

BOARD OF SELECTMEN
Minutes of December 3, 2007

MEMBERS PRESENT: Chairman Alan Carpenter called the meeting to order at 7:10 PM. Selectmen Bruce Breton, Dennis Senibaldi, Margaret Crisler, and Roger Hohenberger were present, as were Town Administrator David Sullivan and Assistant Town Administrator Dana Call. Mr. Carpenter read the agenda into the record, followed by the Pledge of Allegiance.

ANNOUNCEMENTS: Chief Tom McPherson introduced Mr. Steve Short of Liberty Mutual Insurance. Mr. Short explained that, while he usually attends to present the Annual Firemark Award, he was in attendance this evening to present a special recognition award to Firefighter Bill Merrill for his outstanding efforts and selflessness in assisting at a serious car accident he came upon on I-495. Firefighter Merrill accepted the award with thanks amid a standing ovation.

Recreation Coordinator Cheryl Haas announced the success of the Annual Tree Lighting, noting that 300+ pictures with Santa had been taken. She then extended thanks to the following for their assistance/donations: Recreation Committee, Beth Lippold, Dunkin Donuts, Century 21 D'Amico & Associates, Woof Woof Professional Dog Services and Ralph and Belinda Sinclair, Steve Pierson and his Boy Scout Troop, Jack Donahue and Girl Scout Troop 232, Nancy Perkins and her Girl Scout Troop, Brownie Troop 51, the Middle School Chorus and their Director, SHS Marching Band and Colorguard, Windham Community Band, Jan and Dennis Root, Vicky & Evie, Ford Florist, Katie Carne, Maintenance Supervisor Al Barlow and his staff, and the Police and Fire Departments.

Ms. Haas then reminded all that the Annual Senior Christmas Party was upcoming on the 12th, and announced that her Winter Program Flyer would be available this week.

Mr. Sullivan urged all to visit Helping Hand's Annual Giving Tree at the Nesmith Library. He noted the number of children is higher than normal this year, and a large amount of ornaments remain. Gifts are due by December 14th, and may be dropped off at the Library or Curves.

LIAISON REPORTS: Mr. Hohenberger noted that the CIP Committee will require only one additional meeting to finalize their report.

Mr. Carpenter noted that the Planning Board has one upcoming plan for review, that being for the Clarke Farm development.

MINUTES: Mr. Senibaldi requested that the minutes of September 10th be further amended to clarify that probation had been a requirement of the original motion to re-hire Chief Lewis. He then moved and Mr. Hohenberger seconded to approve the minutes of September 10th as amended. Passed unanimously. Mr. Senibaldi will craft the amendment and submit it to staff for inclusion.

CORRESPONDENCE: Bond release Burnham Road: Mr. Turner advised that the area had been reviewed and approved by both he and the Highway Agent, and that the road is paved, the drainage is in and functioning, and the cistern has been installed.

After a brief discussion, Mr. Senibaldi moved and Mr. Breton seconded to release the bond in the amount of \$1,101,907.20 to Jo-De Development as presented; retaining \$50,964. Passed unanimously.

Mr. Carpenter read into the record the following citizens' petition received: "To see if the Town will vote to change one (1) lot from the Rural District to Business Commercial A. The parcel located in Windham, known as or described as Lot 21 U30 at 3 Cobbett's Pond Road, at the corner of Cobbett's Pond Road and Lowell Road, consisting of approximately 1.43 acres". This petition has been verified by the Town Clerk and will be forwarded to the Planning Board.

Letter received from Mr. James Rand thanking and commending Lt. Scott Delaney, Firefighter Diana Nault, Firefighter Mike Mistretta, and Firefighter Gordon Campbell for their lifesaving efforts on his behalf on September 14th.

Copy received of letter from the Conservation Commission to the Windham School Board, advising that on November 15th the Commission had voted 3-1-2 to be open to the concept of further discussion relative to a proposal to swap Conservation/Recreation land for school land to facilitate the high school athletic program, provided the swap is more than 2 for 1 and the disrupted trail systems re-established.

Mr. Carpenter noted that the Board is scheduled to discuss this matter further with the School Board on December 10th beginning at 7:00 PM. Mr. Hohenberger noted he would also like to discuss at that time the lack of permits for the construction of the facility. Mr. Carpenter requested that Mr. Sullivan contact the School Board to ensure they are prepared to discuss Mr. Hohenberger's concerns.

BUDGET WORKSHOPS: The Board met in workshop session with representatives of the following:

- Historical Committee will be requesting two (2) special warrant articles relative to the Searles building: the first to replace 75 pieces of roof slate (approx. \$3000), and install new lead at the tower section (approx. \$1950), both to come from the Special Revenue Fund, and; the second to replace plywood/windows in the East Room with same windows as are currently in the West Room and work on back doors outside the East Room, to be funded with the remaining \$7,724 in revenue received from the State. After discussion, it was the consensus of the Board to support inclusion of these items on the warrant.

The Committee is also seeking possible funding/completion of the following in 2008: painting of the East Room, sanding of the floors, and beginning to set aside funds for future replacement of the septic system. The Board took no action on these items.

The possibility of increasing the rates for use of the facility was then discussed. It was the consensus of the Board to post proposed facility use fee increases for public hearing. Mrs. Call noted the next available date would be December 17th.

- Conservation Commission: no changes presented from 2007.

- Heritage Commission: Mrs. Crisler indicated the Commission would be seeking funding to utilize an intern to create an inventory of historic site conditions, etc.
- Cemetery Trustees: The Board discussed the funds remaining in the 2007 budget, and Ms. Devlin clarified that some of the funds would be expended for snow plowing services and that the remainder represented a savings within the property maintenance portion earmarked for repairs to sunken/tilted stones. The latter funds will be discussed under Old Business.

OLD BUSINESS: Mr. Sullivan noted that nearly 45 days had passed since a response had been requested from the State relative to their intentions regarding a joint Salt Shed with the Town. Mr. Hohenberger noted that letters do not appear to work and suggested that one of our State Representatives be contacted to facilitate a response. Mr. Breton suggested that Senator Letourneau be to asked to assist.

Ms. Devlin requested that the Board consider waiving the bid process to allow for the Cemetery Trustees to contract to repair six (6) broken stones located in the Plains cemetery. Ms. Devlin presented a proposal to the Board for their review, and explained that the repairs would consist of the broken pieces being epoxied and a metal brace custom formed to the stone which would then be anchored to keep the stone upright. A discussion ensued regarding possibly putting the project out to expedited bid, whether other proposals had been obtained, and that the proposal presented was under the \$5,000 requirement per the purchasing policy. Mrs. Gail Webster, Cemetery Trustee Chair, approached and indicated that there was a second, higher, proposal available for the project, which she could provide to the Board.

After further, brief discussion, Mr. Senibaldi moved and Mr. Breton seconded to waive the bid process and to allow the Cemetery Trustees to proceed as requested. Mr. Hohenberger then requested that the Trustees provide the Board with a copy of the second proposal for reference. Ms. Devlin will follow-up to do so.

Motion passed unanimously.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Breton seconded to enter into a non-public session in accordance with RSA 91A:3 II b. Roll call vote – all members “yes”. The topic of discussion was personnel, and the Board, Mr. Sullivan, Chief Lewis, and Ms. Devlin were in attendance in the first session.

The Board discussed a Police Union grievance related to a disciplinary action. Mr. Senibaldi moved and Mr. Hohenberger seconded to withdraw the action based solely on the grounds that the individual taking such action did not have that authority per their job description. Passed unanimously.

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

Mr. Senibaldi discussed a personnel matter with the Board. No decisions were made.

Mr. Breton requested that the Board discuss freezing all COLA increases and that all new hires remain at 2007 pay rates in 2008. There was no discussion of this matter and no decisions were made, as it was determined that this does not meet the requirements of RSA 91A:3 II.

PUBLIC HEARING/WELL AGREEMENT: Mr. Carpenter read the public hearing notice into the record. Mr. Sullivan explained that he, Mr. Zohdi, Mr. Turner, Mr. Mesiti, and Attorney Mason had met to draft a framework for the proposed water agreement, which Attorney Mason would be reviewing with the Board. If the Board were in support of the framework as presented, the parties would move forward to finalize a proposed agreement for presentation to Town Meeting.

Attorney Mason, representing Mr. Mesiti, approached and gave a brief history of events to date regarding the test wells on Fellows Road and the proposed water agreement. Atty. Mason reiterated that Mr. Mesiti does not require water from the test wells for his development within the Village Center District, but rather an agreement overseen by Pennichuck could provide sufficient yield for Mr. Mesiti's development, current Town buildings, and future development within the VCD.

Mr. Hohenberger sought clarification as to whether or not Pennichuck would be deeded ownership of the pump house were they to manage the water system. A discussion ensued that it would be a permanent easement granted to Pennichuck, rather than deeded ownership.

Mr. Hohenberger then sought clarification of the benefits to having the water offsite. Atty. Mason replied that it would allow for establishment of a common area/amenities behind the current Town Hall and would serve as an impetus for future development in the VCD.

Mr. Hohenberger inquired how much water Mr. Mesiti needed for his development. Atty. Mason indicated that 32-36,000 gallons per day were required for Mr. Mesiti's needs, and that remainder of the permitted 57,000 gallons per day would be available for other uses. A brief discussion ensued regarding the permitting limits.

Mrs. Crisler indicated that she would want to see a very restrictive clause regarding where Pennichuck can send the water. Mr. Zohdi indicated that no more than 57,000 gallons per day can be pumped, and that any agreement would require that the water is used only for the VCD.

Mrs. Crisler then indicated that some public benefit, such as a park or common area, should also be required within the agreement. A discussion ensued regarding the purview of the Selectmen to mandate such an area, or whether it would be up to the Planning Board to ensure that such a concept is realized. Mr. Zohdi indicated that he would be required to present the development to the Planning Board for approval of the final site plan.

Discussion ensued as to Mr. Mesiti's water needs. Mr. Zohdi clarified that 18,000 gpd would be required for the 60-unit development as proposed, and that amount must be multiplied by a factor of two per State requirements. Mr. Zohdi noted that, as the usage is measured over time, the State could be approached and a request made to reallocate the amounts.

Discussion ensued regarding the economic benefits of a water system to the District and other commercial properties along Route 111, and that the Town should ensure that it retains all rights to sell and/or trade the water. Mr. Carpenter noted that the agreement clearly offers a benefit to Mr. Mesiti, however it may also prove very beneficial to the Town, as well.

Mrs. Sue Mesiti approached, noting that she and her husband own the property behind Town Hall and are willing to spend several hundreds of thousands of dollars to bring water across Route 111 to the VCD. She noted that Windham does not have a downtown area, which they are endeavoring to create, however, if the Town does not wish to move forward with an agreement they will stop their efforts. Mr. Carpenter explained to Mrs. Mesiti that this is an unprecedented occurrence, and thus the Board was proceeding cautiously.

Mr. Rob Gustafson approached to inquire whether or not the wells would preclude further development/expansion at 3 Fellow Road. Mr. Turner replied in the negative, noting that the location is surrounded by wetlands.

Mr. Doug Yennaco approached expressing concerns regarding the capacity of the wells. Mr. Carpenter indicated that it has been established as being in excess of 57,000 gallons per day. Mr. Yennaco then indicated that his family owns property adjacent to the District, and inquired what cost impacts they may experience. A discussion ensued regarding the potential cost impacts to future developments to tie into the water system.

Mr. Peter Griffin approached to inquire what the Town envisioned for the Village Center District, for example what type of small retail services. Mr. Turner noted that the Planning Board had spent nearly a year developing the VCD concept and that it was one of the most restrictive districts in the Town; being governed by Town ordinance and two sets of guidelines. A discussion ensued as to how to target retail development and that the first development in will set the character for the entire VCD.

Ms. Carol Pynn approached to state that she believed a Master Plan of the District should be developed indicating exactly how many structures can be built. She also expressed concerns with the stated amount of 32,000 gallons per day for Mr. Mesiti's 60-unit development, noting it as outrageous as the development should only require 16,800 gallons per day. It was clarified for Ms. Pynn that the State of NH requires the necessary amount to be doubled.

Ms. Pynn then opined that Mr. Mesiti did not need water from across Route 111, as he does not need the capacity being permitted. Mr. Senibaldi noted that having the wells onsite would limit the possibility for walks/parks, etc. A discussion ensued regarding the residual capacity and location of the proposed common area.

Mr. Zohdi clarified that Mr. Mesiti's capacity needs remain the same regardless of where the water comes from, however, if it does not come from across the street they are unable to include the common area. Mr. Zohdi then indicated that the number of units will be determined by the soil and loading limits. Mr. Turner then noted that it may be a challenge for Mr. Mesiti to even get 60 units.

Mrs. Mesiti indicated that she had spoken to several businesses regarding their interest in the Village Center District, and that a customer base is needed to fuel retail development. She noted that they were trying to create a nice blend of residential and commercial in the VCD.

Mrs. Crisler felt that Mr. Yennaco had raised a valid point regarding future costs to tie in to the system. She indicated her support of the proposal and the flexibility that it offered.

Mr. Hohenberger echoed Ms. Pynn's concerns regarding the lack of a Master Plan for the District. He then indicated that he could see the benefits of locating the wells offsite. Mr. Zohdi noted that, if the Board were willing to move forward, he will bring in representatives from Pennichuck to discuss the requirements of the Public Utilities Commission. Mr. Zohdi then indicated that a Master Plan of the VCD has already been created.

Atty. Mason noted that Mr. Mesiti's proposal provides the Planning Board with the opportunity to set the bar as high as they wish for future development in the VCD.

Mr. Senibaldi felt there still several details to work out, but he agreed that there were potential benefits to future commercial development. He noted he would like to see staff move forward to incorporate the Board's input into a draft agreement.

Mr. Breton indicated his support of the proposal, noting that the VCD was established 8 years ago and development needed to be spurred in the area.

Mr. Carpenter polled the Board for a consensus, which indicated support for the agreement. Mr. Hohenberger indicated he would like to see the agreement sent back to Town Meeting. A discussion ensued regarding timing, and Mr. Sullivan clarified that the Board has the authority to execute the agreement. Atty. Mason indicated that, if the Board wished to send the agreement back to Town Meeting for approval, that Mr. Mesiti would likely proceed with utilizing his own wells onsite.

After further discussion, Mr. Senibaldi moved and Mr. Breton seconded that staff, the developer, and the attorneys move forward to craft a detailed agreement for discussion on January 7, 2008. Passed unanimously.

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

The meeting was adjourned at 10:10 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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