

**BOARD OF SELECTMEN**  
**Minutes of July 30, 2007**

**MEMBERS PRESENT:** Chairman Alan Carpenter called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Dennis Senibaldi and Roger Hohenberger were present. Selectman Margaret Crisler was delayed and arrived at 7:15 PM. Town Administrator David Sullivan was excused. Chairman Carpenter read the agenda into the record, followed by the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. Senibaldi announced that the Annual Senior Picnic would be held on August 10<sup>th</sup> beginning at 11:30 AM at the Fire Station.

*Captain Patrick Yatsevich* presented newly hired Officer Jason Dzierlatka, whose wife Christina performed the pinning ceremony. Officer Dzierlatka will be attending the Academy this month.

**LIAISON REPORTS:** Mr. Carpenter noted that the Planning Board continues to hear the Spruce Pond II subdivision, and will also be conducting CIP Committee interviews at their next meeting.

*Mr. Breton* noted he will be requesting a packet of information from Mr. Turner prior to the Board's joint meeting with the School Board. Mr. Hohenberger also requested that Mr. Turner clarify the Board's jurisdiction in the event changes are required to the roadway. A brief discussion ensued.

*Mr. Breton* inquired of Mr. Turner if any information was available for the meeting with the School Board relative to subdivision road inspections. Mr. Turner indicated that the Board of Selectmen have jurisdiction over the High School road as it was laid out by them. Normally, the Board would be able to waive subdivision roadway requirements, however, Town Counsel would need to advise whether they can waive their own established requirements.

Mr. Breton then inquired whether plans were available, and Mr. Turner indicated they were along with inspection reports and structural analysis. Mr. Senibaldi also requested that Mr. Turner compile a report regarding the roadway.

Mr. Breton inquired whether a bond had been put in place, and Mr. Turner replied in the negative, noting it would be up to the Board to establish any bond amount, as it is not a subdivision road.

Mr. Carpenter sought clarification as to what Mr. Turner's concerns were with the High School road. Mr. Turner noted that the grading of the embankment was not as planned, as the ledge expected to be there to allow for 1-1 grade was not present. Instead, the embankment has been graveled, and has already begun to erode. Mrs. Crisler noted that this will be a town road eventually, and should be constructed correctly now.

Mr. Carpenter inquired whether a set of plans was available depicting the proper engineering, and Mr. Turner replied in the affirmative.

After further discussion, it was determined that Mr. Turner will follow-up with Town Counsel regarding the School's responsibility to meet the full requirements for building the road to the specifications defined, and whether or not the Board of Selectmen has the ability to waive the existing requirements, if necessary. Mr. Senibaldi also requested that Mr. Turner detail in writing for the Board what has been done differently from the approved plan during the construction. Mr. Turner will work to provide that to the Board.

**MINUTES:** None.

**CORRESPONDENCE:** Letter received from Jim Curtin relative to the selection of blue and white as the High School colors and a jaguar as the school mascot and urging residents to support a return to the “traditional” colors/mascot of green and white and the wildcat, respectively.

**GRIFFIN PARK SWALE:** Mr. Senibaldi noted he had received several complaints regarding the swale on the soccer field side of the multi-purpose building relative to handicapped access issues, lost balls, and mosquitoes. He sought the Board’s opinion as to whether he should pursue getting more information and/or a possible donation to fix the area.

Discussion ensued regarding the elevation of the pipe, the previous plans to construct an ADA compliant bridge over the swale, and the recommendation of the State of NH ADA representative who inspected the Park. Mr. Turner noted that the swale had been required as part of the site specific permit for the original construction, and any alteration may require a change to the permit. He further noted that the swale was never finished or graded properly, and had twice been rejected by him after inspection.

After further discussion regarding the DES requirements and possibly looking at the remaining swales at the park, as well, it was the consensus of the Board to allow Mr. Senibaldi to pursue a donation of engineering services for repairs to the swale in question and the front swale. Mr. Senibaldi will work with Mr. Turner and the remainder of the Recreation Committee on this matter, and any plans will be presented to the Board of Selectmen prior to being submitted to the DES.

A brief discussion ensued regarding the Nature Trail at the rear of Griffin Park. Mr. Breton will follow-up to have the trail cleared of overgrowth.

**OLD BUSINESS:** The Board discussed the next steps in the layout process for the second egress to the High School Road. Staff will follow-up to have Town Counsel begin the title search.

*The Chairman* called for a ten minute recess.

**LEDGE ROAD BLASTING:** Mr. Steve Allen, 2 Meetinghouse Road, approached representing several property owners adjacent to the Ledge Road development citing several issues with the developer. He noted he has spoken to Mr. Turner regarding run-off and safety issues, and stated several properties are being damaged by the blasting. Mr. Allan noted that there have been several instances where the property owners have been told by the developer that their water will be checked, however, all that’s been verified is how and when the homes were built. Also, the owners have compared water tests and are all experiencing increased levels of arsenic and other contaminants. Mr. Allan indicated he’s spoken to several people at the State level, as well as the Governor, and all have referred him back to the Town. He felt that this development was having much greater impact than normal building sites as it was also being operated as a gravel pit, and indicated he would like to be advised as to what the Town is able to take care of to assist the property owners.

Mr. Carpenter clarified that the site in question is located at the westerly end of Ledge Road, and was approved in 2006 by the Planning Board as a light industrial subdivision requiring a significant cut for the access road as well as three pad sites. Mr. Turner noted that the developer had two years to substantially complete the roadway, and that 700,000 yards of stone would need to be removed from the site. He further noted that the Planning Board had granted waivers to allow for less blasting and road cuts and had required 10 houses to have pre-blast surveys. The initial blasting permit was issued in October of 2006, and the renewal in February of 2007 was delayed until independent analysis was done on several complaints received. Mr. Turner

noted that, after the analysis was received and Precision Blasting agreed to quarterly testing of abutting wells, the permit was renewed on April 10.

Mr. Turner further explained that the blasting underway now is for the road cut, which is not substantially completed. He also noted that none of the sites have been developed, as yet. An extension of the two year requirement can be requested per the Town's Blasting Ordinance.

Mrs. Crisler inquired whether any of the blasts had exceeded the Town's regulations, and Mr. Turner replied in the negative noting that 2"/second is allowed and Precision is averaging 0.3"-0.4"/second at this site.

Mr. Hohenberger inquired whether the Town had followed-up to inspect for damage at the 10 pre-blast survey properties. Mr. Turner replied in the negative, noting that Town Counsel has advised that the Town not maintain records on or become involved in any issues between blasting companies and property owners. Mr. Hohenberger clarified that the pre-blast surveys are required to facilitate claims between property owners and blasting companies, and Mr. Turner indicated that was correct. Mr. Senibaldi inquired who monitored the blasting, and Mr. Turner replied that he receives reports from the company and investigates any complaints received.

A discussion ensued regarding the zoning of the property, which does not permit gravel pits, State gravel pit regulations, and that it is common in subdivisions to break the material down on site.

The following residents approached voicing similar concerns regarding noise/vibration, hours of operation, bacterial well contamination, increased levels of nitrates/iron/arsenic/magnesium in their well water, structural damage, silting, sinkholes, flying rocks, and the lack of responsiveness/follow-up testing by the developer/blasting company and their insurance companies: Andre and Joanne Vignos, 4 Meetinghouse Road; Louise and Claude Peltz, 70 Blossom Road; Greg Kendall, 61 Haverhill Road; Terri Marescia, 6 Meetinghouse Road; Fredericka Cwikielnick, 63 Haverhill Road; and Joachim Hamburger, 57 Haverhill Road.

A discussion ensued regarding the liability insurance requirements of the Blasting Ordinance, whether smaller blasts could be mandated, and the requirements for pre-blast survey and abutter notification.

Mr. Carpenter noted that the Board is limited as they cannot insert themselves into a civil action. Discussion then ensued regarding possibly suspending activity to investigate the complaints, how far along the site is, and possibly limiting the blast size.

Attorney Bruce Marshall approached representing the developer. He noted that he would be willing to arrange to have a civil engineer/blaster attend a future meeting to provide the Board with greater detail as to the activity on the site. Also, the developer is willing to allow the Town to select an independent testing company to address the property owners' water concerns.

Atty. Marshall stated he understood the frustration being expressed, especially as it pertained to water monitoring which must be done over time. He believes that the well claims filed may have been denied because the cause of the increased arsenic levels could not be determined.

Attorney Marshall then advised the Board that more than the required 10 pre-blast surveys had been completed, and stated copies of each could be made available upon request. Attorney Marshall indicated they are willing to work with Mr. Turner regarding the size of blast, however, most are registering at half of the allowed 2"/second.

Discussion ensued regarding 4 Meetinghouse Road and its significant water quality issues, possible causes such as a cracked seal or loose grouting, and follow-up testing. Mr. Turner noted that the backyard of this property had recently been cleared and re-graded, which may also be a factor.

Discussion then ensued regarding temporary halt to blasting activities, arranging a meeting between Attorney Marshall, Mr. Turner, the Fire and Police Chiefs, and property owners, and the hiring of independent testing companies.

Attorney Marshall indicated that they would voluntarily cease blasting for a period of 14 days, and that he will arrange to have experts available to discuss this further with the residents.

Mr. Carpenter requested that Mr. Turner forward a letter to Town Counsel inquiring what actions the Board can take under the existing ordinance. A brief discussion then ensued regarding the High School site. Mr. Turner indicated the blasting there is nearly completed.

After further, brief discussion, Mr. Breton moved and Mr. Senibaldi seconded that, based upon the voluntary cessation of blasting, a meeting be scheduled in 14 days with the Board, the Fire and Police Chiefs, Mr. Turner, the developer, sub-contractors, and residents to discuss mitigating the issues raised this evening. Also, Mr. Turner will develop recommendations regarding which independent testing companies to utilize, and staff will clarify with Town Counsel the Board's purview regarding this matter.

Mr. Hohenberger also requested that Attorney Marshall arrange for the blasting and civil engineering experts previously mentioned to attend.

Passed unanimously.

Mr. Breton then inquired as to whether the current use tax had been paid on the property. Attorney Marshall indicated it had not. Mr. Breton requested staff ask the Tax Assessor for clarification on this matter.

**PUBLIC HEARING/FAITH ROAD:** Mr. Carpenter read the public hearing notice into the record, noting that this intersection was originally approved by the Planning Board as a round-a-bout. The Board of Selectmen subsequently, per their purview, delayed the construction of the round-a-bout in favor of a four-way stop.

Mr. Turner noted that the developer has not followed through with installation of the four stop signs or the slip lane, but will be moving forward to do so. Captain Yatsevich read into the record a memo from Chief Lewis regarding the results of a traffic study on Faith Road which indicate that a four way stop is not warranted in this area and thus not supported by the Department.

Ms. Diane Howard, resident, approached in support of the Chief's analysis, noting that a four-way stop would especially aggravate the situation during winter as drivers will not be able to get up the hill. She also noted that the burning bush needs to be trimmed or removed as it is blocking the stop sign currently in place. Mr. McCartney will be advised by staff accordingly.

Ms. Ruth-Ellen Post, Planning Board, approached requesting that the Board clarify for the Planning Board members their decision, as the round-a-bout had been a condition of approval. A discussion ensued regarding the minutes of the August, 2006 meeting. Mrs. Post suggested that, in the future, the Board's motions be clear so that other Boards are aware of any resulting obligations.

After further discussion regarding the testimony offered at the original Planning Board hearings, traffic study results, the dangers of placing the four way signs and then removing them in the future, and placing the traffic trailer back on Faith Road after the signs are installed Mr. Breton moved and Mr. Hohenberger seconded to install two stop signs per the Chief's recommendation at the intersection of Scotland and Faith Roads and Ridgemont and Faith Roads. Passed 4-1, with Mr. Senibaldi opposed.

Captain Yatsevich will arrange to have the traffic trailer placed back on Faith Road for a period of two weeks after the installation.

Mr. Hohenberger moved and Mrs. Crisler seconded to close the public hearing. Passed unanimously.

**NON-PUBLIC SESSION:** Mr. Breton moved and Mr. Senibaldi seconded to enter into a non-public session in accordance with RSA 91:A-II:3 d. Roll call vote – all members “yes”. The topic of discussion was land acquisition and the Board, Mr. Sullivan, Mr. Finn, Mr. Morris, and Ms. Devlin were attendance.

Mr. Breton moved and Mr. Senibaldi seconded to seal this portion of the minutes. Passed unanimously.

Mr. Hohenberger moved and Mr. Breton seconded to adjourn. Passed unanimously.

The meeting was adjourned at 10:20 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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