

SELECTMEN'S MEETING

FEBRUARY 9, 2009

MEMBERS PRESENT: Dennis Senibaldi, Bruce Breton, Roger Hohenberger, Charles McMahon and Galen Stearns. David Sullivan, Town Administrator, was also present. Meeting commenced at 6:30 pm.

NON-PUBLIC SESSION: Mr. Stearns motioned and Mr. McMahon seconded to go into non-public session in accordance with RSA 91A:3, II(a) - roll call vote – all members yes. The Board, Mr. Sullivan, Mr. Turner, Mr. Volinsky and Ms Davis were present. The subject was personnel. Session was continued to end of meeting.

PUBLIC SESSION: The Pledge of Allegiance was recited. Mr. Senibaldi read the agenda.

ANNOUNCEMENTS: Fire Chief McPherson introduced Deputy Chief of Fire Prevention Edward Morgan who began working for the Town on February 2nd. Deputy Morgan was formerly with the Andover Fire Department. The Deputy's was pinned on by his wife, Jacqueline. His mother, daughters and grandchildren were present as were a large contingent from the Fire Department to welcome him.

CABLE FRANCHISE: Margaret Case, Chairman of the Cable Advisory Committee, presented the Board the final cable franchise contract with Comcast for signature. She explained that the Committee has worked on this agreement since April 2007 and the Committee recommends that the Board accept the franchise. Mrs. Case also gave the Board three letters, two from Comcast and one from the Committee regarding the franchise. Comcast will continue to provide service to the municipal office and schools at no charge.

Mr. Hohenberger, the liaison to the Cable Committee, thanked them for their time and efforts to get the best deal for Windham. Members of the Committee who worked with Comcast were Mrs. Case, Mr. Hart, Greg Cappiello and Alan Shoemaker.

Mr. McMahon discussed the PEG access and Mr. Breton asked about having the franchise fee go to the residents rather than the Town budget.

Mr. McMahon motioned to approve the contract with Comcast as presented by the Committee. Mr. Breton seconded. Mr. Stearns discussed the possibility of having the franchise fee go to residents over a period of years. Motion passed unanimously as stated above.

INTERSTATE 93 CONSTRUCTION UPDATE: Peter Stamnas and Jeff Lavine from the Department of Transportation updated the Board on the I- 93 construction and blasting. This project will be ongoing thru 2012. Mr. Stamnas and Mr. Lavine described the scope of the project – the design of the off and on ramps, signalization, relocation of Rt 111A, median cuts, blasting, contractor's insurance, seismographs, well testing, number of traffic officers on site, budget, new bridges (red lined bridges will be replaced), protection of Dinsmore Brook, construction of detention pond, , location of park and ride (during and after construction), use of property (old hardware store) for construction offices, blasting and complaints.

Mr. Hohenberger asked if the Town's standards for blasting were violated on this project. Mr. Lavine stated that they were as they were very restrictive. Mr. Stemnas stated that he is aware that this is a sensitive issue however the DOT specifications are very stringent. He stated that the worst of the blasting is over and that further blasting will occur further away from structures. Mr. Hohenberger stated that he thought it was hypocritical of the state when compared with the Ledge Road blasting. Mr. Stearns stated his concerns about vibrations and where they can occur.

Mr. McMahon stated that he had a resident complain about the blasting who lives about a mile away from the blasting site. The complaint was given to Mr. Stamnas to be reviewed. This resident also suggested a signage change during construction hours which Mr. Stamnas stated sounded reasonable and will be presented to the contractor.

Also discussed was funding which may be available from the proposed federal stimulus package as this is a "shovel ready" project. They are hoping for this funding for the next phase, Contract G.

Chief McPherson asked the status of his curb cut request at 44 Range Road. Mr. Stamnas was given a copy of a letter requesting this which was previously sent to the DOT and he will review this request. He did note that the State would not plow the cut.

PUBLIC HEARING: Mr. Senibaldi read the following notice for the public hearing which was continued from last week's meeting.

"The Board of Selectmen will hold a public hearing at 7:30 pm on February 2, 2009 at the Planning & Development Department to consider the acceptance of the following road as a public road:

Ironwood Road (formerly referred to as Jenny's Hill Road Extension) from station 89 + 50 to 102 + 70."

Mr. Breton motioned and Mr. Hohenberger seconded to post Ironwood Road at 25 mph. Mr. McMahon stated that he was against this as it is an enforcement issue. Motion passed 3-2 with Mr. McMahon and Mr. Stearns opposed.

Mr. Hohenberger moved to accept Ironwood Road as described in above in the public hearing notice. Mr. Stearns seconded. Passed unanimously.

LIAISON REPORTS: Mr. Hohenberger reported that the Planning Board accepted the Capital Improvement Plan as presented.

Mr. McMahon announced that the Windham Elderly Housing Project application is complete and are hopeful for a positive response. He thanked the Housing Authority for their months of hard work.

Mr. Breton – Salt shed

CORRESPONDENCE: Road Bond release requests received as described below.

- Lakeview Farm . Harvest Road – Bond Amount \$80,000 Release Request \$22,400 Retained \$57,600 Mr. Hohenberger motioned to release \$22,400 on Lakeview Farm . Harvest Road

conditionally based on any cistern requirements being met. Mr. McMahon seconded. Passed unanimously.

- *Clarke Farm . Clarke Farm Road – Bond Amount \$29,400 Release Request \$11,989.60 Retained \$17,410.40 Mr. Hohenberger motioned to release \$11,989.60 on Clarke Farm . Clarke Farm Road. Passed unanimously.*
- *Clarke Farm . Scotland Road (formerly Crowell Road) Bond Amount \$6,6720 Release Request \$2,255.50 Retained \$4,464.50 Mr. Stearns motioned to release \$2,255.50 on Clarke Farm . Scotland Road and retain \$4,464.50. Mr. Hohenberger seconded. Passed unanimously.*
- *Clarke Farm . Buckhide Road (formerly Baxter Road) Bond Amount \$22,922.40 Release Request \$8,711.60 Retained \$14,210.80 Mr. Stearns motioned and Mr. McMahon seconded to release \$8,711.60 on Clarke Farm . Buckeye Road and retain \$14,210.80. Passed unanimously.*

Letter received from the Rockingham Economic Development Corporation asking communities to identify local projects that advance and promote the region’s goals. Mr. Sullivan asked the Board to review this request and discuss projects, such as, Depot Improvements, Landscaping Route 111 By-Pass, Lowell Road Bike Path, Castle Hill Bridge at the Board’s next meeting.

Mr. Sullivan gave the Board a draft letter to our state and federal congressional representatives and Commissioners of the DOT and DES outlining projects Windham is endorsing for any federal stimulus funding received from the American Recovery and Reinvestment Plan. The items for consideration are: Londonbridge Road Access, Town Salt Shed/Maintenance Facility, Water/Sewer Conduit Pipes, Golden Brook School Renovations, Road Improvements, Police Station Garage, Police Station Training Room, High School Track and Football Field, High School Gymnasium, Nesmith Library Expansion, Spruce Pond Recreational Fields, Griffin Park Amphitheater and New Town Hall. The Board decided that the final version of the letter would state that the projects were in “no order” of priority.

REVIEW OF WARRANT ARTICLES: *Article 4 – Salt Shed - Mr. Hohenberger expressed concern that the article raises \$960,000 for this project and that bids will reflect this amount and now, with the present economic conditions, possibly less should be raised. After discussion, the article was not changed and the Board felt only what was needed would be spent.*

Article 5 – Purchase of Conservation Land \$5,000,000.00 –Mr. Hohenberger stated that after reviewing the numbers on this article, he favors it as he believes in the long term it will save on needed services and also that the \$5,000,000 will not all be spent at one time but over a period years making it a tax positive. Mr. McMahon stated that the taxpayers cannot afford this and Mr. Senibaldi agreed. Mr. Senibaldi said passage of this article could add .34 to the tax rate which will be increased if the school budget passes. Mr. Stearns pointed out that if this passes, the Board of Selectmen would have to approve the bonding and purchases.

Mr. Stearns motioned that the Board of Selectmen recommend Article 5. Mr. Hohenberger seconded. Vote failed 2-3 with Mr. McMahon, Mr. Breton and Mr. Senibaldi opposed.

Mr. McMahon motioned that the Board of Selectmen not recommend Article 5. Mr. Breton seconded. Motion passed 3-2 with Mr. Hohenberger and Mr. Stearns opposed.

LEGAL BID AWARD: Mr. Sullivan stated he had great respect for all legal firms bidding was confident however the Board chose would be well representing the Town. Mr. Sullivan noted that in the past well have used all three forms on various issues and been very satisfied. Mr. Sullivan stated that last year the legal budget was much higher than normal due to a heavy case load. The budgeted amount last year was \$44,400 for regular legal fees and \$8,000 for union legal fees.

The three lowest bidders are:

Beaumont & Campbell	\$128/hour
Donahue, Tucker & Ciandella	\$144/hour
Mitchell Group	\$160/hour

Mr. Sullivan stated that on review of the legal hours billed over the past three years remain consistent, the town could save approximately \$22,000 at the \$128 rate versus \$144. He further stated that at this time he sees no reason to change firms and also believes continuity of firms would be helpful with the reorganization of the Planning Department.

Mr. Breton stated that he also reviewed the legal bills and felt that over the same period Mr. Sullivan reviewed, the town could have saved \$39,000 by using retainers in lieu of hourly rates. Mr. Sullivan disagreed as retainers have exclusions and the risk tolerance would be too great.

Mr. Senibaldi polled the Board – Mr. Stearns, Mr. McMahon and Mr. Hohenberger stated they were in favor of staying with Beaumont and Campbell – Mr. Breton stated that he had concerns with them – i.e. tone of a letter to a local businessman regarding a violation and with Mr. Campbell speaking with residents without permission from Mr. Sullivan.

Mr. Stearns motioned to retain Beaumont & Campbell for one year at \$128/hr with the option of extending for the second and third year at \$133/hr. Mr. Hohenberger seconded. The Board further discussed meeting with Atty Campbell to explain some billing issues and about changing the start date of the contract. Discussion ensued about changing the wording of the motion. Mr. Stearns stated that his motion stands. Motion passed 4-1 with Mr. Breton opposed.

NON-PUBLIC SESSIONS CONTINUED: Mr. Sullivan stated that the Board will continue it non-public sessions from the beginning of the meeting – subjects are personnel, reputations and legal.

Reputations – The Board agreed to having 5 alternate positions on the Recreation Committee.

Legal – Mr. Sullivan discussed a legal case with the Board and a recommendation by the Local Government Center (LGC) attorney. Mr. McMahon motioned and Mr. Senibaldi seconded to accept the settlement as presented by the LGC attorney. Passed 3-2 with Mr. Stearns and Mr. Hohenberger opposed.

Personnel – Mr. Sullivan updated the Board on a personnel matter.

The Board recessed the meeting until tomorrow evening – February 10th at 6 pm at the Bartley House.

February 10, 2009

REVIEW OF WARRANT ARTICLES: *Mr. Senibaldi motioned and Mr. Hohenberger seconded to reconsider the Selectmen's mot on Article 5 of the Town Warrant relative to \$5,000,000.00 bond for Conservation land purchases. Passed unanimously.*

Mr. McMahon motioned and Mr. Hoheberger seconded that the Board of Selectmen not recommend Article 5. Discussion of this Article by Mr. Stearns and Mr. Hohenberger was based on new information which clarified that if passed the article would raise the full \$5,000,000.00 as opposed to up to \$5,000,000.00 they previously thought. Motion passed "not to recommend" 5-0.

NON-PUBLIC SESSIONS: *Mr. Stearns motion and Mr. Hohenberger seconded to go into non-public session in accordance with RSA 91-A:3, IIb and a. Roll call vote – all members – yes.*

Hiring – The Board and Mr. Sullivan interviewed candidate for the position of Director of Economic Development.

Personnel – Mr. Hohenberger motioned and Mr. Stearns seconded to seal the minute of this session. Passed unanimously.

The Board recessed the meeting until tomorrow, February 11, 2009 at 7:00 pm at the Bartley House.

February 12, 2008

NON-PUBLIC SESSION CONTINUED - *Hiring – The Board and Mr. Sullivan completed interviews for the Director of Economic Development.*

Mr. Hohenberger motioned to adjourn. Mr. Stearns seconded. Meeting adjourned at approximately 11 pm.

Respectfully submitted,

Kathleen Davis

Human Resource Coord.

