

BOARD OF SELECTMEN
Minutes of November 26, 2007

MEMBERS PRESENT: Chairman Alan Carpenter called the meeting to order at 7:05 PM. Selectmen Bruce Breton, Dennis Senibaldi, and Roger Hohenberger were present, as was Assistant Town Administrator Dana Call. Selectman Margaret Crisler was excused, as was Town Administrator David Sullivan. Following the Pledge of Allegiance, Mr. Carpenter read the agenda into the record.

ANNOUNCEMENTS: Chief Lewis approached regarding the Department's first field use of a taser, and deferred to Sergeant Wagner for further details. Sgt. Wagner explained that the Fire Department had responded to a call for difficulty breathing, which then escalated into a cardiac arrest. At the scene, one of the family members was interfering with the EMTs' efforts, at which time Sgt. Wagner endeavored to reason with and calm the subject. When the subject tried to enter the ambulance he was restrained and a struggle ensued. Sgt. Wagner indicated that he had warned the subject that he would be tasered but he had advanced anyway. Subsequent to the 5-second shock, the subject was cooperative.

Discussion ensued regarding what other options may have been utilized. Sgt. Wagner indicated that the subject had been checked by the EMTs at the Station, and that the taser had not penetrated the skin. He further noted that a chemical agent, which could have also been utilized, requires a concentrated hit to properly affect the membranes.

Further brief discussion ensued regarding the usefulness of the tasers.

Recreation Coordinator Cheryl Haas reminded all that the Annual Tree Lighting was scheduled for the following Saturday from 3-5 PM, and that the Annual Senior Christmas Party tickets have sold out. A waiting list has been started for the latter, and seniors who were unable to obtain a ticket may contact the Recreation Department to be added.

LIAISON REPORTS: None.

MINUTES: Tabled.

CORRESPONDENCE: None.

RIGHT-OF-WAY ORDINANCE: Planning Director Al Turner explained that, some time ago, he had sought the Board's guidance relative to amendments to the ordinance, which had been incorporated into a proposed document for the Board's review. Amendments discussed included:

- Eliminate references to Code Enforcement Officer and replace with Right-of-Way Agent, thereby giving the Board greater flexibility in the future.
- Amend the definitions of "Right-of-Way", "structure", and "emergency work".
- Amendments to Section 4 regarding safety hazards created in the Right-of-Way and emergency work performed.

- Addition of language allowing Town to recoup the cost to remove hazards within the Right-of-Way.
- Several minor language changes throughout.

Mr. Turner indicated that the document will be sent to Town Counsel for a final review, and then posted for a Public Hearing. After a brief discussion relative to after hour remedies for right-of-way emergencies, it was the consensus of the Board that Mr. Turner proceed to post the document accordingly.

BLASTING ORDINANCE: Mr. Turner explained that the current ordinance had been reviewed by Dr. Simmons of Hager-Richter as part of his consultant services, and that his recommendations had been incorporated into a draft revision for the Board's review. Proposed amendments discussed included:

- Amending the definition of "explosives".
- Modifying permit duration/insurance requirements to: 30-day/\$1M, 60-day/\$1.5M, and 90-day/\$2M. Also, inclusion of language requiring proof of Moody Bond Rating for 60 and 90 day permits.
- Requiring proof of blasting agent experience/qualifications.
- Amendments to measuring and reporting requirements.
- 500' versus 1000' radius for notification purposes was discussed, as was possibly tying radius required to the permit duration.
- Possible addition of a low charge permit and waiver clause.
- Basing permits on charge size versus anticipated tonnage of displaced rock.
- The possibility of lowering the maximum peak particle velocity and limiting charges based upon proximity to structures was discussed, as was development of a matrix for blasting and related fees. Mr. Turner will draft the latter for future review.
- Maintaining of pre-blast survey information in the Planning Department was proposed.

Mr. Carpenter noted that the Board's and Town Counsel's review and approval of any amendments would need to proceed quickly to be completed prior to the January deadline for submission to Town Meeting. Mrs. Call noted that the next available agenda for further discussion would be December 17th. Mr. Breton requested that, if Town Counsel was under time constraints, the document be referred to alternative Counsel for review. Mrs. Call will inquire as to Atty. Campbell's availability.

Mr. Carpenter then read into the record two public notices: the first pertaining to a public discussion regarding blasting scheduled for December 10th beginning at 8:00 PM; and the second relative to a public discussion regarding the possible water agreement with Mr. Mesiti scheduled for December 3rd at 8:30 PM.

Mr. Turner noted that representatives from StoneHill and the Department of Environmental Services will also be present on December 10th. He further stated that he had met the previous day with the DES, who were ready to issue letters to the developer and the residents regarding the water test results and to require additional testing. Mr. Turner noted the developer will be contacted to inquire whether he will commit to perform the testing, which has been modified by the DES to include additional properties.

Mr. Greg Kindrat approached to request that the current 2"/ps PPV be rescinded in favor of 1"/ps, citing a Bureau of Mines study which indicated that damage occurs at ppv levels over 1". He further noted that the Ordinance contains no requirement to document the types/quantity of explosives used, noting that not all material is absorbed by the blast. Mr. Turner noted that the latter is currently required to be included in the blasting log.

Mr. Andrew Vignos approached to request that language be added requiring responsibility to cover denied insurance claims for damage, and suggested the idea of requiring escrow funds. Discussion ensued regarding claims of damage versus actual damage and the need for greater flexibility for the Board to revoke a permit. Mr. Carpenter clarified that the Board of Selectmen may not legally be able to address financial issues, as they pertain to civil matters.

Mr. Charles McMahon approached to suggest that Dr. Simmons be consulted as to whether the blast charge behaves different through solid rock versus fractured rock. He then noted several other suggestions to the Board, including:

- Review of other Towns' blasting ordinances for similarities to Windham's situation.
- Caution in establishing the maximum peak particle velocity.
- Increasing the required pre-blast survey radius for a 90-day permit to greater than 1000'.
- In reference to permit renewals, redundant language should be added relative to distance and duration.
- "Vicinity" as it pertains to pre-blast surveys should be clarified.
- Requirements for dust controls, such as misting, should be incorporated.
- Section VI "L" should be revised to clarify applicant responsibility relative to enforcement.
- Revocation means are too broad and should be clarified.

Mr. Carpenter requested that Mr. Kindrat provide the Board members a copy of the Bureau of Mines report which he had cited. Mr. Kindrat indicated he would email the information.

Mr. Vignos suggested the Board impose limits on permit renewals.

After further, brief discussion, Mr. Turner indicated he would work with Mrs. Call to incorporate this evening's suggestions into the document for discussion at a future date.

The Chair called for a five minute recess.

FINANCIAL UPDATE: Mrs. Call presented her quarterly update to the Board. Highlights included:

- *All Departments:* Vehicle fuel budget is anticipated to be overexpended, but will be offset by savings in heat as a result of the Town's pre-buying of heating oil at \$2.19/gallon and the award of the propane bid at \$1.63/gallon.
- Legal expenses are projected to be approximately \$22K over budget, however, this is offset somewhat by legal reimbursements received of \$17,250.
- *Police:* Salary savings due to two vacant positions have been offset by an increase related to Officer Comeau's replacement being hired while Officer Comeau continues to utilize earned time. Overtime line is currently overexpended due to all shifts related to the vacant positions being filled with overtime, as well as Officer Flynn's and some midnight shifts.

There was a savings in Vehicle Equipment related to a \$6,000 savings per new cruiser purchased (2), however Vehicle Maintenance is projected to be over expended due to the age of the fleet overall and use of cruisers for details.

- *Fire:* Overtime is projected to be overexpended partially due to the vacancy of one firefighter currently on Workman's Comp, which is being filled by overtime. There is an expected savings of \$7,000 in Callmen, however, due to fewer personnel. Also, there is some expected savings in Training due to the lack of a training burn and paramedic training this year.
- *Roads:* Anticipated overall net savings is expected to be approximately \$25K. Vehicle equipment and maintenance are expected to be overexpended due primarily to the age and condition of the surplus vehicles.
- *Transfer Station:* Salary savings due to two vacant positions will be offset by the expense of temporary/contracted employees, and vehicle maintenance is projected to be over budget due to several large, unanticipated expenses as a result of the aging fleet. Also, waste and demolition removal appear to be running under budget due to the collection of less tonnage than anticipated.
- *Insurance:* Workman's Compensation savings of \$16,571 due to a credit received. Also, there has been a net savings in health insurance across all departments of approximately \$35K, which will be used to cover the projected shortfall in the Health Trust Special Revenue Fund due to the cost of claims outpacing the employee co-pays.

Mr. Carpenter noted that the Board will be meeting in a budget workshop on the following Thursday beginning at 8:00 PM, and the meeting will likely be televised. Also, the Board will be meeting on Saturday morning.

OLD BUSINESS: Chief McPherson advised the Board that Engine 3 is expected to return to service next week. Also, repairs to the ladder truck are proceeding on schedule, and the vehicle should be back in service within a couple of weeks.

Chief Lewis approached regarding the old ambulance acquired by the Department for use as a command vehicle, noting that the vehicle required \$2,500 +/- in repairs. A discussion ensued regarding use of forfeiture funds toward the repair. It was the consensus of the Board to wait until after the budget hearings to discuss this matter further.

NEW BUSINESS: None.

NON-PUBLIC SESSION: Mr. Senibaldi moved and Mr. Hohenberger seconded to enter into a non-public session in accordance with RSA 91A:3 II e. Roll call vote – all members “yes”. The topic of discussion was legal, and the Board, Mrs. Call, and Ms. Devlin were in attendance.

Mr. Senibaldi advised the Board of a potential legal issue. No decisions were made, and Mr. Senibaldi will follow up with Mr. Sullivan.

Mr. Breton moved and Mr. Hohenberger seconded to adjourn. Passed 4-0.

The meeting was adjourned at 9:50 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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