

BOARD OF SELECTMEN
Minutes of July 21, 2008

MEMBERS PRESENT: Chairman Dennis Senibaldi called the meeting to order at 7:10 PM. Selectmen Bruce Breton, Galen Stearns, Charles McMahon and Roger Hohenberger were present, as was Town Administrator David Sullivan. Mr. Senibaldi advised that the meeting was being reconvened after beginning at 6:00PM with the Board's site walk of the proposed Londonbridge Road area. He then read the remainder of the agenda into the record, followed by the Pledge of Allegiance.

ANNOUNCEMENTS: Mr. McMahon advised that the Housing Authority is moving forward with their Elderly Housing project, and that a targeted survey has been distributed to residents aged 55 and over. He urged those in attendance and watching from home to please take a moment to fill out the survey and return it to the Town.

Mr. Senibaldi announced the re-dedication the previous weekend of the Windham Wonderland Playground. Mr. Senibaldi explained that the Girl Scouts had, over a two year period, rehabbed the area with the help of the Recreation Committee, and extended thanks to all involved.

HIGHWAY AGENT: Mr. McCartney review pricing information relative to piping for possible installation in the area of the weight station as part of the I-93 project, which he had obtained per the Board's request at their previous meeting.

Mr. McCartney indicated that 6" PVC piping, for utility conduit purposes, is currently at 4¢/foot. Eight-inch water piping is currently \$24.01/foot, bringing the total cost for pipe alone to \$24,683.

Mr. Hohenberger inquired whether any additional costs would be required, ie: for capping the pipes. Mr. McCartney expressed a certainty that there would be for items such as capping, backfilling, and possibly easements.

Discussion ensued regarding the individual piping costs and possibly bidding the piping separately; a suggestion supported by Mr. Stearns, Mr. Hohenberger and Mr. McCartney.

Mr. Tom Cleary, Twin Street, approached to inquire why the State couldn't be asked to install a large culvert instead, as opposed to the PVC piping. Mr. Cleary indicated that the cost would be the same and that then the Town could run the PVC when and if it were necessary. Discussion ensued regarding the need to maintain a separation between water and sewer lines.

Mr. Turner approached to clarify that sewer lines in this area are not a necessity, as looping of these lines is not functionally necessary as it is with water lines. Further discussion ensued.

Mr. Breton then moved and Mr. McMahon seconded to request the State include within their bid specification five (5) pipes as discussed.

After a brief discussion regarding the need to specify a number of pipes, the motion passed 3-2, with Mr. Stearns and Mr. Hohenberger opposed.

PUBLIC HEARING CONTINUED/LAYOUT: Mr. Senibaldi read the public hearing notice into the record, then deferred to Mr. Peter Zohdi to begin the discussion.

Mr. Zohdi, Herbert Associates, explained that the Board had requested he look at extending the roadway beginning at station 38+50. Mr. Zohdi explained that the beginning 450' is currently graveled and requires very little prep work, and that the remaining 3,760' after the gravel portion will need to be rebuilt. Of that, 2,160' would be an upgrade to the existing London Bridge Road. Mr. Zohdi noted that the plan follows the old woods road, and is at a 3.6-3.8% elevation. He further noted that the area should not require any fill and that a 20% contingency has been included in the cost estimates. Mr. Zohdi stated that, if the Board is in support of the preliminary design, then he can proceed, however the Board needs to determine the type of drainage, curbing, etc.

Town Counsel Bernard Campbell approached, to briefly explain the purpose of the public hearing. Atty. Campbell noted that the hearing was being held per RSA 231. This statute requires that the Board, upon receipt of a petition to layout a highway, schedule a hearing on the request, notify all abutters, post the hearings accordingly, and conduct a site walk; all of which the Board of Selectmen has done.

Atty. Campbell noted that by Statute the Board of Selectmen has the authority to layout a roadway, and that the first step toward doing so is establishing whether there is an occasion to do so. The first test of an occasion is whether a public interest exists in the layout that exceeds the rights of property owners. He cited the recent case of Green Crow Construction v. Ipswich, NH, which clarifies this requirement.

Atty. Campbell noted that the end product of the public hearing could be a decision to proceed with the layout, conditional upon funding. If that were the case, the Board will need to determine the width of the roadway, the line of the roadway, and the amount of damages, if any.

Ms. Carol Pynn, Cobbetts Pond Road, approached to inquire if the roadway could be graveled/gated instead of fully constructed, noting that the current portion of London Bridge road is beautifully treed and walled. She inquired whether there were a short means out from the High School site. Discussion ensued regarding the benefits of a through road, and the cost difference between pavement and gravel. Mr. Zohdi clarified there is a \$150K difference to pave the area.

Mr. Jack Hamburger, Haverhill Road, approached inquiring what, if any, alternatives had been considered by the Board, noting Bear Hill Road specifically. He stated he did not believe the article would pass as written and, through he felt an access road was necessary, he felt there must be a better, less expensive alternative.

At the Chairman's request, Mr. Zohdi clarified that there is a 40' right-of-way in from Bear Hill Road that would require working around the topography and several more property owners.

Mrs. Betty Dunn, Woodvue Road, approached to inquire how much of the proposed route impacts Town-owned land. Mr. Zohdi replied that approximately 1200' borders Town land, and the remaining 2600+/- borders privately owned land.

Mrs. Dunn then inquired how many private owners were involved, and Mr. Sullivan replied that five properties were privately owned, by three individuals.

Mrs. Dunn then inquired why the Board would construct the roadway through taxes as opposed to betterment fees, and Atty. Campbell noted that NH law does not have a betterment statute outside of 231-A which applies only to upgrading roadways from Class VI to V. Atty. Campbell noted he had researched this possibility at the Board's request, and found there to be no general betterment assessment process.

Mrs. Dunn then asked why the Town was going to be asked to pay for something that may or may not be necessary for the school to open. She indicated she did not disagree that there were other benefits to constructing the road, but pointed out that it would be done by a developer at some point. Mrs. Dunn then asked if a plan was available that included a gravel secondary access, and further if the School could be opened with gravel only why would the Town take on the burden of building a full road.

Mr. Hohenberger replied that there must be second egress, and that the debate will be what type is needed. He noted that the cost estimates are available, and the differential between paved and gravel is small. Mr. Hohenberger noted that maintenance costs with a gravel roadway would be constant to repair ruts, etc., due to the terrain and wetlands in the area, but a paved road could be sanded/plowed easily and would not have to be repaired annually.

Discussion ensued regarding the possible failure of the article and the cost differentials. Mr. Hohenberger asked that Mr. Zohdi clarify the cost difference between sheet and underground drainage, and Mr. Zohdi indicated it would be \$40K. Discussion ensued regarding the need to better educate the public prior to the vote, the benefits of a full road, the original plan and gravel costs, and that one of the major abutters does not require Londonbridge Road as an access to their property. Mr. Senibaldi clarified that *Green Crowe v. Ipswich* as referenced by Town Counsel does not allow the Board to take into consideration any potential benefits to developers as part of their decision.

Asst. Fire Chief Leuci indicated that his Department desires a Town road for ease of access to the West side of Town, and because a Town road can provide assurance of proper maintenance/snow removal. Asst. Chief Leuci indicated the primary concern of the Department is the life/safety of those in the High School, that they are more than willing to work with all parties to ensure that the School opens on time, and that no options are closed for discussion.

Mr. Bob Coole approached in support of the road, but questioned whether the State had funded a portion of the school road as a driveway. Mr. Stearns clarified that the road had been designated on the original plan as a driveway, but had been laid out as a Town road by the Selectmen. Mr. Coole then asked if the roadways was School-owned, and the Board replied in the negative, noting it was Town owned.

Mr. Coole then asked if the proposed bond was enough to construct the roadway and whether funds were included to cover the buying of property if necessary. Discussion ensued regarding the cost estimates and included contingencies. Mr. Coole then asked what the Board's back-up plan would be in the event of cost increases. Mr. Sullivan replied that an amendment

could be made at the Deliberative session or CIP funds could be utilized. He noted that it is planned to have bid estimate in place prior to the Deliberative Session.

Mr. Tom Seniow, Lowell Road, approached to question why re-grading/paving of the existing portion of Londonbridge was being included. Mr. Hohenberger replied that inclusion of that portion pertained to its possible upgrade to 24'. Mr. Stearns noted it had been included in the postings to ensure that the Board could upgrade this portion if they decided to. Brief discussion ensued.

Mr. Seniow expressed concerns that this had become a Town as opposed to a School matter, and noted he felt a gated access would satisfy the State requirements at a significant cost savings plus 30% reimbursement. Mr. Stearns noted that he had voted against the School article, as he felt the extension should be a Town road in keeping with the Master Plan. He further stated that if the Department of Education contributed 30% towards the roadway, it could never be a Town road without the need to reimburse the State.

Mr. Peter Schmidt, Heritage Hill, approached and asked whether traffic studies had or would be done, noting that traffic will increase on Heritage Hill Road. Discussion ensued regarding the number of means in and out of the High School. Mr. Schmidt then questioned how, if a second egress was a requirement, permits had been obtained. Further discussion ensued, and Project Manager Glenn Davis was asked to clarify.

Mr. Davis approached indicating that when he had taken over, he was presented with plans signed by the State Fire Marshall, Department of Education, the Planning Board, and the Police and Fire Chiefs. Those plans, he stated, depicted a gravel access and driveway accesses. Mr. Davis stated that the specifications for the driveway had been changed by the Town to a road, and that the second access road is a new discussion. Mr. Davis noted that in July of 2006, the Fire Chief had indicated he wanted a second access and, at the same meeting, the Board of Selectmen had taken up the charge to finish Londonbridge Road. Discussion ensued, and the Board clarified that it had been a unanimous decision in 2006 to continue the roadway.

Mr. Davis stated that his concern is if the article doesn't pass and the mandate is there that the School cannot open as planned without a second access, then it becomes the School District's problem. He noted that, if that happens, he would then only have a six month window to put a road in place, which is why the District had requested copies of Mr. Zohdi's information in case it is forced to do so. Discussion ensued.

Atty. John Ratigan, representing Mr. Logan, approached to advise that Mr. Logan is willing to donate that portion of his land necessary to complete a paved roadway.

Atty. Patricia Panciocco, representing Ms. McKenna, approached noting that Ms. McKenna as owner of the two largest abutting properties, is also willing to donate that portion of her land necessary to complete a paved road. She further noted that Ms. McKenna realizes the need for public safety, and asks that the roadway be built to Class V standards and be Town-owned. In addition, Ms. McKenna would ask that she not be asked in the future to contribute to any future portion of Londonbridge Road. Atty. Panciocco then advised that, if a gravel access were to be planned, Ms. McKenna would not be interested in donating her land.

Ms. Tonia Chase approached noting that the NFPA has the force of law and references several standards that require this access to be built as a four season roadway. She then commended the Board their efforts, and cited several benefits to having a Town-road in that area including ease of access and environmental benefits.

Ms. Tina Stevens, Londonbridge Road, approached expressing concerns that this will become a major throughway past her home. She agreed that a second access was needed, but asked that the Board make it a gravel one or look at alternative locations such as Bear Hill Road.

The Chairman then closed the public input portion of the hearing.

Lengthy discussion then ensued amongst the Board members as to the specifics of the roadway design. Mr. Senibaldi inquired whether or not Mr. Zohdi could finalize plans in order that the Board could bid the project prior to the Deliberative Session. Mr. Zohdi replied in the affirmative. Mr. McMahon then inquired how long the roadway would take to construct if the article passed. Mr. Zohdi indicated a large-scale contractor could likely complete the roadway in 120 +/- days, weather permitting, and that it could be completed by May or June of 2009.

After a five minute recess to allow Town Counsel to finalize the proper wording, Mr. Hohenberger moved and Mr. Stearns seconded to approve the petition for layout of a Class V road from the end of the new access road to Windham High School to the point where it meets the existing Class V portion of Londonbridge Road. Said layout to conform in line and location as specifically proposed by the Town's consulting engineers, subject to the following conditions: 1) the road is to be a 24' wide travel way with closed drainage and underground utility conduits, and; 2) the approval of the funding by the Town through adoption of Article #1 at the Special Town Meeting. Passed unanimously.

Mr. Breton extended thanks to Herbert Associates for their donation of \$40K in engineering services toward this project.

Mr. Stearns requested that Town Counsel continue to investigate how Londonbridge Road was originally created and then discontinued, and Town Counsel indicated that there would be a \$2K +/- to the Town to subcontract his investigation. The Board concurred that Town Counsel should proceed.

After a brief discussion, it was the consensus of the Board that all layout plans as given to the Town be provided to School District as well.

Mr. Senibaldi thanked the public for attending and for their input, and Mr. Sullivan reminded all that the bond hearing would be held the following Monday.

PLANNING DEPARTMENT REORGANIZATION: Mr. Stearns noted that the Town has grown significantly over the years and the service needs have changed. He suggested that, as the Board is not experts in this matter, a consultant be hired to evaluate the Planning Department.

After a brief discussion, Mr. Stearns moved and Mr. Hohenberger seconded to instruct Mr. Sullivan to solicit costs to hire a firm to evaluate the Planning Department for recommendation to the Board.

Further discussion ensued regarding whether the Board desired a full bid

specification, similar evaluation of other departments, and the timing for return of the RFP's, which the Board established as two weeks.

The motion passed unanimously.

OLD/NEW BUSINESS: The Board executed the official easement documents relative to Town-owned property along the Lowell Road Bike Path. Mr. Sullivan then advised the Board that they will need to make a determination whether or not to have the State include in their bid specifications for the project stenciling/signage along the route. Mr. Sullivan advised that the state needs to know by August 1st, and that the cost for these items would be the Town's responsibility. Discussion ensued regarding ongoing maintenance costs/needs, and it was the consensus of the Board that Mr. Sullivan try to obtain a cost estimate regarding same before they make a determination.

Mr. Sullivan presented a draft landscaping agreement for the Board's review and future execution relative to the Route 111 by-pass project. A brief discussion ensued.

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

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

Chief Leuci discussed with the Board the recommended candidate for the vacant Deputy Chief position. Mr. Hohenberger moved and Mr. McMahan seconded to extend a conditional offer of employment to the recommended candidate in accordance with the Employment Policy. Passed unanimously.

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

The Board discussed the results of the background check for the alternate maintenance laborer candidate. Mr. McMahan moved and Mr. Hohenberger seconded to extend a conditional offer of employment to the next recommended candidate in accordance with the Employment Policy, and to rescind the Town's previous offer. Passed unanimously.

Mr. Sullivan discussed with the Board those properties recently tax deeded by the Town. No decisions were made.

The Board discussed a personnel matter relative to assignment of duties and job title. No decisions were made.

Mr. Hohenberger moved and Mr. Stearns 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.