to repair damage to his irrigation system this past winter. Mr. Sullivan indicated he had written Mr. Whipple regarding the Town's Right-of-Way Ordinance, and noted that the sprinkler head in question is within the Town's right-of-way. Mr. Sullivan further noted that Mr. McCartney had assisted Mr. Whipple in smoothing out an area of disturbance due to plowing operations, but only as a courtesy. After a brief discussion relative to the Ordinance, it was the consensus of the Board to take no action on this request. Mr. Sullivan will follow up with Mr. Whipple.

*Letter received* from Mr. Peter Kielty of 1 Westchester Road, expressing his displeasure that he was not notified of the commencement of construction within the Town's easement on his property. Mr. Turner noted he had spoken to Mr. Kielty, and then contacted the Fire Department and Highway Agent to ascertain who had authorized the project. He had then contacted the contractor in question and requested he speak to Mr. Kielty directly. The project involves construction of a pull-off for emergency vehicles to access the cistern pipe.

Chief McPherson approached noting that this project has been pending for some time as part of the Bear Hill extension, and that he had been advised that the work was beginning.

After discussion, it was the consensus of the Board that a letter of apology be sent to Mr. Kielty regarding the lack of notification to him, and that Mr. Turner monitor the project as it proceeds.

*Letter received* from the Historic District Commission requesting an area be set aside on the second floor of the Bartley House as part of the restoration project for storage of their files. Mr. Sullivan indicated an area was included in the original plan. A discussion ensued regarding the Board's desire for an elevator to the second floor, the existing vault space, and the storage solutions under consideration for the Planning Department.

*Letter received* from Finance Director Dana Call relative the likelihood of a temporary cash shortage due to the timing of the tax bill issuance, expected to be within in the next week or so, versus payment due to the School District. Discussion ensued regarding working with the school to delay their needs, impact fees, and available funds.

Mr. Hohenberger then moved and Mr. Senibaldi seconded to approve the issuance of a Tax Anticipation Note with Citizen's Bank in the amount of \$1,500,000 at an interest rate of 3.87% and due December 31, 2007. Passed unanimously.

**DEPOSIT POLICY:** Mr. Sullivan explained that the purpose of this discussion was to address concerns that had been raised by Mr. Breton regarding the policy of making departmental deposits once \$500 in cash or checks had been collected. After a brief discussion, the Board clarified that their intent in setting the policy had not been to require multiple deposits per day, but daily deposits, if necessary.

Mr. Sullivan then noted that the State statute requires that all deposits be made by the Town Treasurer, however a change to the statute is pending that would allow him/her to delegate those duties. A discussion ensued regarding possible means of handling group deposits. Mr. Sullivan noted that Mr. Turner had raised several concerns, and suggested consulting Town Counsel regarding the risks of exposure to the Town and the validity of the policy. Discussion ensued regarding liability and coverage.

It was the consensus of the Board to support the continued adherence to the policy, and to reassess this matter dependent upon any change to the Statutes on June 30<sup>th</sup>.

**PUBLIC HEARING/DONATION:** Mr. Carpenter read the public hearing notice into the record. Mr. Sullivan explained that Mr. Nickerson's donation of improvements to Sylvestri Road will include swales, drainage, pavement, etc., to the Highway Agent's specifications.

After a brief discussion, Mr. Senibaldi moved and Mr. Hohenberger seconded to accept the donation of services to improve Sylvestri Road valued at up to \$19,450. Passed unanimously.

**PUBLIC HEARING/VENDING:** Mr. Hohenberger moved and Mr. Breton seconded to re-open the continued public hearing. Passed unanimously.

Mr. Sullivan stated the policy had been revised to include those changes requested by the Board, including: requirement to present a certificate of liability; deletion of specific sale hours; change to calendar year on the permit duration; and expansion of the requirements for a background check to include all drivers.

A lengthy discussion ensued regarding several items, including: the timing of the required inspection of the vehicle by the Town and the issuance of the permit; limiting the number of trips to the beach per day; NH vehicle requirements versus MA requirements; and the current, undocumented policy of prohibiting solicitation on Town property.

Mr. Sullivan reviewed the Board's requested amendments, as follows: change the effective date of the permit to April 15<sup>th</sup> of any given year and addition of language requiring the vendors to submit their vehicles to inspection by the Board of Health and Police Department prior to that date.

Mr. Sullivan then suggested the Board authorize the Police Chief, Recreation Coordinator and Health Officer to operate in keeping with the spirit of the policy for the remainder of this year, and that the full process become effective January 1, 2008. Mr. Senibaldi moved and Mr. Breton seconded accordingly. Passed unanimously.

Mr. Breton moved and Mr. Hohenberger seconded to approve the Regulations Governing Vending on Town Property as amended. Passed unanimously.

Mr. Breton then moved and Mr. Senibaldi seconded to waive the vending restrictions at Griffin Park on behalf of the Windham Baseball Softball League for the remainder of the 2007 season. Passed unanimously.

**CORRESPONDENCE CONTINUED:** Letter received from Mr. Azevedo relative to an abatement of his property taxes. Mr. Sullivan indicated that the deadline has passed, however, this may qualify as a hardship abatement. The matter will be referred to Mr. Norman for review.

**FLAT ROCK ROAD RIGHT-OF-WAY PERMIT:** Mr. Sullivan explained that this permit was in reference to the island at the entrance to Flat Rock Road, installation of which was made a condition of approval for the subdivision by the Planning Board. Mr. Sullivan noted that the Highway Safety Committee had found no reason to deny the request for permit upon review, and that Mr. Maynard was now here on behalf of the developer as they must comply with the condition of approval.

Mr. Maynard explained that the plan had been revised to add approximately 8' of pavement at the widest point to allow for improved access by emergency vehicles and the island itself, which will be tapered, will be 6' at its widest point. Mr. Maynard explained that the island had been required to force vehicles turning left off of Route 28 to advance far enough up to allow for adequate site distance as, without it, drivers may cut the turn blindly onto Flat Rock Road. He noted the island will be a low profile, granite curb design.

Mr. Senibaldi inquired whether the curbing would interfere with plow operations. Mr. Maynard indicated he had spoken with the Highway Agent several time, and changed the design to his specifications.

After further, brief discussion, Mr. Breton moved and Mr. Hohenberger seconded to approve the request for a right-of-way permit on Flat Rock Road for H & B Homes. Passed unanimously.

**OLD BUSINESS:** Mr. Sullivan briefly reviewed the Earned Time Donation policy with the Board. A discussion ensued regarding disposition of donated earned time upon an employees return to work. It was the consensus that any remaining donated time be automatically converted to the individual's pool time.

Mr. Carpenter requested that the requirement to document the "nature" of an extended illness be eliminated, citing confidentiality issues. The remaining members concurred.

A lengthy discussion ensued regarding pool time. Language will be added clarifying that donated pool time will be reverse converted on a 3:1 basis before donation.

Mrs. Crisler then moved and Mr. Senibaldi seconded to approve the Earned Time Donation policy as amended. Passed unanimously.

*Mr. Hohenberger* inquired whether staff was following up on the possibility of the Town obtaining the State's vehicle fuel pricing. Mr. Sullivan replied it was being looked into as part of the bid process.

*Mr. Senibaldi* advised the Board that three quotes had been received relative to removal of the bittersweet at Griffin Park, and that the area had been reviewed by him, Mr. Barlow, and a landscaper. A discussion ensued regarding removal/treatment methods, safety hazards, and the proximity to Johnson's Farm.

Mr. Senibaldi then moved and Mr. Breton seconded to withdraw up to \$2,800 from the Recreation Improvement Fund to cover the complete removal of undesirable material from both sides of the stone wall at Griffin Park from Johnson's Farm to the second entrance. Mrs. Crisler requested Mr. Senibaldi amend his motion to include a requirement that the vendor

submit proof of certification to remove such materials. Mr. Senibaldi amended his motion, and Mr. Breton his second, accordingly.

The motion passed 3-2, with Mr. Carpenter and Mr. Hohenberger opposed.

Mr. Hohenberger then moved that all unallocated, residual Recreation Improvement Fund monies be used to offset the Depot Restoration project.

Discussion ensued, after which Mr. Hohenberger withdrew his motion. This item will be posted under "New Business" on the next agenda.

*West Shore Road:* this matter was tabled to the next agenda due to the Highway Agent's absence.

*Mr. Senibaldi* advised the Board that Windham Lacrosse had requested permission to utilize 1-2 gas grills at Nashua Road, and will be contacting the Fire Department, as well.

Mr. Breton moved and Mr. Senibaldi seconded to authorize a special exception to Windham Lacrosse for the use of gas grills at Nashua Road, provided the Fire Department concurred. Passed unanimously.

*Mr. Carpenter* indicated he would like further discussion of the Griffin Park pond scheduled, as he had witnessed children wading over the weekend. Mr. Sullivan will follow-up to ensure a new "No Wading" sign is put in place immediately, and this item will be posted on an upcoming agenda.

Mrs. Crisler requested that Mr. Sullivan locate the Town Counsel opinion on the pond for inclusion in the discussion.

**NEW BUSINESS:** Mr. Sullivan advised the Board that the summer Administrative intern, Amy Bernard, had started that day.

*Mr. Sullivan* announced that an unprecedented response had been received from the NH Department of Transportation relative to the lease of the Windham Depot structures. He noted that he and Mr. Mangan had been prepared to make presentation to the State, however, representatives had deemed it unnecessary and unanimously approved the lease as proposed.

**NON-PUBLIC SESSION:** Mr. Breton moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91:A-II:3 b, c, d and e. Roll call vote – all members "yes". The topics of discussion were personnel, reputations, land acquisition, and legal.

*The Board,* Mr. Sullivan, Conservation Commission Chairman Jim Finn, and Ms. Devlin were in attendance in the first session. Possible land acquisition was discussion, and Mr. Breton moved and Mr. Hohenberger seconded to seal this portion of the minutes.

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

*Legal:* The Board discussed an ongoing legal matter regarding the Zoning Board of Adjustment. No decisions were made.

Mr. Sullivan updated the Board on an ongoing legal matter, and presented a revised settlement proposal. Mr. Breton moved and Mr. Senibaldi seconded to accept the settlement as presented. Passed unanimously.

*Reputations:* Mr. Sullivan presented additional information to the Board relative to those properties subject to tax deeding. No decisions were made.

*Legal:* Mr. Sullivan updated the Board on an ongoing police investigation which necessitated a search of Beaver Brook. Authorization from the Board to do so was required.

Mr. Hohenberger moved and Mrs. Crisler seconded to permit Mr. Sullivan to execute the authorization to search Beaver Brook as requested.

*Personnel:* Mr. Hohenberger moved and Mrs. Crisler seconded to upgrade Prosecutor Heather Newell to fulltime, 40/week status as approved by Town Meeting. Passed unanimously.

Mr. Sullivan then reviewed a Department Head evaluation with the Board. No decisions were made, however, it was the general consensus to concur with Mr. Sullivan granting the related step increase in the interim.

*Legal:* The Board discussed an ongoing legal matter. No decisions were made, and Mr. Senibaldi and Mr. Sullivan will follow-up.

Mr. Hohenberger moved and Mrs. Crisler seconded, to adjourn. Passed unanimously.

The meeting was adjourned at 10:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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