

**BOARD OF SELECTMEN**  
**Minutes of September 9, 2008**

**MEMBERS PRESENT:** Chairman Dennis Senibaldi called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Galen Stearns, Charles McMahon, and Roger Hohenberger were present, as was Town Administrator David Sullivan. Mr. Senibaldi read the agenda into the record, followed by the Pledge of Allegiance.

**CORRESPONDENCE:** Resignation received from Call firefighter Steven Tieland. Mr. Hohenberger moved and Mr. McMahon seconded to accept with regrets. Passed unanimously.

*Letter received* from Norman and Mike Babineau volunteering to help maintain the new scout trail/parking area on the Cyr conservation property. Mr. Sullivan advised that Mr. Babineau has previously done similar work along the Rail Trail and, if the Board wished to authorize him to do the same for the Cyr property, a motion to do so would then cover him under the Town's liability policy.

Mr. Breton moved and Mr. Hohenberger seconded to approve the Babineaus request to volunteer as described. After a brief discussion, motion passed unanimously.

Mr. Breton requested a letter be sent to the Conservation Commission advising them of the Board's approval. Staff will follow-up accordingly.

*Memo received* from Planning Director Al Turner advising that an environmental report from Novus Engineering relative to the Ledge Road project has been received and that Stonehill Environmental has been retained to review the lengthy document. Mr. Sullivan advised that the Planning Board has funds within their budget to retain Stonehill, and noted that a copy of the report is available at the Administrative Offices should the members wish to review it in full.

*Bond Release/Marblehead Road Improvements:* Mr. Hohenberger moved and Mr. Breton seconded to release the bond in full to Eric Nickerson in the amount of \$34,200. Passed unanimously.

*Bond Release/Burnham Road:* Mr. Hohenberger moved and Mr. Breton seconded to release the bond in the amount of \$549,594, retaining \$815,850, to Everett J. Ryan Jr. Passed unanimously.

*Mr. Sullivan* advised that he had received a letter from the Planning Board requesting that the Board reconsider their directive to Department Heads that only items in excess of \$100K be submitted to the CIP. He indicated he had spoken to the Department Heads about any potential submissions under that cap, and only the Transfer Station had noted items; those being a trailer for \$85K and a Bobcat for \$78K. After a brief discussion, it was the consensus of the Board that they had no interest in reconsidering their directive.

Mr. Stearns then clarified that he did not believe the Board's directive usurped the CIP or the Planning Board. Mr. Hohenberger disagreed, as potential submissions were removed. Mr. Breton requested that the Planning Board be contacted and asked to define their opinion of a capital improvement. After a brief discussion, it was the consensus of the Board that Mr. Sullivan send a letter of inquiry to the Planning Board Chairman.

**ANNOUNCEMENTS:** Margaret Crisler approached on behalf of the Windham Women's Club, noting that in recognition of her 50 year membership with the Club and her recent celebration of her 100<sup>th</sup> birthday, the WWC had selected Maria Webber's home for their 2008 Christmas Ornament. Mrs. Crisler noted that Mrs. Webber's home will be 200 years old this year, and was built by Deacon Jesse Anderson. Local artist Diane Gulden created the painting, and this will be the last ornament that she will contribute to. Mrs. Crisler noted that the cost for the ornament will be \$12, and the edition is limited to 350.

Mr. Senibaldi then advised the Board that he had delivered flowers to Mrs. Webber in honor of her birthday on behalf of the members, as most were away and unable to attend the celebration in her honor.

*Recreation Director Cheryl Haas* approached and noted that the Boy Scouts would be holding their annual opening celebration at Griffin Park and were requesting permission to utilize grills. Mr. Stearns moved and Mr. McMahon seconded to approve the requested use of grills at Griffin Park. Passed unanimously.

*Ms. Haas* then advised that an issue had occurred the previous weekend relative to the use of Rogers Field by the Pine Terrace Association men's softball team who had been barred from using the field for their annual game this year based upon their actions in 2007. After a brief discussion regarding penalties for violation of Town regulations and the difficulties in banning a group of residents from Town property, it was the consensus of the Board that Ms. Haas send the Association a letter advising them that such behavior will not be tolerated in the future and that copies of relevant regulations be sent, as well.

*Mr. Stearns* reminded all that voting will take place the following day at Golden Brook School from 7AM to 8PM.

*Fire Chief Tom McPherson* approached and extended an invitation to all to attend the Department's annual September 11<sup>th</sup> Memorial on Thursday beginning at 8:30 AM at the Station.

*Chief McPherson* then announced that the Annual Fire Prevention Open House would take place on Saturday October 4<sup>th</sup> beginning at 10AM at the Station.

*Mr. Senibaldi* then noted that some confusion remains relative to Article 1, and asked the Chief to address this matter. Chief McPherson noted that he had been in touch with the State Fire Marshal throughout the project, and after recently speaking to him again he had received a response clarifying the need for a second access and confirming that, as Fire Chief, he was the authority having jurisdiction in this matter. Chief McPherson then read the Fire Marshal's correspondence into the record.

Mr. Senibaldi then noted that it had been suggested that the loop around the school served as the second access. Chief McPherson then read into the record correspondence sent by him on February 26, 2008 that disputed that possibility.

Mr. Senibaldi then noted that there was much confusion and misinformation, and inquired whether any other Board had invited Chief McPherson to a meeting to discuss the need for a second access. Chief McPherson replied in the negative.

*Mr. Senibaldi* then noted he had spoken to Mr. Murdough of the Department of Education regarding the second access, which Mr. Murdough confirmed the need for relative to receipt of State aide for the project, and that he had received a email follow-up from Mr. Murdough of their conversation which he then read into the record.

Mr. McMahon then added that Administrative Rule 321 has the force of law and that an obligation exists to follow these rules in order to obtain State aide for the High School project. Mr. Senibaldi added that the Board of Selectmen had been discussing this since 2006, and unanimously supports this roadway.

*School Board Chairperson Barbara Coish* approached requesting permission to allow Mr. Glenn Davis and Appledore Engineering to conduct shallow ledge probes in areas of the 16 acres of the Gage Land approved for transfer to the School District at the 2007 Town Meeting.

After a brief discussion, Mr. Stearns moved and Mr. Hohenberger seconded that, contingent upon Conservation Commission and Recreation Committee approval, the School Board or their representatives be allowed access to the Gage Lands to conduct shallow ledge probes as requested. After a brief discussion regarding survey needs and the proposed track and field, the motion passed unanimously.

Mr. Senibaldi then inquired as to whether the Board expected the School Board to survey the entire Gage Lands or just the 16 acres for transfer. It was the consensus of the Board that the School District need only survey the 16 acres in question.

Brief discussion then ensued regarding the expected transfer of land behind the Middle School and in the area of the High School totaling 40 acres in exchange for the 16 acres, which Mrs. Coish confirmed. When questioned about the timing of the transfer, Mrs. Coish indicated she was unsure, but it would likely be after the survey of the 16 acres is completed if it is found to be adequate.

**PROPANE/HEATING OIL BIDS:** Mrs. Call noted that pricing had been received from Competitive Energy Services as part of the consortium bid approved by the Board. She noted that CES had obtained essentially the same pricing for propane from Palmer Gas as the Town had in 2007 for a second year option; that of \$0.30 over the Selkirk index. Alternatively, Palmer has offered a fixed price of \$2.35/gallon. As to heating oil, two prices had been received; that of \$4.499 fixed from our current vendor B&H Oil and that of the Nymex index plus \$0.2475 from Fuller Oil as part of those of gallons already purchased by the School District. Mrs. Call recommended going with Palmer at \$0.30 over the Selkirk and with Fuller Oil through the School District.

After a brief discussion regarding the process, number of gallons, and delivery schedule, Mr. McMahon moved and Mr. Stearns seconded to award the bid for propane to Palmer Gas for \$0.30 over the Selkirk index. Further discussion ensued, and Mr. Breton requested that Haffners be contacted regarding their pricing. Mr. Sullivan suggested if the Board wished to contact Haffners then nothing should be awarded and the fuels re-bid.

Motion passed 4-1, with Mr. Breton opposed. Further discussion ensued regarding the consortium process.

Mr. Hohenberger moved and Mr. McMahon seconded to award the heating oil to Fuller based upon the School District's pricing. Passed 4-1, with Mr. Breton opposed.

Mr. Breton indicated he felt the Board should be negotiating with local vendors, and a brief discussion ensued.

**DEPOT IMPROVEMENTS:** Mr. Sullivan advised that, after completion of the quality based engineering process, the Depot Advisory Committee had been negotiating with Dubois and King to establish a price for the Depot project, which had been agreed upon all at \$35K. Mr. Sullivan recommended that the DAC be authorized to move forward to award the engineering and architectural phases for the building to Dubois.

Mr. Hohenberger moved and Mr. McMahon seconded to award \$35K for engineering to Dubois & King. Passed unanimously.

**PROPANE/HEATING OIL BIDS CONTINUED:** Mr. Breton pointed out that the Board had just awarded the fuel oil bid on the basis of a memo rather than a bid form. Mr. Sullivan indicated that, procedurally, the Board should waive the bid process.

Mr. Hohenberger then moved and Mr. Stearns seconded to waive the bid process. Passed 4-1, with Mr. Breton opposed. Further discussion then ensued regarding the consortium process.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that the State would be coming down the following Wednesday at 2:30 to discuss the utility sleeves, stand pipes, and emergency accesses as requested by the Board. Mr. McMahon requested that the issue of sound walls at Squire Armor Road be added to the discussion, as the State is requesting the Town consider their construction due to the relocation of the highway.

*Mr. Sullivan* advised that Mr. Coogan, the consultant conducting the Planning Department study, would be available at the Bartley House the following day from 2-4 PM to speak with anyone who wished to come in. Mr. Hohenberger and Mr. Stearns requested that Mr. Coogan go to the polls so they could have the opportunity to speak with him, as well. Mr. Sullivan indicated he would advise Mr. Coogan accordingly.

*Mr. Sullivan* advised that, as a result of the historic relevance of the timbers, the Town's contract regarding the Castle Hill Road bridge with SEA Consultants had been revised and increased by \$22K. Based upon the Town's contribution, this will represent an overall increase of \$4,400 to the Town.

After a brief discussion, Mr. Hohenberger moved and Mr. Stearns seconded to exercise option two of the contract. Passed unanimously.

*Mr. Sullivan* presented a letter for the Board's review designating him as authorized to receive documents on behalf of the Board from the Sherriff. Mr. McMahon moved and Mr. Breton seconded to approve the letter as written. Passed unanimously.

*Highway Agent Jack McCartney* advised the Board that the low bidder for the Osgood Road cistern in 2007 has failed to respond or complete the project. Mr. McCartney requested the Board's authorization to move to the next lowest bidder or to obtain additional pricing.

Mr. McMahon moved and Mr. Breton seconded to rescind the contract awarded to Bagley for the Osgood Road cistern. Passed unanimously.

After a brief discussion, it was the consensus of the Board that if Mr. McCartney can obtain pricing that matches or is lower than the bid amount awarded to Bagley, he should proceed accordingly with the project.

*Mr. McCartney* then advised the Board that the bidder for the Londonderry / Nashua Road intersection had indicated they will need to back out of the project unless additional funds are awarded for asphalt costs. Mr. McCartney indicated that, due to increased asphalt prices, he will be unable to find another vendor to complete the project at the same price originally awarded. Discussion ensued, and Mr. Sullivan recommended the Board approve an additional \$5K, noting that these are 2007 funds which will revert back to the fund balance if not expended.

Mr. McMahon moved and Mr. Stearns seconded to approve an additional \$5K for the contract with Hudson Paving, subject to a bond. Passed unanimously.

*Mr. Sullivan* inquired whether the Board would be available to begin their October 20<sup>th</sup> meeting at 6:30 PM to conduct a site walk related to a request received from Mr. Mesiti that will be heard that evening. The members indicated their agreement.

*Mr. Hohenberger* requested that Mr. Poulson be asked to look into means to provide video display disposal at the Transfer Station.

*Mr. Senibaldi* requested a letter be sent to Mr. Mesiti confirming the status of the Water Agreement withdrawal.

**ADMINISTRATION WORKSHOP:** Mrs. Call explained she had scheduled this agenda item regarding the Town's fund balance as the tax rate setting is approaching in October and each year the amount of the fund balance is discussed. In addition, there is the potential for the Town's Moody rating to fall due to the small amount retained by the Town in the fund balance. Mrs. Call then reviewed with the Board the differences in accounting procedures between our annual audit, performed under GASB standards, and the GAAP method utilized by the Department of Revenue Administration, the results of which can raise a red flag to outside lenders.

Mrs. Call suggested that, to avoid a decline in our Moody rating, the Board could build up the fund balance and/or move back the due date of the final billing in efforts to lessen outstanding receivables. Discussion ensued regarding the different processes utilized by the auditors and the DRA.

Discussion then moved to the Town's Moody rating, which Mrs. Call indicated was established at AA3 in 1990 when the Town's fund balance was at 15%. As the Town's master bond is ending in 2009, that rating will go away and any significant debt will be under a newly established rating. Mrs. Call indicated that the Town may need to look at altering the fund balance, which under the Town audit standards has been in a downward trend over the past few years and this year shows a deficit of \$6,906.

Mr. Sullivan noted that Moody's has indicated that the Town has shown a free fall in available surplus funds. He indicated that the Town works hard to budget to the penny each year, and while that looks good on the audit side it can be a detriment on the rating side.

Mrs. Call noted that, when working with a local bank, the low surplus would be okay in general, but for bonding purposes it could result in a 20-40 point increase. Mrs. Call noted she was not recommending increasing the fund balance at this time, but rather requesting that it not be considered in setting the tax rate. She noted that \$132K is available over the \$250K maintained each year, and that there are no other contingency or surplus funds available in the event of emergencies/catastrophies. Mrs. Call felt that keeping the \$382K available and moving back the due date for the December billing may be enough to reverse the deficit in the fund balance.

Mr. Sullivan stressed that the Town is not in a financial crisis and is in fact very solvent. He noted that the concern comes from the way the Moody's looks at the Town's surplus for the purposes of bond ratings. Discussion ensued as to whether the surplus funds would ever be needed.

Mr. Breton noted that the percentage of fund balance available affects bond ratings dramatically, and that the GFOA recommends between 6 and 17% be retained. He then suggested that the Town develop a fund balance retention policy, noting that the standard of \$250K had been implemented when the Town's annual budget was approximately \$7M and it is now over \$12M. Discussion ensued regarding a similar policy recently adopted in Bedford to maintain an 8% fund balance.

Mr. Sullivan noted that several communities have opted to develop similar policies and/or increase their percentage maintained. He indicated that a major change was not being advocated, rather a small increase up to \$300K in the standard amount, however if the Board wished to maintain the fund balance as is staff need only be directed to do so. A lengthy discussion ensued regarding adoption of a policy and increase of the \$250K.

Mr. McMahon then moved and Mr. Breton seconded to retain an annual fund balance of \$300K and that staff work to develop a retention policy. Further discussion ensued regarding the benefits, if any, to the Town's Moody rating passage of the motion would have. Mrs. Call reiterated her recommendation to leave the \$382K out of the tax rate calculation and develop a policy in efforts to reverse the current deficit.

After further discussion, the motion passed 3-2, with Mr. Hohenberger and Mr. Stearns opposed.

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

*The Board*, Mr. Sullivan, Mrs. Call, Ms. Devlin and the following members of the ZBA were in attendance in the first session: Mark Samsel, John Alosso, Diana Fallon, Bruce Richardson and Tom Murray.

The ZBA discussed at length procedural concerns relative to a recent ZBA case. Mr. Sullivan then requested that the session be closed, as the discussion was moving away from procedural issues to a personnel matter. Mr. Sullivan will follow-up with staff.

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

Mr. Sullivan discussed an ongoing personnel matter with the Board. No decisions were made.

*Mr. Sullivan* discussed a potential legal matter with the Board. No decisions were made, and it was the consensus of the Board that Mr. Sullivan follow up on this matter.

*Mr. Sullivan* updated the Board on the status of those properties recently decided by the Board. No decisions were made.

*The Board* discussed funding requests for senior oil assistance. Mr. Stearns moved and Mr. McMahon seconded to cap the assistance at \$500 per person then require an assistance lien. Passed unanimously.

Mr. Hohenberger moved and Mr. Stearns seconded to adjourn. Passed unanimously.

The meeting was adjourned at 11:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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