

**BOARD OF SELECTMEN**  
**Minutes of June 29, 2009**

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

*Mr. Stearns* requested a moment of silence be observed in memory of Windham's first full-time firefighter and long-time resident, Bob Devaney.

**ANNOUNCEMENTS:** Mr. Stearns reminded all that the Annual Town Day events were scheduled for July 11<sup>th</sup> beginning at 10AM at Griffin Park.

*Mr. Stearns* noted that the Annual Senior Picnic had been scheduled for July 31<sup>st</sup>.

*Mr. McMahon* noted he was pleased to announce that he and Mr. Senibaldi have found a solution and funding for the ongoing issue of the crossing at the drainage swale at Griffin Park. He noted that the plan includes an 18' farmer's bridge and pipe extension as designed by Gove Environmental, and that no DES permits would be required for the project as it does not involve hydric soils. Mr. McMahon then noted, as to the additional ADA issue at the Park, it will be resolved by construction of Trex-deck bridge across the swale to the bathrooms. He further noted that both projects will be funded through a donation to the Windham Baseball/Softball League of \$7,000 from the Farrell family and \$1,500 worth of materials from Cyr Lumber. This will be combined with \$1,300 in Town Recreation funds and labor to be completed by the Town Maintenance department.

Discussion ensued and Mr. Breton moved to accept the generous donations as noted and allow the projects to move forward. Ms. Call noted that a formal public hearing would be required to accept the donated project from WBSL, and requested that Mr. Breton amend his motion accordingly. Mr. Breton concurred.

Mr. Hohenberger seconded the motion and after further brief discussion, the motion passed 4-0.

**WAYNE MORRIS:** Mr. Morris approached on behalf of the Windham Rail Trail Alliance to present a proposal to establish a tri-town trail alliance with Derry and Salem for the purpose of, among other things, application for TE funding. After a brief history of the establishment of the WRTA, Mr. Morris noted that .6 miles of trail in Windham remain incomplete at this time, from Roulston Road to the Salem line. He then deferred to Mr. Bill Scott, Community Development Director for the Town of Salem.

Mr. Scott noted that the hope was to submit a joint TE grant application, which would be filed and managed by his office. He noted the Town of Salem has 5.5 miles overall to complete, and will begin with 1.1, and that he anticipated that Windham and Derry would complete their portions first if successful in obtaining funding. Mr. Scott indicated that such an alliance would also afford uniform management of the trails overall, plus offer a larger pool of volunteers.

Discussion ensued regarding the State making provisions for additional parking for the trail in Windham, which Mr. Scott confirmed, as well as the intended sequencing order of the project. Mr. Scott noted that Derry's rather large culvert repair would likely be first, followed by Windham's .6 miles and then Salem, at an estimated cost overall of \$1.3M.

Mr. Hohenberger sought clarification of how the TE funding, as well as the match requirements, would be allocated noting that Windham's portion is nearly complete and questioned whether Windham's portion could be utilized toward our existing bill. Mr. Scott indicated the TE funds would need to be utilized toward new construction as opposed to existing, and that the Town's outstanding bill could not be utilized toward the Town's match on any new portions of the project.

Mr. Hohenberger then inquired whether the same trail design was planned as that in Windham, ie: equestrian areas. Mr. Scott replied in the affirmative, but noted that equestrian use may be an issue in Salem as portions of their trail directly abut Route 28.

After further discussion regarding the parking and the 80/20 funding, Mr. Hohenberger expressed concerns that there was a potential for Windham's funding to go toward other communities while our existing bill remained outstanding. Mr. Morris clarified that the WRTA continues to pay the contractor's bill for the existing trail, and that the Town's 20% would be based upon the remaining length in Windham and that the funds would remain in Windham.

Mr. McMahon then moved and Mr. Breton seconded to support moving forward to establish the Windham/Salem/Derry Trail Alliance and its application of intent for TE funding. Passed 4-0.

**LIAISON REPORTS:** Mr. McMahon noted that the Windham Housing Authority had submitted their second application for funding, and that the post office access issue was no longer viable and that access to the facility would need to be through Fellows Road.

**MINUTES:** Mr. Hohenberger noted a minor amendment to the minutes of June 1<sup>st</sup>, to clarify that it was not he, but Mr. McLeod who had attended the recent function at the High School. He then moved and Mr. McMahon seconded to approve the minutes of June 1<sup>st</sup>, 8<sup>th</sup>, and 22<sup>nd</sup> as written/amended. Passed 4-0.

**CORRESPONDENCE:** Copy of letter from Mr. Cliff Sinnott to the Planning Board received relative to appointment of Windham's representative(s) to the RPC, as Mr. Griffin's term is coming to an end. Mrs. Call indicated that the Planning Board would be following up on this matter and then bringing it to the Selectmen for official appointment.

*Copy of letter* received from Mr. Raymond Rees to Cable Advisory Board Chairperson, Margaret Case, relative to Comcast franchise fees. Mrs. Case approached to advise that she had spoken to Mr. Rees previously about this matter, however, he was not satisfied with her answer and had contacted Mr. Sullivan. Mrs. Case indicated that Mr. Sullivan had responded correctly and appropriately to Mr. Rees regarding the collection of the fees, however, Mr. Rees remained unsatisfied and she would be contacting him again.

**CABLE AWARD:** Cable Coordinator Stacey Sofronas approached to present a group recognition award to the producers of "Rockingham Round Table": Daphne Kenyon, Ruth Ellen Post, and Laurel Redden.

**TOWN BOAT LAUNCH:** Recreation Coordinator Cheryl Haas approached and began by reminding all that the Town Beach will be closing early on July 3<sup>rd</sup> for the fireworks, at 3:00PM, and would reopen at 5:15 for parking for the event. She noted that residents should check her voicemail at 965-1208 for information, should the weather cause the delay of the fireworks to July 5<sup>th</sup>.

*Ms. Haas* then provided a brief overview to the Board of the current process to issue/obtain a fishing key to the boat launch at the Town Beach. She noted that three members of the Cobbetts Pond Improvement Association hold keys to the lock, and provide their services to open the gate for owners on the pond to launch their boats in/out for the season. *Ms. Haas* noted that all others must see the Town Clerk and complete a form, obtain the regulations, and pay a \$15 fee to obtain a key to the launch, with new keys being issued each year.

*Ms. Haas* explained that her reason for attending stemmed from the fact that there have been two recent incidents involving a local business in possession of a key who was launching boats during the beach hours and creating a safety hazard. Discussion ensued regarding the permission granted to Nault's in 2008 to perform testing of watercraft, and that they do not have a key to the gate to do so, rather they must contact someone to provide them access within permitted hours.

*Ms. Haas* advised that, separate from the agreement with Nault's, Rockingham Boat and Windham Powersports each have keys to the gate. She noted that Rockingham Boat is owned by a current key-holder for the CPIA. *Mr. McMahon* felt that this matter should be deferred to a workshop session, as the issue centered on two businesses in possession of keys that were launching during operational hours. *Mr. Breton* suggested that Windham Powersports be notified to surrender their key. Discussion ensued.

*Mr. Stearns* felt a letter to both parties should be sent affirming the permitted hours to launch and advising that, if another violation should occur, their keys must be surrendered. *Mr. Breton* agreed, however, he noted that Nault's is being held to a very strict agreement, and felt the others should be, as well.

Further discussion ensued, and *Ms. Haas* stressed that her primary concern is the safety of the beach. *Mr. Bill DeLuca* of the CPIA approached and indicated he did not believe a workshop was necessary. He noted the residents comply with the "before 8AM/after 8PM" regulation to launch, and that one business was complying and one wasn't. He felt *Mr. Breton* was correct and that the key should be taken from Windham Powersports for violating the policy in place.

*Mr. Dennis Senibaldi*, Recreation Committee, approached in support of the current policy, noting however that businesses do need to be addressed. He felt the matter should be referred to the Recreation Committee for discussion and recommendation to the Board.

*Mr. Sean Welch*, CPIA President, approached and indicated he did not endorse the false obtaining/use of a key to access the pond. He concurred with *Mr. Senibaldi's* recommendation.

*Mr. Arthur Mueller*, Rockingham Boat, approached to advise that he puts an average of 150-200 boats in/out every season, and explained that each boat and trailer is carefully steam cleaned by the Company and the hours adhered to.

Mr. Breton pointed out that Windham Powersports application was not valid, as it was a business not a fisherman, and that the required documentation had not been submitted. He again suggested their key be revoked immediately, and a discussion ensued.

Atty. Kathleen DiFruscia, CPIA, approached noting that there has really never been an issue with the process that has been in place for over 20 years until recently. She noted that nobody should be launching when the beach is open, and agreed that the matter should be addressed in a workshop. Mr. McMahon sought clarification as to how many issues there had been with the company in question, and Ms. Haas replied two to date.

Atty. DiFruscia noted that the company had also made misrepresentations in obtaining the key. Mr. Breton concurred with Atty. DiFruscia. Discussion ensued.

Mr. McMahon then moved and Mr. Hohenberger seconded to notify Windham Powersports of the issue immediately, and that the Recreation Committee schedule a workshop session to discuss this matter. Mr. Hohenberger noted that a policy needed to be developed with respect to businesses because if the Board were going to prohibit Windham Powersports from launching because they are not fishing, then Rockingham Boat should be, as well. He suggested that Windham Powersports be notified of their violation of the permitted hours. The Board concurred, and the motion passed 4-0.

**ASSESSING WORKSHOP:** Tax Assessor Rex Norman met in workshop session with the Board. Highlights of the discussion included:

- *Abatements:* 134 abatement applications were received, of which 34 involve condominium units.
- *Pending Cases:* There are two pending cases from 2006 scheduled for hearing, as well as four from 2007. Three of the latter will be heard by the Board of Tax and Land Appeals, and the fourth by Superior Court.
- *Preliminary Assessment Ratio Analysis:* Mr. Norman noted the preliminary ratio has been set at 100%, which is somewhat high for a non-revaluation year.
- *Quartering Program:* Mr. Hohenberger questioned whether the program was on track, and Mr. Norman indicated it was, essentially. He then explained that it was on track in that all properties will have been reinspected by year-end in preparation for the 2010 revaluation. However, he is handling approximately 1000 properties a year as opposed to the 1200 anticipated.
- Of the abatements received, all but 29 have been inspected and the remainder scheduled. He advised the Board that he will have 89 applications ready for the Board's review at a future next meeting, and gave a brief overview of his procedure upon receipt of an application.

Mr. Norman noted that after review of an abatement application, he then inspects the property and enters any corrections into the system as necessary. Further, comparable sales are pulled and reviewed, however individual appraisals are not completed for abatement purposes as they would be for a BTLA hearing. Mr. Norman

indicated that, subsequent to the aforementioned, a meeting is arranged between he and the owners and, if possible, a settlement agreement established. If no agreement is reached, the owners may then appeal the denial to the BTLA or Superior Court.

Discussion ensued regarding the handling of market/sale value versus assessment versus ratio, and how value amounts are determined. Mr. Norman explained that amounts are based upon a computer generated model centered upon market adjusted/cost based figures. Mr. Norman then reiterated the concept of proportionate share of the overall tax burden and discussion ensued.

Discussion then turned to the effects of a lower priced sale upon an overall neighborhood. Mr. Norman clarified that market value does not refer to a single sales figure, but rather to a trend of sales on a particular type of property.

- *Late RSA 75:11 filing:* Mr. Norman explained that this pertained to the use of a commercially zoned property as a primary residence. Mr. Hohenberger moved and Mr. McMahan seconded to waive the April 15<sup>th</sup> deadline and allow Mr. Norman to act upon the request for special appraisal. Passed 4-0.
- *New Construction:* Total anticipated increase in valuation will be approximately \$30M, including 57 new homes that have been catalogued to date.
- *Exemptions:* Mr. Norman advised the Board that there are currently several exemptions/credits available that the Town does not offer, including: “Legally Blind”, “Veteran’s Surviving Spouse”, and “Energy Efficient Systems”. He also noted that he will be requesting changes to the current exemptions/income levels for 2010, and the Board requested he compile an analysis of current versus maximum tax impacts of the exemptions.
- *Town Property:* Mr. Norman presented a listing of Town-owned property to the Board for their review and future discussion. Mr. Breton noted that several communities have established committees to assist them with review of town property for possible return to the tax rolls.

Discussion ensued regarding the usefulness of a colored map depicting the various types of town properties and exploring the possible merger of smaller properties into single parcels. Mr. Norman will follow-up.

- *Abatement applications:* Mr. Norman then presented two (2) abatement applications to the Board which he has recommended for denial.

Shaws: Mr. Norman noted that the owner had had cases pending from 2006 and 2007, both of which had been withdrawn, and that no supporting evidence had been provided. Mr. McMahan moved and Mr. Breton seconded to deny the abatement request. Passed 4-0.

Pinnacle Tower: Mr. Norman explained that this was being presented for denial at the applicant’s request. Mr. McMahan moved and Mr. Hohenberger seconded to deny the abatement request. Passed 4-0.

**OLD/NEW BUSINESS:** Mrs. Call advised the Board that Highway Agent Jack McCartney was requesting authorization to expend the remainder of the forfeited Searles Road bond, currently approximately \$37K, toward repair of the roadway. Mrs. Call noted that Mr. McCartney has obtained a quote from the current vendor to complete the project, which is within the funds available, and inquired whether the Board wished to waive the bid process.

After a brief discussion, it was the consensus of the Board that the project be placed out to bid. Mrs. Call will follow-up to do so.

*On behalf of Mr. Stammus of the NHDOT,* Mrs. Call sought clarification from the Board that they did not wish to have utility conduit sleeves installed as part of the I-93 project. The Board concurred. Discussion then ensued regarding the placement of suitable fill by the DOT to allow for future boring, if necessary. Mr. McMahon indicated he would follow-up to confirm the recommended location with Mr. Karl Dubay of the Windham Economic Development Committee.

*Mrs. Call* advised the Board that the information requested by Mr. Breton regarding the roster/by-laws of the WEDC was in their boxes.

*Mr. McMahon* requested that a letter be forwarded to Mr. Stammus to formally ascertain the intended location/status of the new park and ride. Staff will follow-up.

*Mrs. Call* reminded the Board that no meeting was scheduled for the following week.

**NON-PUBLIC SESSION:** Mr. McMahon moved and Mr. Hohenberger seconded to enter into non-public session in accordance with RSA 91-A:3-II b. Roll call vote; all members “yes”. The topic of discussion was personnel and the Board, Mrs. Call, and Ms. Devlin were in attendance.

The Board discussed a matter relative to hiring/probation periods. No decisions were made and Mrs. Call will follow-up to clarify the matter.

Mr. Hohenberger moved and Mr. McMahon seconded to adjourn. Passed 4-0.

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.*