

BOARD OF SELECTMEN
Minutes of December 17, 2007

MEMBERS PRESENT: Chairman Alan Carpenter called the meeting to order at 7:05 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: Mrs. Crisler extended congratulations to Recreation Coordinator Cheryl Haas on the success of the Annual Senior Christmas Party.

Chief McPherson approached noting that the engine repairs to Ladder 1 are complete and it is now back in service, as is Engine 3.

Chief McPherson then noted that Firefighter Don Worthington has announced his retirement, effective December 31st, after over 18 years of service to the Town. Don will continue to serve the Town as a call firefighter.

Mrs. Crisler then inquired whether Chief McPherson had any winter safety tips for the residents. Chief McPherson noted that residents should ensure proper wood is utilized in wood stoves to prevent fire hazards and should also see that snow is adequately removed to allow for emergency access. He then encouraged residents to contact the Station with any questions or concerns they may have.

Mr. Sullivan extended holiday wishes to all on behalf of the Town staff. He noted that all Departments will be open on Christmas Eve and New Year's Eve, however, the Town Clerk and Tax Collector will not be open during evening hours.

LIAISON REPORTS: Mr. Senibaldi noted that the Housing Authority had met that afternoon, and that a consultant had been hired to aide the members in applying for a seed money grant.

Mrs. Crisler noted that the Planning Board had held another discussion regarding proposed Zoning Amendments, including several amendments to the zoning map. She urged residents to review the proposed amendments, of which several are significant.

Mrs. Crisler then noted that one item had been moved to the Warrant by the Planning Board, that being the request to re-zone the property at 3 Cobbetts Pond Road from rural to commercial A district, and that another to re-zone a portion of the Depot from rural to neighborhood business had been dropped. She then noted that the proposed Demolition Delay ordinance will also be discussed again in the near future.

MINUTES: Tabled.

CORRESPONDENCE: Bond release/Buckeye Road: Mr. Hohenberger moved and Mr. Senibaldi seconded to release the bond in the amount of \$10,233.60 to Polpis Development, retaining \$22,922.40. Passed unanimously.

Letter of resignation received from Firefighter Don Worthington, effective December 31st. Mrs. Crisler moved and Mr. Senibaldi seconded to accept Mr. Worthington's resignation with thanks and regrets. Passed unanimously.

Letter of resignation received from ZBA member Gail Webster. The Board took no action, as acceptance is under the ZBA's purview.

Letter received from Val Munoz suggesting the Town consider adopting a policy regarding realtor directional signs to limit the times they can be in place and imposing penalties for noncompliance. A discussion ensued regarding the sign restrictions currently in the Zoning Ordinance, and no decisions were made.

Letter received from Chief Lewis regarding estimated costs to convert the new black and white cruisers to all white, should the Board decide not to support funding to continue conversion of the Department's fleet to black and white. Total estimated cost is \$5,357. A brief discussion ensued; no decisions were made.

Letter received from Planning Director Al Turner relative to pond testing for the ensuing year. Mr. Sullivan indicated this matter would be discussed further at the year end meeting, as additional funds will be required to meet the Board's original testing intent.

Mr. Carpenter read the following zoning petitions into the record, each of which will be submitted to the Planning Board for consideration:

"We, the undersigned registered voters of Windham NH do formally request a zoning change be perpetuated from the status of 'rural' to 'neighborhood business' for the following properties. Lot #603 @ 157, Rte 28, Windham, NH. 03087. Owners--- Robert and Helen Cookson Lot #605 @ 159, Rte 28, Windham, NH. 03087 Owner--- Angeline Denuccio Lot #401 @ 151, Rte 28, Windham, NH. 03087 Owners--- Christopher Paul and Maureen Kelleher"

"Petition by Richard P. McCoy of 1 Industrial Drive, Windham to request that zoning map of Town of Windham be amended by re-zoning Lots 13-A-120, 150, 155, 160, 161, and portion of 191, 196, 197, 198, 290, from Residential A to Limited Industrial as recommended by the Windham Planning Board."

"By petition of Shayne Gendron and others to see if the Town will vote to re-zone 1 Indian Rock Road (Lot 11-A-450) and 4 & 6 Hardwood Road (Lots 11-A-451 & 11-A-452) from Rural to Village Center District. This will enable the land located by the North Lowell Road and Hardwood Road to be developed as Village Center District in accordance with the Master Plan."

"By petition of Ronald Cyr and others to see if the Town will vote to re-zone 140 Rockingham Road (Route 28), Lot #8-B-3002, from Rural to Residential B. This will enable the parcel to be zoned in a manner consistent with abutting properties."

"By petition of Mary Griffin and others to see if the Town will re-zone a portion of 150 Haverhill Road (Lot 9-A-500) from Rural to Neighborhood Business District. The area to be re-zoned would extend from the centerline of Route 111 in a Northerly direction 700 feet or to the Northerly boundary of Lot 9-A-500, whichever occurs first. The remaining area of Lot 9-A-500, not included in the area to be re-zoned, would remain Rural. The purpose of this Petition is to extend a Neighborhood Business District fronting on Route 111 in the Westerly area of the Town of Windham."

“By petition of Douglas Yennaco and others to see if the Town will vote to re-zone Parcels 8-B-6100 and 8-B-6150 from Rural to Residential B. This will enable the parcel to be zoned in a manner consistent with abutting properties.”

“Citizen Petition: To see if the Town will vote ‘To change one (1) lot from 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 lot is directly across the street from the Windham Plaza and the Cobbett’s Pond Professional Park and was the former home of Wallace Real Estate and the Butterfield Insurance Agency.”

Letter received from Mrs. Julia Wissell requesting that the DES conduct environmental testing of her property for silica. A discussion ensued. Mr. Sullivan indicated that Mrs. Wissell had also submitted information of a confidential nature relative to health issues.

Mr. Hohenberger then moved and Mr. Breton seconded to ask staff to contact the DES to include testing for silica at the gravel piles and at blast site. Further discussion ensued regarding the testing of area homes.

Mr. Hohenberger amended his motion and Mr. Breton his second to require that certain homes be tested, as well. Passed unanimously.

ABATEMENT: The Board reviewed an ongoing abatement request for 23 Millstone Road. After discussion relative to the value of the back land, WWPD areas, current issues with the septic system, and the lack of an independent appraisal, Mr. Senibaldi moved and Mr. Hohenberger seconded to grant the abatement as recommended by the Assessor for 23 Millstone Road, in the amount of \$638.08. Passed unanimously.

Tax Assessor Rex Norman advised the Board that he had received the Town’s equalization ratio from the Department of Revenue Administration, which was reported as being at 100% as of April 1, 2007.

PUBLIC HEARING/SEARLES USE FEES: Mr. Sullivan noted that the fees for rental of the Searles School and Chapel had not been amended since 2004, and were currently one of the lowest in the area for similar facilities. He further noted that the proposed rates were on par with or lower than surrounding facilities, and that extensive/costly work, such as the stained glass windows, still needs to be done to the building. The proposed fees were as follows:

	<i>Existing</i>	<i>Proposed</i>
<i>Chapel Room:</i>		
<i>Resident Fee</i>	<i>\$ 200 / room (for 3 hr min)</i>	<i>\$ 225 / room (for 3 hr min)</i>
<i>Non-Resident Fee</i>	<i>\$ 400 / room (for 3 hr min)</i>	<i>\$ 450 / room (for 3 hr min)</i>
<i>School Room:</i>		
<i>Resident Fee</i>	<i>\$ 200 / room (for 3 hr min)</i>	<i>\$ 300 / room (for 3 hr min)</i>
<i>Non-Resident Fee</i>	<i>\$ 400 / room (for 3 hr min)</i>	<i>\$ 525 / room (for 3 hr min)</i>

The Board of Selectmen reserves the right to negotiate fees for usage in excess of six (6) hours.

After a brief discussion regarding the difference in room costs and clarification that the rates would apply to new bookings only, Mr. Breton moved and Mr. Hohenberger seconded to approve the fees as proposed. Passed unanimously.

OLD/NEW BUSINESS: Mr. Senibaldi requested that an alternate liaison be appointed to the Housing Authority to cover any future scheduling conflicts. Upon his volunteering, Mrs. Crisler moved and Mr. Senibaldi seconded to appoint Mr. Breton as the Board's alternate liaison to the Housing Authority. Passed unanimously.

Mr. Sullivan announced the three bids had been received for the printing of the Annual Town Report as follows:

<i>Vendor</i>	<i>Black print only</i>	<i>With One, 2- sided color photo pages</i>	<i>With Two, 2- sided color photo pages</i>
<i>Eprint</i>			
<i>Hudson NH</i>	\$7,999.00	\$8,290.00	\$8,499.00
<i>Commonwealth Printing</i>			
<i>Newburyport MA</i>	\$7,963.50	\$8,263.50	\$8,563.50
<i>Master Printers of NE</i>			
<i>Salem NH</i>	\$12,925.00	No bid	No bid

After a brief discussion, Mr. Senibaldi moved and Mr. Hohenberger seconded to award the bid for the printing of the Town Report to ePrint of Hudson NH for their bid amount of \$8,499 to include two color inserts. Passed unanimously.

PROPOSED NOISE ORDINANCE: Mr. Carpenter clarified that there is currently no Noise Ordinance in the Town. Mr. Sullivan confirmed, noting that as proposed this would be a stand-alone ordinance under RSA 31:39 which could be presented to the voters either as a citizen's petition or a Board submitted warrant article.

Ms. Daphne Kenyon, 5 Faith Road, approached noting that she had developed the draft document along with Mr. Mike Swidell and Mr. James Derderian. She noted they had been working on the development since May of 2007, and that Chief Lewis had assisted with the wording. Ms. Kenyon noted that several communities in NH have noise ordinances in place, and that she hoped the Board would use the proposed document as a starting point for a Board submitted article. She then noted that the document has not yet been submitted to Town counsel for review.

Discussion then moved to decibel level restrictions. Mr. Hohenberger requested that 45dba be defined. Ms. Kenyon indicated it was comparable to the noise heard in a theatre between performances, and was taken from a Connecticut ordinance. Chief Lewis noted that 60dba was equal to a normal conversation at 10-15 feet. Mr. Hohenberger expressed concerns that the levels proposed were far too low, noting he was in favor of a noise ordinance but not at those levels.

Mr. Carpenter polled the Board for opinion: Mrs. Crisler, Mr. Breton and Mr. Hohenberger indicated their support of an ordinance, but concerns were raised regarding enforcement, crafting, and table of levels. Mr. Senibaldi inquired as to the difference between having an ordinance in place versus the Planning Board setting permitting times of operation. Mrs. Crisler noted that any Planning Board restrictions would apply only to the initial developer, and not extend to future builders, etc. Mr. Senibaldi then indicated his support of the concept of a noise ordinance.

Mr. Carpenter indicated a noise ordinance was a good idea, however there were several facets to be considered. He noted he would rather see the article submitted by the Board with Town Counsel and staff input, rather than a citizen's petition.

A lengthy discussion ensued regarding decibel levels as proposed being too low and enforcement procedures. Mrs. Crisler suggested that the Town of Hanover's Ordinance be reviewed, as it has been previously upheld by the Courts and contains specific prohibitions rather than specific decibel numbers.

After further discussion, Mrs. Kenyon indicated her support of the idea of melding specific activities with decibel level requirements, and a willingness to work with Mr. Sullivan to redraft the document. Mr. Sullivan indicated that time would be an issue, as only 11 days remain before the Warrant must be posted. He did not believe that the Board would be able to submit the Article this year, however, a citizen petition was still an option.

Mrs. Crisler moved and Mr. Hohenberger seconded to allow staff and Town Counsel to assist with the development of citizen petition. Passed unanimously. Mrs. Crisler volunteered her assistance, as well.

Further discussion ensued regarding the Planning Board imposing tighter restrictions/limits on construction operations and that the proposed fines are too high. Attorney Campbell approached noting that, procedurally, a citizen petition would be submitted to him for review anyway, and that it could still be amended at the Deliberative Session.

Mr. Breton then moved and Mr. Hohenberger seconded to release the legal opinion received, dated 12/27/2007, relative to this issue. Passed unanimously.

Mr. McMahon approached in support of the Hanover model, and to suggest that a study committee be appointed to develop an ordinance that will pass. Discussion ensued regarding the current Zoning Ordinance and potential conflicts between the two and enforceability of Planning Board conditions beyond the original applicant. Attorney Campbell noted that, the citizen petition ordinance would be enforceable if the language were more stringent as passed.

After further discussion and input from Chief Lewis, Mr. Greg Kindrat, and Mrs. Julia Wissell in support of the ordinance, Mr. Carpenter clarified that this would not be submitted as a Board of Selectmen article, but rather a citizen petition. Mr. Sullivan inquired what level of staff assistance the Board was suggesting regarding re-drafting of the language, noting the time it would take to re-draft the document versus assisting in drafting the petition language. The Board indicated nothing beyond normal input into the article language.

BLASTING ORDINANCE REVISIONS: Planning Director Al Turner opened the discussion with a brief timeline of events leading up to this evening. He then reviewed a matrix of blasting operations and a sample radius map showing the proposed 500', 750' and 1000' permit-based distances. Mr. Turner noted there will no longer be types A/B, but rather 30-60-90 day permits.

Attorney Campbell raised concerns that the document he had reviewed was not the latest revision being discussed by Mr. Turner. It was the consensus of the Board to allow Attorney Campbell to step out of the meeting to review the document under discussion.

NON-PUBLIC SESSION: Mr. Senibaldi moved and Mr. Breton seconded to enter into a non-public session in accordance with RSA 91A:3 IIa, b and c. Roll call vote – all members “yes”. The topics of discussion were personnel, hiring and reputations.

The Board, Mr. Sullivan, Chief Lewis and Ms. Devlin were in attendance in the first session.

Chief Lewis presented his recommendation to the Board to fill the vacant, part-time dispatcher position.

After discussion, Mr. Hohenberger moved and Mr. Breton seconded to extend an offer of employment to the recommended candidate subject to the requirements of the Employee Policy. Passed unanimously.

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

The Board discussed a matter pertaining to reputations. No decisions were made.

Mr. Sullivan presented a request for four month leave to the Board. It was the consensus of the Board to support Mr. Sullivan’s recommendation regarding this request to approve a three month leave this year but advise the employee that such future leaves may not be approved due to departmental operational needs. Mr. Sullivan will follow-up with the employee.

Mr. Senibaldi moved and Mr. Hohenberger seconded to resume the public portion of the meeting. Passed unanimously.

BLASTING ORDINANCE REVISIONS CONTINUED: Attorney Campbell indicated he had reviewed the document, and was comfortable with proceeding. A lengthy discussion of proposed revisions followed, including:

- Elimination of type A/B permits in favor of duration/charge based permit.
- The need to define “structure” as used throughout the document.
- Lowering of the maximum peak particle velocity to 1” per second as opposed to 2”, which was supported by each of the members.
- Lengthy discussion centering on liability insurance and proposed levels of coverage per permit.
- It was suggested that if the charge were being limited per the permit duration, then the radius requirements may be excessive.
- Penalties/fines for non-compliance were discussed.

Mr. Kindrat approached in favor of the change to 1” ps maximum peak particle velocity.

Mrs. Wissell approached to apologize to Mr. Turner and Mr. Carpenter for negative postings on the web regarding this issue. Also, she apologized to Mrs. Crisler for her actions at the last meeting. Mrs. Wissell expressed appreciation for what the Town has done to date.

Mr. Phillips indicated that though he was 700-800' away from the Ledge Road site he had experienced structural damage. He indicated his support of the document, but felt the requirements needed to expand beyond the closest structure to the blast.

The discussion was closed and the Chairman indicated a revised draft of the document will now be submitted to Town Counsel for review and further discussion.

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

Mr. Sullivan discussed a personnel matter relating to compensation with the Board. The Board then requested that Mr. Sullivan and Ms. Devlin excuse themselves from the meeting to allow the Board to discuss the matter further.

After further discussion, the Board made no decision pending further budget workshops.

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

The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant
Mr. Carpenter, Chairman Board of Selectmen

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