

BOARD OF SELECTMEN
Minutes of September 15, 2008

MEMBERS PRESENT: Chairman Dennis Senibaldi called the meeting to order at 7:05 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.

MINUTES: Tabled.

ANNOUNCEMENTS: Chief McPherson extended thanks to all who had attended the Department's September 11th Memorial.

Chief McPherson advised the Board that the following Thursday the Southeastern NH Hazardous Material Mutual Aid District would be having an open house at the Candia Fire Department beginning at 5PM. All of the SENHHMMAD equipment will be on display for participating communities.

CORRESPONDENCE: Copy of email to Finance Director Dana Call received from Moody's relative to the Town's rating. Mr. Sullivan indicated he was happy to report that as a result of the Board's commitment last week to increase the fund balance and institute a policy, one rating point had been saved. Mr. Sullivan noted that the Town's new rating was A3, down three steps from an AA3.

Mr. Sullivan then reiterated that town is in excellent financial shape, and extended his appreciation to the Board for their commitment to explore adoption of a policy. Brief discussion ensued.

Copy of letter received from the Department of Environmental Services to Meadowcroft Development, advising that a public hearing has been scheduled on September 25, 2008 at 6PM at the Windham Town Hall relative to their terrain alteration permit. The Board requested that Mr. Sullivan scan and publish the DES letter in the local paper. Mr. Breton then noted that Meadowcroft is scheduled to return to the Planning Board in the near future for a site plan review.

Copy of letter received from Mr. Sullivan to Attorney Mason advising that a public hearing has been scheduled on October 20th to consider a request from Anthony Mesiti to release a 50' right of way between lots 7A-697 and 7A-698 from public dedication.

LIAISON REPORTS: Mr. Hohenberger advised that the CIP Committee had met briefly to conduct their reorganization, and that Mr. Lochiatto was now Chairman.

PUBLIC HEARING/COGSWELL GRANT: Mr. Senibaldi read the public hearing notice into the record. Mr. Sullivan explained that Mrs. Dinsmore had been in attendance previously and the grant acknowledged by the Board, but a public hearing was necessary to formally accept the monies.

Mr. Hohenberger moved and Mr. Stearns seconded to approve the acceptance of a \$10K grant from the Cogswell Benevolent Trust, as well as an additional \$3,950 from the Friends of Searles School and Chapel. Passed unanimously.

FAIRPOINT OUTREACH PROGRAM: Mr. Sullivan advised that Fairpoint was endeavoring to encourage people to sign up for their FIOS program in a number of communities by way of traveling around town in a truck giving out free ice cream and talking with people. Mr. Sullivan noted that they are able to do this on the Town roadways, but were requesting a waiver to allow them do so at the Harvest Fest at Griffin Park.

After a brief discussion, Mr. McMahon moved and Mr. Hohenberger seconded to waive the fees/permit regulations for Fairpoint to be at Griffin Park during the Harvest Fest. After a brief discussion regarding the time frame that Fairpoint would be in Windham, which Mr. Sullivan indicated would be here and there throughout the remainder of the season, the motion passed unanimously.

KARL DUBAY/93 CONDUITS: Mr. Dubay explained that, several years ago the NHDOT Commission had requested that the Town consider any utility penetration they may need as part of the I-93 project and that they had recently come back for a meeting to discuss those needs, which he had attended. Mr. Dubay indicated that, since the initial discussion, the Town has undergone many changes such as implementation of the Gateway District, and that he had requested time on this agenda as he felt the Board needed to look into the Town's sewer flowage rights to Lawrence and a potential connection to Salem. Mr. Dubay felt that the Town needed to avail themselves of all the facts before discussing the conduits further with the State. He then deferred to Mr. Frank Underwood of Underwood Engineering.

Mr. Underwood approached and indicated it was important for the Board to look ahead and at what's been happening in the Town of Salem, which he noted had been very proactive regarding their water treatment. Mr. Underwood indicated that Salem had conducted a study in 1974 relative to enlargement of their water treatment plant which had also looked at areas of Windham including Cobbetts Pond, Shadow Lake, and Canobie Lake. Mr. Underwood indicated that plan had been intended to build the treatment plant, but as federal funds dwindled the Town of Salem had reached out to the Greater Lawrence Sanitation District. Salem had then worked with the EPA, the Town of Lawrence, and the State of Massachusetts over a six year period to establish the current program and interceptors had then been installed.

Mr. Underwood noted that, when the facility report had been compiled, 310K gallons of the flowage/day had been designated as coming from Windham. Subsequent to the agreement between Salem and the GLSD being finalized, legislation was passed by the Massachusetts legislature allowing the GLSD to provide services beyond the Commonwealth.

Mr. Underwood suggested that the Board review the reports and Master Plan to formulate a plan for connections to Salem and look into grants/loans for funding. Mr. Underwood indicated that to qualify for the latter, the Town should be endeavoring to protect a Class A water supply or exhibiting a similar need.

Mr. Stearns inquired whether the flowage being generated by Salem could be established and whether it included portions of the 310K allocated to Windham. Mr. Underwood replied in the affirmative, noting that the Broadway and Cross Street meters could be checked.

Mr. Breton indicated that the previous Thursday's discussion with the State had begun with issue of conduits, and it was determined that the estimated \$150K cost to the Town was not the best expense at this time.

Mr. Breton indicated that Mr. Dubay, along with Planning Board Chairman Phil Lochiatto, had been very helpful at the meeting and those in attendance realized that conduits under Route 93 as had been suggested were not the best location.

Mr. McMahon noted that, in previous discussion with Salem, Windham had been advised that Salem's lines would need to be expanded to accept flowage from Windham. Mr. Underwood concurred, noting that a dialogue should be started with Salem regarding cost sharing. A brief discussion ensued.

Mr. Hohenberger indicated he would prefer to wait and hear more information from the State relative to cost estimates. Discussion ensued regarding the State's unwillingness to pay the entire costs despite their cooperation to date. Mr. Dubay indicated there were ways to implement these connections without establishing a water or sewer department, and that inquiries had been made to the State regarding burying of the utilities during the project and alternative installation methods.

Discussion ensued regarding the need to protect the Town's water resources and the need to have a plan in place to present to the State. Mr. Underwood suggested that someone talk to the Salem Town Manager regarding this matter.

Mr. Senibaldi noted that an issue of concern is what material will be used for fill under the new portion of 93, which could impact the ability to do directional boring in the future. He then suggested that the Town approach the State to request they conduct a funding analysis for the Town.

Mr. Underwood reiterated that the Town should look at all information available in both towns, as well as in the State files, to establish where there might be a need for connections and to develop a plan of work with related cost options and estimates. Brief discussion ensued regard future phases and the end of the GLSD agreement in 2012 and whether the 310K gallons represented a "real" number. Mr. Underwood indicated that the agreement includes an option to enter into a 30 year renewal and, further, the plan includes a notation to add 1.4M gallons over time to the original 3.6M needed by Salem to bring the total to 5M gallons available. Mr. Underwood noted that Windham's 310K gallons of flowage is included in the original 3.6M noted as being necessary. Mr. Underwood noted that Windham is not, however, referenced in the agreement between the GLSD and Salem.

Discussion ensued, and it was the consensus of the Board that Mr. McMahon go to Salem to speak with Mr. Sistere and do some fact-finding on the Board's behalf.

Discussion ensued regarding costs, and it was suggested that CTAP funds be looked into. Mr. Underwood felt that to outline/establish the facts of the issue and draft a strategy outline would cost approximately \$3-5K. Discussion ensued regarding the CTAP funding process/forms and whether to bid the project or get a quote from Mr. Underwood for inclusion in the funding request. Mr. Underwood advised that, should the Town proceed to seek grant funding for this project in the future, a quality based selection process would be required.

Discussion resumed regarding the DOT's need for a final answer regarding the installation of the conduits. Mr. Senibaldi indicated that the Town needed to ensure that the State utilizes proper fill as part of the project, and that parallel and transverse easements are in place. Mr. Dubay concurred with the importance of the easements, and noted that 60-90 days would be required to complete the analysis. He suggested the Board request that the State pay for the latter. Discussion ensued regarding the possibility of Mr. Senibaldi and Mr. Dubay reaching out to the State regarding funding.

Mr. Hohenberger noted that a missing piece of the discussion was what Windham was seeking: economic development or protection for the ponds. He noted that, if the pond people never install a sewer system, then the town would have installed a pipe to nowhere. He noted that this discussion is only happening now because the State is reconstructing 93.

Mr. Stearns stated that he hoped the study would reveal the requirements/flowage for all three Windham sites, and felt the Board should advise the State that Town would not request installation of a sleeve but it should be ensured that easements are in place in the event of a future need.

Mr. Senibaldi indicated that he and Mr. Dubay would follow up to contact the State the next day.

Mr. McMahon advised that, at the same meeting, emergency accesses and stand pipes had also been discussed and that the Board needed to determine what the Town wished to include in the agreements. Mr. Breton indicated that a maintenance agreement had been reached regarding the access roads, which the State will construct at a cost of \$350K, and that the document was currently being drafted. In addition, an agreement is being drafted relative to the stand pipes, and both documents will be submitted to the Board for review once complete.

Chief McPherson noted that the State is willing to maintain/replace the stand pipes themselves as necessary, however all other clearing/maintenance will be the Town's responsible. Chief McPherson noted that four pipes are planned, at the Route 111 and 111A bridges.

OLD/NEW BUSINESS: Mr. Senibaldi advised that Mrs. Call had researched further the heating oil pricing awarded at the last meeting of the Board. He requested authorization for Mrs. Call to speak to B & H Oil regarding their bid, and indicated that based on timing he did not wish to re-bid the heating oil.

Mr. McMahon moved and Mr. Stearns seconded to reconsider the heating oil bid award. Passed 4-1, with Mr. Hohenberger opposed.

Mr. Breton indicated that he had researched the pricing presented and found that the consortium had bid the heating oil in August when oil was approximately \$140/barrel. He then noted he supported Mrs. Call speaking to B & H.

Mr. Sullivan indicated that part of the confusion regarding the pricing stems from bidding a full year versus only the season, and the timing of the consortium's bid. Mr. Hohenberger expressed concerns that if B & H was going to be approached, it should be re-opened for bid to all.

Mr. Sullivan indicated that the Board should consider staying with what they have awarded or inquire of the existing vendor, B & H, if he can match the price, noting that the bid process has already been waived by the Board. Mr. Sullivan indicated there is no time to re-bid as the locked in price may no longer be available.

After a brief discussion, Mr. McMahon moved and Mr. Breton seconded to allow Mrs. Call to proceed with her recommendation per her letter of September 12th. Passed 3-2, with Mr. Hohenberger and Mr. Stearns opposed.

Mr. Sullivan presented an exemption form to the Board, provided by Fairpoint, regarding the Town's continued status as exempt from communication taxes. Mr. Breton moved and Mr. Stearns seconded to authorize Mr. Sullivan to execute the exemption accordingly. Passed unanimously.

Mr. Sullivan advised the Board that Attorney Campbell had completed his review of the proposed landscape agreement with the State relative to the By-Pass, and had suggested it be amended to allow for termination by the Town due to lack of funding and for a five year extension after termination of the agreement in 2018. Mr. Sullivan advised that Mr. Stammus, Project Manager, had no issue with the amendments.

Mr. Stearns moved and Mr. Breton seconded to approve the agreement as amended. A brief discussion ensued regarding Section H, and possible addition of language to clarify "unless otherwise stated within this document" as it pertained to conditional funding. After a brief discussion, Mr. Stearns amended his motion and Mr. Breton his second that additional language be added as suggested if found necessary after consultation with Town Counsel. Motion passed unanimously as amended.

Mr. Sullivan advised the Board that Municipal Pest Management had recommended that the Town and School fields be sprayed for mosquitoes as a result of positive results in surrounding communities. Cost to the Town would be \$1,990 to do the field boundaries with an additional \$1,400 to spray the turf. Mr. Sullivan indicated that the \$1,990 is currently budgeted for.

Mr. Stearns moved and Mr. McMahon seconded to authorize the expense of \$1,990 to spray the boundaries. Passed 4-1, with Mr. Hohenberger opposed. Mr. Hohenberger clarified his vote by noting that we are currently very close to our first frost, and that there have been no positive results in Windham. He further noted that he did not see the effectiveness of spraying just one area.

Mr. Sullivan requested the Board waive any permit fees relative to the second floor renovation of the Bartley House. Mr. Hohenberger moved and Mr. Stearns seconded to waive the fees as requested. Passed unanimously.

Mr. Sullivan requested the Board waive any permit fees relative to installation of a platform at the Senior Center to allow for ease of access to the fuel oil fill. Mr. Stearns moved and Mr. McMahon seconded to waive the fees as requested. Passed unanimously.

Mr. McMahon reviewed with the Board a letter he had drafted for submission to the School Board and others requesting a joint meeting to clarify both the second access road issue and potential continuation with

Salem.

Discussion ensued, and Mr. Hohenberger expressed concerns regarding paragraph two and requested it be removed in efforts to avoid any further animosity between the parties.

After a brief discussion, Mr. McMahon moved and Mr. Breton seconded to support sending the letter as written requesting a meeting of all parties on September 29th. Passed 3-2, with Mr. Stearns and Mr. Hohenberger opposed.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Stearns 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, Highway Agent Jack McCartney, and Ms. Devlin were in attendance in the first session.

The Board discussed the ongoing recruitment for the vacant Highway Laborer position. Mr. McMahon moved and Mr. Stearns seconded to hire the recommended candidate based upon his successful completion of the background and physical checks. Passed unanimously.

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

Mr. Sullivan updated the Board on a legal matter. No decisions were made.

Mr. Sullivan advised the Board of an impending legal action. No decisions were made.

Mr. Sullivan discussed a matter related to reputations with the Board. Mr. Sullivan will follow-up.

Mr. Sullivan discussed an ongoing personnel matter related to disciplinary actions and procedures. No decisions were made.

The Board discussed a potential legal matter. No decisions were made, however, Mr. Sullivan was directed to follow-up with Town Counsel.

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

The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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