

**BOARD OF SELECTMEN**  
**Minutes of November 3, 2008**

**MEMBERS PRESENT:** Vice-Chairman Bruce Breton called the meeting to order at 7:05 PM. Selectmen Galen Stearns, Charles McMahon and Roger Hohenberger were present, as was Town Administrator David Sullivan. Chairman Dennis Senibaldi was delayed and arrived at 7:30 PM. Mr. Breton opened with the Pledge of Allegiance, and then read the agenda into the record.

**ANNOUNCEMENTS:** Mr. Breton reminded all to vote on Tuesday, noting the polls would be open from 7AM to 8PM at Golden Brook School.

**LIAISON REPORTS:** Mr. Hohenberger noted that the CIP Committee had met the previous Thursday, and would meet again the following Thursday.

*Mr. Breton* noted there had recently been a notice in the local papers regarding prescription discount cards, which he advised were available at the Administrative Offices. Mr. Breton extended thanks to Ms. Kathy Stacy, Sherriff Linehan, and Representative Mary Griffin for their efforts in making this program happen.

**CORRESPONDENCE:** Letter received from School District Owner's Representative Glenn Davis, requesting that the Board of Selectmen consider accepting the first portion of Londonbridge Road to the High School as a Town road, and that they be allowed to defer the final coat of pavement until next year. Mr. Sullivan explained that this was not the normal procedure for road acceptance.

School Board Chairperson Barbara Coish approached explaining that acceptance would allow the gate to be removed and, in addition, deferring the final coat of pavement would offer a cost savings in asphalt. She also noted that the Town owns the land underneath the road, however, the liability remains with Harvey Construction at this time, as it isn't accepted.

Discussion ensued regarding the District's ability to remove the gate now, provided there is no compelling reason to leave it in place. It was the consensus of the Board that the protocol for road acceptance be confirmed with the School District and Mr. Davis.

Mr. Breton then inquired as to the intended speed limit on this portion. Mrs. Coish indicated she had been advised the speed limit could be set when the roadway was accepted. Mrs. Coish then noted that, once the gate is removed, a stop sign will need to be installed at the intersection of Route 111 as the signal is not yet active. It was the consensus of the Board that the Highway Safety Committee be consulted.

*Trenching Permit/West Shore Road:* After a brief discussion, Mr. Hohenberger moved and Mr. Stearns seconded to approve the right-of-way permit to allow electrical conduit to 29 and 31 West Shore Road. Passed unanimously.

*Letter received* from the Pine Terrace Association. Mr. Sullivan explained that concerns had been raised in September regarding an issue at Roger's Field, and that this was the Association's response. He further noted that the matter had been looked into further, and a clarification for the Association was being drafted.

**OLD/NEW BUSINESS:** Mr. Sullivan advised the Board that staff continues to be very busy with year-end and budget items.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. McMahon seconded to enter into a non-public session in accordance with RSA 91A:3 IIa, c, and e. Roll call vote - all members "yes". Topics of discussion were personnel, reputations, and legal and the Board, Mr. Sullivan, and Ms. Devlin were in attendance in all sessions.

*Mr. Sullivan* updated the Board on a legal matter relative to land acquisition. It was the consensus of the Board to take no action until after the November 14<sup>th</sup> meeting.

*Mr. Sullivan* discussed a reputations matter relative to bonding. Mr. Sullivan will follow-up with the Board's executed response.

*Mr. Sullivan* discussed a hardship abatement with the Board. Mr. Stearns moved and Mr. Breton seconded to grant the hardship abatement as requested and that a lien be placed upon the property in question. Passed 3-2, with Mr. McMahon and Mr. Hohenberger opposed.

*The public* portion of the meeting resumed at 7:50 PM, and Mr. Senibaldi assumed the Chairmanship.

**RANGE ROAD PARCEL 17L-15 DONATION:** The Board reviewed a proposed lease agreement between Mr. Mesiti and the Town of Windham. Atty. Kathleen DiFruscia approached on behalf of the Cobbetts Pond Improvement Association, and began by extending thanks to Mr. Zohdi and Town staff for working closely with the CPIA throughout this process. She noted that two meetings had been held to date to review the proposed drainage plan, and significant changes to the drainage plan had been requested at the last, including a water treatment plan. She noted that one more meeting and review by the CPIA, Geo-Syntech, and the Department of Environmental Services should complete the process. Atty. DiFruscia then reiterated that CPIA's position remains that the proposed parking lot is within the watershed and, if it is going to be built, they want to protect the pond.

Mr. Senibaldi inquired whether the CPIA's concerns have been resolved. Mrs. DiFruscia replied the revised plan was close to resolving all their concerns. She then noted several housekeeping items of concern, including:

- Was a budget in place to maintain the lot swales and building septic system? Mr. Breton replied the area would be maintained similar to any other Town facility.
- What was the intended use of the building and would it offer public restrooms? Mr. McMahon indicated the intended use of the building was for meeting space for local sports organizations etc., and not for overflow restrooms.
- Who would be constructing the lot and conducting inspections during the process? Mr. Senibaldi indicated that Mesiti Development would be constructing the lot, with oversight and inspection by the Highway Agent, Jack McCartney.

- Had an impact study been conducted for Horseshoe Road, onto which the lot traffic would be exiting? Mr. Senibaldi replied in the negative, noting that on any given day approximately 40 cars are parked along Horseshoe and Range roads, which adversely effects the neighborhoods now. He noted the parking area will allow the situation to be controlled. Atty. DiFruscia disagreed, noting that cars will still be parked on Range Road and on Horseshoe Road after the lot is complete. Discussion ensued regarding the Board's recent decision to post areas of Range Road "No Parking", and possibly posting Horseshoe Road.
- Was any consideration given to property value impacts of abutting properties. Mr. Sullivan indicated that the Assessor would have to address that inquiry, however, there would likely be no change. Discussion ensued.

Atty. DiFruscia then advised the Board that Geo-Syntech would be hosting a meeting on the following Saturday regarding newly released information from the Department of Environmental Services relative to sustainable land use planning.

Discussion then moved to the lease agreement. Mr. Sullivan pointed out that the Board first needed to determine if a lease was the process they were going to utilize, noting that the draft had been compiled by Town Counsel and was sufficient to meet the Board's goals, however, the lease cost would need to be established.

Mr. McMahon noted that the agreement requires Mr. Mesiti to build the parking to Town standards or be required to restore the property, and felt the Board should proceed. Mr. Stearns indicated his agreement with the verbage, but felt it should not be entered into to circumvent Town process. He also expressed concerns with placing overflow parking on this site, citing safety concerns.

Mr. Hohenberger inquired as to who "T&K" as mentioned in the agreement was. Mr. Breton clarified that it referred to Mr. Mesiti, and that the property had been purchased as such. Mr. Hohenberger then noted the agreement provided for a completion date of September 1, 2009, which Mr. Sullivan clarified was changeable.

Mr. Hohenberger then questioned the issue of snow removal, and Mr. Senibaldi indicated it would not entail more than a pass in and out, as necessary, and sand only would be used. Discussion ensued regarding whether there was a need to plow the area. It was the consensus to remove this verbage, as there was no need.

Mr. Senibaldi noted the overflow parking cannot be placed at the Park, and that the Town voted to accept/build the parking lot. He stated that it is the best solution to the current problems, and noted that the speed limits in the area have been reduced, a crosswalk designed with pedestrian markers, and no parking areas established on Range Road.

After further, brief discussion, Mr. McMahon moved and Mr. Breton seconded to move forward with the lease agreement.

Atty. DiFruscia approached to inquire as to the terms/amount of the lease. Mr. Sullivan indicated he expected the lease amount would be nominal. Atty. DiFruscia expressed her respect for the Town vote, but indicated she had

concerns as the warrant article had been very specific and she did not believe the Town could utilize a lease to circumvent the variance requirements. She believed the matter needed to be brought before the public and notice requirements of RSA 674:54 adhered to. Mr. Sullivan clarified for the Board that those requirements were 60-day notice prior to construction start and 30-day notice to the Planning Board for public hearing at their discretion.

Mr. Patrick Poor, Viau Road, approached indicating he believed the root problem was the lack of a Master Plan for the Town's recreation facilities. He noted that the original plan for Griffin Park had additional parking spaces, and he felt it made sense to utilize those along with the easement on Squire Armor Road to the Park. Mr. Poor further indicated that the Board needed to ensure that no salt was utilized on the lot, and that all other provisions needed to be maintained to ensure removal of fluids, etc. He also expressed his concern regarding the Town skipping the variance process.

Mr. Senibaldi noted that some additional parking could be added within the Park by straightening the curves, which some members did support and would likely be discussed at a future date. He further stated that the Squire Armor easement is not useable, as it is in the middle of woods/wetlands. Discussion ensued.

Mr. Breton noted that, if the Town were to get a variance on the property and the donation fell through, anyone could take advantage of it in the future.

Further discussion ensued regarding the field loads and lack of a Master Plan. Mr. Senibaldi noted that the fields at Griffin Park are fully utilized, as are all the Town fields, and the only the only way to reduce the usage would be to limit the program participants. Discussion ensued regarding the draft plan previously presented and the possibility of having a finalized document in place by the next season.

Discussion resumed on the proposed amendments to the document, which Mr. Sullivan indicated would be sent to Mr. Mesiti for review. Amendments included: amount to be \$1/month for the term of the lease; amend Section 4 to remove all language after "Park"; and change date for final drainage plans to 12/1.

Mr. Hohenberger felt the Board should look into additional spots within the Park. He further noted that he believed the Town had spoken on this matter and the Board should proceed.

Motion passed 4-1, with Mr. Stearns opposed.

Brief discussion ensued regarding the drainage plan, which was scheduled on the next agenda. Mr. Senibaldi indicated he would speak to Mr. Zohdi the following day to establish his timeline for completion.

**PUBLIC HEARING:** Mr. Sullivan read the public hearing notice into the record, noting that he believed the Planning Board had only approved the release of Fletcher and Corliss with no reference to station numbers. He suggested that the Board may wish to make any approval contingent on the Planning Board's agreement with the posted stations.

After a brief discussion, Mr. McMahon moved and Mr. Breton seconded to approve the acceptance of Fletcher Road as a Class V road from Station 00+00 to 21+72.26, Fletcher Road as Class VI road from Station 21+72.26

to 22+42.26, and Corliss Road as a Class V road from Station 0+00 to 12+10; pending approval of the station numbers by the Planning Board. Passed unanimously.

Mr. Breton moved and Mr. Hohenberger seconded to post Fletcher and Corliss Roads as 25 MPH. Passed 3-2, with Mr. McMahon and Mr. Stearns opposed.

**PUBLIC HEARING:** Mr. Sullivan read the public hearing notice into the record, and briefly reviewed a plan of the development depicting the roadways in question. Mr. Sullivan then noted that there was an error in the stations in the public hearing notice, however, it was not substantial in nature.

Mr. Tom Joyce, 9 Hancock Road, approached with concerns regarding the roadwork on Hancock and impacts to his lawn. He indicated that this spring the developer had re-loamed and seeded his lawn as result of the project, and that it hadn't taken. Mr. Joyce advised that he was unable to resolve this issue with the Planning Board or Planning Department staff. Discussion ensued.

Mr. Turner approached noting he had been working with Mr. Joyce, and that this was the third time his lawn had been re-done. He noted that the Planning Board Chairman had reviewed the sight and reported back to the Board, who had voted to released the bond and referred Mr. Joyce to the Board of Selectmen.

Mr. Ken Bergeron, the developer, approached and indicated that as part of the project he had removed the cul-de-sac and loamed and re-seeded the area in front of Mr. Joyce's property. Mr. Bergeron stated that Mr. Joyce was not happy with those results, and in the fall of 2005 Mr. Bergeron had planted trees in the area, and loamed and seeded again, after which Mr. Joyce had complained about issues with his driveway. Mr. Bergeron indicated that he had loamed and seeded the area again this past spring, and had removed and redone Mr. Joyce's driveway. Mr. Bergeron felt he had done everything required of him.

Mr. McMahon inquired as to how much loam had been placed in the area. Mr. Bergeron indicated that, by now, there was likely 6 or 7" compacted down to 5". Mr. Hohenberger inquired why Mr. Bergeron thought the area wouldn't grow. Mr. Bergeron replied that grubs or lack of watering/fertilization could be an issue. He noted he had utilized two different landscapers over the three repairs, and believed it was due to a lack of maintenance by Mr. Joyce.

Mr. Joyce approached indicating he had been very patient thus far, but that the lawn is not right. He noted he had watered it, but not utilized weed killer as the seed was new. Discussion ensued.

Mr. Joyce indicated he believed it was a seed problem. He stated that the first time that the area had been seeded by American Excavating the grass had come up fine, but had dried up and died due to a lack of loam, and the second time it hadn't taken at all. He indicated he would like the area done again. Discussion ensued regarding the Planning Board's review of the area and release of the bonds, and that this may now be a civil matter. Mr. Bergeron was asked if he would repair the area again, and he replied in the negative.

Discussion of the roadways/station numbers resumed. Mr. Senibaldi inquired as to whether the deeds reflected the correct numbers.

After further, brief discussion, Mr. McMahon moved to accept all roadways as posted and release all related funds, with the exception of the Class VI portion of Dunraven Road. Passed unanimously. The roadways posted were as follows:

- Dunraven Road from station 0+00 to 11+86
- Overton Road from station 200+00 to 252+96
- Cardiff Road from station 300+00 to 309+00
- Edinburg Road from station 00+92 to 12+92
- Ludlow Road from station 0+00 to 12+25
- Cardiff Road from station 309+00 to 327+15
- Leeds Road from station 0+00 to 7+50
- Hancock Road Extension from station 701+00 to 713+00

Mr. Breton moved and Mr. Hohenberger seconded to accept Dunraven Road from station 9+75 to 9+90 as a Class VI road. Passed unanimously.

Mr. Breton then moved and Mr. Hohenberger seconded to post all new roadways accepted as 25 MPH. Brief discussion ensued regarding enforcement. Motion passed 3-2, with Mr. McMahon and Mr. Stearns opposed.

Discussion resumed with Mr. Joyce and no action was taken by the Board.

Mr. Breton moved and Mr. Hohenberger seconded to release all funds related to Fletcher and Corliss roads as accepted that evening. Passed unanimously.

**NON-PUBLIC SESSION:** Mr. Stearns moved and Mr. McMahon 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 and the Board, Mr. Sullivan and Ms. Devlin were in attendance.

*Mr. Sullivan* updated the Board on a matter pertaining to reputations. No decisions were made.

Mr. Hohenberger moved and Mr. McMahon seconded to adjourn. Passed unanimously. The meeting was adjourned at 10:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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