

BOARD OF SELECTMEN
Minutes of October 1, 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, Mr. Carpenter read the agenda into the record.

ANNOUNCEMENTS: Fire Chief McPherson approached noting that Firefighters Diana Nault and Eric Hildebrandt had recently completed the Paramedic program. The program, lasting 15 months, includes 1200 hours of classroom and practical training, and both firefighters had maintained above average scores throughout the process. The Chief noted that the Department now has on staff 10 EMT Basic, 10 EMT Intermediate, and 6 Paramedics. He then invited Paramedic Nault to the podium to be officially recognized for her success, noting that Paramedic Hildebrandt had been unable to attend due to a family emergency.

Paramedic Nault thanked the Board for the opportunity to attend the program, noting it had been very difficult and she was proud to have graduated. She also extended thanks to all for their support throughout.

Chief McPherson then announced that Fire Prevention Week was approaching, October 7th through 13th, and the Department's Annual Open House was scheduled for the 13th from 10 AM to 2 PM.

Mrs. Crisler reminded all that the Women's Club Annual Coat Drive was scheduled for the following Saturday from 9 AM to 1 PM at the Town Hall.

Mrs. Crisler noted that memorial bricks are still available for purchase for the Cooperative Kindergarten. Anyone interested in purchasing a brick should contact the Co-op directly.

Mr. Senibaldi apologized for his tardiness over the previous weeks, noting that he had been experiencing work conflicts, which had now been resolved.

Recreation Coordinator Cheryl Haas reminded all that the Annual Harvest Fest has been scheduled for Saturday, October 20th beginning at 3:30 PM at Griffin Park.

Mr. Breton noted there had been a Skateboard Clinic at Griffin Park the previous Saturday, which had been attended by nearly 600 individuals. Mr. Senibaldi noted that the area had been fully cleaned by the attendees when the clinic was through.

Mr. Breton noted that Mrs. Haas and Deputy Leuci were working to develop a permitting process for the Cyr property camping area. Mr. Carpenter then noted that the tent platforms at this site have been constructed, the trail is open, the bridge complete, and the parking area will be finished in the next few weeks.

BOB DEVANEY: Mr. Devaney approached to express several concerns regarding the re-hiring of Police Chief Lewis. After clarifying that he did not take issue with Chief Lewis personally, Mr. Devaney questioned the effects of his re-hiring on Department morale and stated that he felt an extensive investigation should have been conducted prior to any vote to re-hire and that the three members who voted in favor of the Chief's return did not represent the voters of Windham well. Mr. Devaney then inquired how long the Board had expected the Chief to remain with the Town when they initially hired him, and how long they expected him to remain now.

Mr. Hohenberger responded, stating that he had originally expected five years from Chief Lewis and was hoping for more now. He further stated that he was glad that Chief Lewis had wanted to resume his duties, as he had been a good chief during his tenure. Mr. Senibaldi noted that he did have concerns relative to the Chief's commitment to the Town.

Mr. Devaney then inquired whether any members had spoken to the Department staff since their decision. Mrs. Crisler replied that she had been approached by several Police employees who thanked her for supporting the Chief's return.

Mr. Devaney then asked why the Board had voted to rehire Chief Lewis without any discussion. Mr. Carpenter replied that there had been much discussion and that each member had their own reasons for their individual vote that had been articulated that evening.

Mr. Devaney stated he found the Board's decision highly unusual given the position, and that it all seemed to proceed very quickly. Mr. Carpenter stated that he appreciated Mr. Devaney's attending to voice his concerns, and noted he felt if the Chief had been absent for a longer time there would have been a more extensive investigation.

ANNOUNCEMENTS CONTINUED: Mr. Sullivan presented the Board with an update brochure issued by the NH DOT relative to the I-93 project. Additional copies are available at the Administrative Offices and Planning and Development Department for any interested residents. Also, an updated picture of the interchange is available for viewing at the Administrative Office.

Chief Lewis approached to express his appreciation of Mr. Devaney's attending to share his opinions and concerns. The Chief then read a prepared statement in explanation of events surrounding his departure and return to duty as Chief. In it, Chief Lewis noted that he had not been looking to leave Windham, however when presented the offer of employment from Connecticut he had made the decision to take it. Within five days of beginning his new duties, the Chief had realized he erred in his decision and expressed his desire to return to Windham to Mr. Sullivan. The Chief extended his sincere appreciation to those members who had supported his return, and pledged his commitment to the Town.

Chief Lewis then extended an invitation to any concerned residents to visit him to discuss their thoughts at his office on the following Saturday between 9 AM and 11 AM. Anyone unable to come during those hours was encouraged to contact the Chief to schedule a more convenient time.

MINUTES: Tabled.

LIAISON: Mrs. Crisler reported that the Planning Board had discussed possible zoning amendments, and 32 separate items had been presented for prioritization.

Mrs. Crisler advised the Board that she had spent the previous Saturday at a CTAP conference. Among items discussed with community leaders was allocation of \$3M in available funding. Also, rail/bus service as alternate means of transportation; I-93 status; and Salem and Windham were urged to support TOD development similar to that in Woburn, Massachusetts, which she noted was not well suited to either community.

Mr. Hohenberger noted that the Cable Advisory Board had recently met and discussed the vacant Coordinator position, applications for which will be accepted until the position is filled. Mr. Hohenberger also indicated a small going away party had been held for Mr. Daddona the previous Friday.

Mr. Hohenberger then advised that the Capital Improvements Committee would be meeting the following Thursday with Recreation, the Board of Selectmen, and others to discuss their 2008 requests.

CORRESPONDENCE: Email received from Mr. Mark Samsel expressing concerns relative to placement of a porta-potty at the Depot. After a brief discussion, it was the consensus of the Board to leave the toilet there until October 15th.

Mr. Carpenter then noted that the Eagle Scout project to install mile markers along the rail trail, undertaken by Keegan Cole, had been completed. He noted the markers were terrific, and extended thanks to Mr. Cole for his efforts.

Bond Release/Castle Reach III: Ludlow, Leeds, Edinburg, Cardiff and Cardiff Extension: After a brief discussion, Mr. Hohenberger moved and Mr. Senibaldi seconded to release the bond in amount of \$112,464 to Castle Reach Development LLC, retaining \$44,112. Passed unanimously.

Site Bond Release/Granite State Animal Hospital: Mr. Senibaldi moved and Mr. Hohenberger seconded to release the bond in the amount of \$4,900, retaining \$1,500. Passed unanimously.

Right-of-Way Permit/Comcast: Mr. Senibaldi moved and Mr. Breton seconded to grant the right-of-way permit as requested for Almas Street. Passed unanimously.

Letter received from the Windham Rail Trail Alliance requesting that a donation to them from the Conservation Commission of \$45,000 towards the development of the Rail Trail be paid directly Mr. Peter Zohdi for his services.

Mr. Hohenberger questioned the legality of this request as these are funds obtained through Current Use. Mr. Sullivan indicated that the Town had executed an agreement with the State for the Rail Trail, and that the WRTA has been designated an agent for the Town so it should not be an issue as long as funds are used towards a trail which provides access to conservation lands. Mr. Breton noted that the Conservation Commission attorney concurs.

Mr. Hohenberger then moved that the check not be sent out until staff is in possession of a letter from the Conservation Commission's attorney confirming the legality to do so. A discussion ensued, in which it was determined that this matter was not the Board of Selectmen's purview. There was no second to Mr. Hohenberger's motion.

Letter received from the Windham Rail Trail Alliance advising that Mr. Anthony Mesiti intended to provide a \$75,000 donation towards the Rail Trail. Mr. Sullivan indicated these funds would be going directly to the Alliance, and would not require a public hearing to accept.

Letter received from Mr. Lance Dixon expressing thanks to Highway Agent Jack McCartney for his efforts to assist Mr. Dixon with repairing issues at his property related to snow removal.

PUBLIC HEARING/NASHUA ROAD: Mr. Carpenter read the public hearing notice into the record. Mr. Senibaldi noted that efforts had been ongoing for some time to get the engineering done for the Nashua Road sports complex drainage project, and that Mr. Zohdi had generously offered to donate his services toward this project, which has now been completed.

Mr. Senibaldi then moved and Mr. Breton seconded to accept Mr. Zohdi's donation of engineering services with great gratitude. Passed unanimously.

PUBLIC HEARING/TENNIS TOURNAMENT: Mr. Carpenter read the public hearing notice into the record. Mrs. Haas approached and noted the tournament had been held on September 15th and 16th, and acknowledged the contributions of the following: Rockingham Toyota, Prime Butcher, Cyr Lumber, Bella Viaggio Salon, Shaw's, BJ's, The Lobster Tail, Windham House Restaurant, The Common Man, Neighborhood Bakery and Café, Salon de Soleil, and Coffee Roasters International.

Mr. Senibaldi then moved and Mr. Breton seconded to accept the various donations totaling \$1,469 with great gratitude. Passed unanimously.

GROUNDSKEEPING BIDS: Mr. Sullivan inquired what the Board's preference was relative to groundskeeping, irrigation, infield, and fertilization services for the Town facilities; noting that the Board could go out to bid for all services, continue with the second year option with both current vendors, or split the options to extend and rebid a portion of the services. Currently, Boyden Landscaping provides all services with the exception of fertilization, which is handled by Tru-Green. Mr. Sullivan encouraged the Board to consider continuing with Mr. Boyden, noting that his service to date has been excellent. Mr. Senibaldi concurred, noting the Town would be well-served to continue with him for the next year.

Mr. Senibaldi expressed concerns, however, relative to the fertilization services which he felt could be improved.

Mr. Sullivan then clarified the pricing for the options to continue as follows: fertilization, \$37,174, no change; groundskeeping, \$49,140, an increase from \$48,325; infield, \$3,300, an increase from \$3,000; and irrigation, \$2,500, no change. Mr. Sullivan noted that, even with the increases as noted, the prices remain far below other bids received. Mr. Carpenter inquired whether any fuel surcharges were assessed, and Mr. Sullivan replied in the negative.

Mr. Senibaldi moved and Mr. Breton seconded to award year two of the contract to Boyden Landscaping for the sum of \$49,140 for groundskeeping, \$3,300 for infield maintenance, and \$2,500 for irrigation. Passed unanimously.

Mr. Senibaldi then moved and Mr. Breton seconded to award year two of the contract for fertilization to Tru-Green of Manchester for the sum of \$31,174. Passed unanimously.

OLD BUSINESS: After a brief discussion, Mr. Senibaldi moved and Mr. Hohenberger seconded to approve the Employment Policy as written. Passed unanimously.

Mr. Sullivan advised the Board that the Transfer Station truck damaged in the recent accident will be repaired at an estimated cost of \$20,000. Repairs will take approximately 4-6 weeks. Mr. Sullivan then noted that the Town may be able to replace the trailer with a new unit at no cost. After a brief discussion, it was the consensus of the Board to support doing so, if possible.

Mr. Sullivan advised the Board that Ideal Disposal had been gracious in assisting the Transfer Station during the period since the accident, and had expressed an interest in entering into a longer agreement with the Town to provide a truck and driver. Mr. Sullivan will have further details for the Board at a future meeting.

Mr. Carpenter inquired how many staff members the Transfer Station was down and whether temporary staffing had been considered to resume full service. Mr. Sullivan noted that the Station was currently short 4 employees, and that temporary staff had been contracted to allow for 40 hours of service. Mr. Sullivan indicated he was unsure what it would take to get back

to 50 hours per week, but requested that the Board wait a couple weeks to assess the current employees' statuses before moving to do so.

Mrs. Crisler and Mr. Carpenter noted for the record that they had received several complaints relative to the reduced hours at the Station. Mr. Senibaldi indicated that Mr. Poulson seems to be seeking, yet having difficulty obtaining, direction from the Board and stated he would still like to see the possibility of temporary full-time staffing for the Station explored.

PETER ZOHDI: Mr. Zohdi updated the Board on the test wells authorized by the Board off of Fellows Road, noting that he had worked with staff to determine access to the site and the location of the wells. Mr. Zohdi advised that test well #1 had produced 30 gpm at 520', well #2 had produced 2 gpm at 1360', and the third well 35 gpm at 480'. Mr. Zohdi noted that wells 1 and 2 output a combined 93,600 gallons per day, of which Mr. Mesiti would need approximately 48,000 per day for his development. This would leave the additional capacity for use toward Town Departments, etc.

Mr. Zohdi stated that Mr. Mesiti would now like to start working towards the development of an agreement for a water system, and that he would like the Board to schedule a public hearing and authorize him to work with Mr. Sullivan and the attorneys to draft the agreement. Mr. Zohdi stated that all costs will be borne by Mr. Mesiti, who has also agreed to provide additional parking at the Police Station.

Mr. Hohenberger did not support the drafting of an agreement prior to a public hearing, as he did not believe it to be in keeping with the way this issue had been presented to the voters. He felt the public hearing should be scheduled, but the matter not discussed further until then.

Mr. Senibaldi disagreed, opining that a draft agreement should be available for the public to review prior to the hearing.

Mr. Carpenter felt the Board should proceed cautiously as the water is on town property. He felt, at minimum, a couple of public hearings or discussions should be held to get the public's input before drafting an agreement.

Mr. Zohdi indicated he would be happy to work with Mr. Sullivan to ensure that all abutters were notified. Mr. Sullivan noted that official notification was not required, but felt discussions should begin regarding the intent of the agreement in anticipation of questions that will be raised by the public. Mr. Carpenter concurred, but indicated he wanted to be careful of the public's perception of the discussion.

After further discussion regarding development of a draft document, Mr. Zohdi noted that the Town would not be held to any type of written proposal and that he just wished to better inform the residents.

Mr. Hohenberger indicated he would be more comfortable beginning the process with the public present. A discussion ensued regarding the Board's need to be prepared to address the public's inquiries at the public hearing.

Mr. Carpenter suggested an hour be scheduled on the October 22nd agenda, and that it be advertised and public input sought prior to that date. After a brief discussion, it was the general consensus to post this matter as suggested.

Mr. Zohdi then moved the discussion to an issue being faced by a client of his who owns the property on Route 111 where Real Estate Results is currently located. Mr. Zohdi reviewed a map of the area with the Board, and explained that the front portion of the property is being taken by the State by eminent domain. Mr. Zohdi's client would like to construct a gas station on

the site, however, to do so access would be needed to the new Route 111 which has been designed as controlled access. Mr. Zohdi inquired whether the Board would support a curb cut for this project.

Mr. Turner approached noting the Department of Transportation would need to be consulted to ascertain that this would not be the only access granted off of the new Route 111. Mr. Zohdi indicated he could speak to the DOT, and noted he only wanted to know whether or not the Board was opposed to the idea.

Mrs. Crisler stated that, if only one curb cut were to be allowed by the DOT, she would not support this project as greater economic development is needed to the north. Mr. Hohenberger stated he would like to hear the DOT's position and whether they would allow one curb cut on each side of the roadway.

Mr. Zohdi inquired whether a member of the Board would be willing to approach the DOT with him to discuss this issue. Mr. Senibaldi indicated he would do so. A discussion then ensued relative to inviting the State to attend the meeting on October 22nd to discuss this matter. Mr. Sullivan will inquire whether a representative is available.

TAX ASSESSOR: Mr. Norman presented six abatement requests to the Board, noting that the property owners were present as the time limit for decision had passed. A seventh application, 23 Millstone Road, was tabled until the October 22nd meeting, as the owner was unable attend.

- *33 Rockingham Road:* Mr. Norman explained, briefly, that a portion of this property, which is where Next to Nothing is located, was taken by the State in 2005. The owner applied for an abatement at that time but did not accept the offered settlement agreement, and the abatement application was subsequently deemed denied. Mr. Rogers, DJR Realty Trust, would now like to accept the settlement agreement from 2005.

After a lengthy discussion amongst the members, Mr. Norman, and Mr. Rogers, Mrs. Crisler moved and Mr. Hohenberger seconded to abate the 2005 taxes at 33 Rockingham Road, as per the original settlement offer, in the amount of \$576.02. Passed unanimously.

- *31 Lowell Road, Unit 2:* Mr. Norman indicated that a settlement had been agreed upon, but the agreement returned after September 1st. After a brief discussion, Mr. Hohenberger moved and Mr. Senibaldi seconded to grant the abatement in the amount of \$340.77 to Theodore and Rosalind Prizio as recommended. Passed unanimously.
- *#2, 3, 4, and 5 Brewster Road:* Mr. Norman explained that these are Land Use Change Tax abatement requests, on lots which he had valued at \$250,000/each at the time of their change in September, 2006. Mr. Norman indicated he had reviewed several comparable neighborhood lot sales, and that he had valued these particular lots at the bottom end of the comparable range as to their fair market value.

A lengthy discussion ensued, with input from Mr. John Alosso as owner representative, relative to: other subdivision lot assessments, land access as it relates to value, value of construction, average land assessments in nearby neighborhoods, vacant land assessments adjacent to Brewster Road, and the status of Brewster as a private road.

Mr. Hohenberger pointed out that, given the open space and individual lot sizes, each of the four lots in question essentially has six acres of land. Discussion ensued as to the significance of being on a private versus public roadway, the lack of comparable sales of raw land in areas that include sidewalks and similar amenities, and the desirability of residing on a private road.

Mr. Norman indicated that if a private appraisal could be arranged for presentation to him, he would be willing to hold off on denying the application. Discussion ensued as to whether these were estate lots and whether the value of \$250K was too low.

After further discussion of possible revised values, Mr. Hohenberger moved and Mr. Senibaldi seconded to offer as a settlement that the properties in question be assessed at \$234,000 each for the purposes of the abatement applications. Passed 4-1, with Mr. Breton opposed.

OLD/NEW BUSINESS: Mr. Sullivan advised the Board that the default budget is nearly complete, and is within the 4-5% range not including special warrant articles. Mr. Sullivan then sought the Board's input on the increase. Discussion ensued regarding Cost of Living index, Union impacts, contractual obligations, and health premium increases.

Mr. Hohenberger supported no more than a 5% increase plus the \$265,000 required for the Police Contract.

Mrs. Crisler supported 6% plus big ticket items, expressing concerns regarding the increased fuel and road maintenance costs.

Mr. Sullivan reminded the Board that there are two portions to the budget, the CIP and other items. He suggested that perhaps the amount allocated to the Capital Improvements program be reviewed. Mr. Carpenter felt that a 7% increase made sense.

Mrs. Call updated the Board on what information she had gathered relative to the implementation of credit card acceptance for certain Town business, noting that if the Board were looking to implement such service for vehicle registration either online or in the Clerk's Office, they would need to invite Mrs. Tuck to attend as she was not comfortable speaking on her behalf.

Mrs. Call then noted she had recently attended a seminar offered by Citizen's Bank relative to the acceptance of credit cards, and found that most cities/towns in NH do not offer this service due to the added costs. Mr. Call advised that the service fees cannot be passed on to the users, and each transaction will incur a 3.5-4% service charge.

A discussion ensued, and it was the general consensus of the Board that Mrs. Call research further the costs to implement this service in the Planning Department and other offices. Mr. Hohenberger clarified for the record that he was opposed to pursuing this any further.

Mr. Sullivan indicated he would follow-up with Mrs. Tuck to clarify her interest and invite her to attend.

NON-PUBLIC SESSION: Mr. Senibaldi moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91A:3 Iic. Roll call vote – all members "yes". The topic of discussion was reputations, and the Board, Mr. Sullivan, Chief Lewis and Sgt. Michael Caron were in attendance to discuss Police union grievances.

Two police union grievances related to the use of earned time were reviewed. Mr. Hohenberger moved and Mrs. Crisler seconded to uphold the Chief's denial of these grievances as presented. Passed 4-1, with Mr. Breton opposed.

A police union grievance related to a disciplinary action taken against an employee was reviewed. Mr. Breton moved and Mr. Hohenberger seconded to amend the level of the discipline based on discussions with all parties. Passed unanimously.

A police union grievance related to a disciplinary action taken against an employee was reviewed. Mr. Senibaldi moved and Mr. Breton seconded to remove any reference to the disciplinary action from the employee's file, based solely on timeliness of the action taken and without any prejudice on any other grounds raised by the Union in the grievance. Passed unanimously.

A police union grievance related to filling of overtime or lack thereof was reviewed. Mr. Hohenberger moved and Mr. Senibaldi seconded to uphold the Chief's denial of the grievance. Passed 4-1, with Mr. Breton opposed. Mr. Sullivan requested the Board reconsider this decision stating that he felt a resolution could be found on this matter if given additional time. Mr. Hohenberger then moved and Mr. Senibaldi seconded to reconsider the Board's denial of this grievance and to allow Mr. Sullivan time to work with the Union towards resolution. Passed unanimously.

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

The meeting was adjourned at 9:55 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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