

**BOARD OF SELECTMEN**  
**Minutes of September 21, 2009**

**MEMBERS PRESENT:** Chairman Galen Stearns called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Charles McMahon and Roger Hohenberger were present, as was Town Administrator David Sullivan. Selectmen Ross McLeod was delayed and arrived at 7:05 PM. Mr. Stearns read the agenda into the record, followed by the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. Breton advised that the WEDC had held their "Getting Down to Business" event the following Thursday, and it had been very well attended. He noted the related survey will continue to be available on the Town website until October 1<sup>st</sup>.

*Police Chief Lewis* advised that, the previous Friday, the NE Bank had been robbed and a pursuit had ensued. During the latter, Officer Dzierlatka had been seriously injured and transferred to a Boston hospital. Chief Lewis indicated it looked as if Officer Dzierlatka would make a full recovery, but will be out of work for quite a bit of time. The suspects were arrested, and the Chief extended thank to the following for their efforts in capturing them: Officer Dzierlatka, Sergeant Wagner, Sergeant Caron, Sergeant Fedele, Officer Scott Rogers, Officer Bryan Bliss, Officer Dan Clark, Dispatcher Jason Gallant, and Dispatcher Kathy Lelievre. He also commended Prosecutor Heather Newell, and the NH and MA State Police, the Rockingham County Sherriff and the Salem PD. The Chief then noted he had received a call from Governor Lynch on Saturday inquiring about Officer Dzierlatka.

*Fire Chief McPherson* advised the Board that the Highway Safety Committee had met on September 15<sup>th</sup> to discuss the re-alignment of the Lowell/Range Road intersection adjacent to Golden Brook School. The Chief noted that the redesign poses potential issues with 9-1-1 due to the need to renumber two homes in the area, as well as safety issues that now exist as vehicles turning on to Range are crossing the center line. The Chief indicated that the Committee will be meeting on site at 4:00 PM the following Friday with the contractor and representatives of the State to discuss possible solutions.

*Chief McPherson* requested the Board execute a document relative to re-programming of the State-funded radios in use by the Department. The Chief noted that there is no cost for the reprogramming, which must be done every few years, but the information contained in the document must be submitted by October 2, 2009. The Chairman signed the document as requested.

*Mr. McMahon* then requested the Board return to the issue of the Lowell/Range road intersection, and moved to accept the recommendation of the Highway Safety Committee that the area be corrected. Mr. Hohenberger seconded. Mr. Sullivan clarified that he had spoken to the project engineer and, while it's not likely the intersection will be restored exactly as it was, there may be changes that can be made to improve the area. Chief McPherson then clarified that the two homes in question lie between 113 and 115 Lowell Road, and that "A" or "B" addresses are not recommended by 9-1-1. Discussion ensued as to whether to let the motion stand or wait until after the meeting in question. Motion passed 4-1, with Mr. McLeod opposed as he would prefer to view the area before voting.

*Chief McPherson* reminded all that the Department's Fire Prevention Week Open House would be on October 4<sup>th</sup> from 10A to 2P.

**LIAISON REPORTS:** None.

**MINUTES:** Mr. McLeod noted a correction to the August 31<sup>st</sup> that pertained to his absence from the meeting. Mr. Hohenberger moved and Mr. McMahon seconded to approve the minutes July 20<sup>th</sup> and 27<sup>th</sup>, and August 31<sup>st</sup> as amended. Passed 4-0-1, with Mr. McLeod abstaining.

**CORRESPONDENCE:** Letter received from a resident of Meetinghouse Road relative to road striping activities and resultant damage to her vehicle. Mr. Sullivan advised that the Highway Agent has weighed in on this matter, and noted that the paint could have been washed off immediately as it is water-based.

Mr. Stearns inquired why the road was being striped at that hour of the night and why more signage wasn't in place. A discussion ensued, and it was the consensus of the Board that Mr. Sullivan clarify with Mr. McCartney that proper procedures were followed, and that the contract and scope of work be verified, as well.

Change order received from American Excavating relative to the construction of Londonbridge Road for \$1,340. Mr. Sullivan noted that funding will come from the Highway budget, and that the change was due to the need to divert a spring to an adjacent catch basin in order for the project to proceed.

Notice received relative to the Annual State Surplus Auction, which is scheduled for October 17th. Brief discussion ensued regarding funding available in the Highway budget for possible purchase of a surplus vehicle or, alternatively, as a first year lease payment.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that the State is allowing towns to purchase winter salt as part of their contract, at a cost of \$54.53/ton. Mr. Sullivan noted the Town could save approximately \$16,000 at the State's price, however, if the Board bids the salt the Town becomes ineligible to participate. Mr. Sullivan then noted that the Town of Salem had approached the State's vendor directly and had received the same price.

After a brief discussion, Mr. McLeod moved and Mr. McMahon seconded to purchase the Town's winter salt at the State price as outlined by Mr. Sullivan. Passed unanimously.

**BOARD OF HEALTH:** Mr. McMahon moved and Mr. McLeod seconded to enter into the Board of Health. Passed unanimously. Mr. Stearns then read the public hearing notice into the record.

Mr. Shayne Gendron of Herbert Associates approached on behalf of the property owners, indicating the latter had purchased the property three years ago with the intention of improving the existing structure. Mr. Gendron noted the property currently has a dug well and a sub-standard, circa 1950, septic. After surveying the property to identify surrounding wells, a 20'x10' area was located for the septic 75' from the two abutting wells, and another 20' from the front property line and 15' from the abutting well for a new well. Mr. Gendron noted that waivers are also being requested from the State relative to the effluent area. Mr. Gendron noted that the septic system being recommended for the property, which is currently year-round, is an Enviro-Septic manufactured by Presby International. He then noted that an abutting property had, in 2003, received several, similar waivers.

Mr. Hohenberger inquired whether the current septic system was in failure, to which Mr. Gendron replied in the negative.

Health Office Dave Poulson requested clarification regarding the new well. Mr. Gendron noted it would be 50' from property's septic system, and would be a drilled bedrock well with a steel casing. Mr. Poulson inquired whether Mr. Gendron had explored making the new well a shared one with the abutting property. Mr. Gendron replied he had spoken with the neighbor, however, that well is currently not getting significant yield.

Mr. Poulson then noted that the NH DES is generally comfortable with a 50' setback between septic and well, provided it can be exhibited that the well casing is sound, however, there is a potential to impact abutters with a 5' depth for the leach field. Mr. Gendron noted soils in the area are excellent, and Mr. Poulson inquired where a potential failure would be mitigated. Mr. Gendron replied beneath the field and to the roadside.

Mr. McLeod requested that Mr. Gendron clarify the maintenance requirements of the proposed system. Mr. Gendron replied no underground maintenance is required and the system simply requires regular pumping and cleaning of filters.

Mr. Hohenberger inquired why the back portion of the property wasn't being utilized, and Mr. Gendron replied it couldn't be due to its steepness and exposed ledge.

Mr. McMahan sought clarification that the property was year-round, to which Mr. Gendron replied in the affirmative. Mr. McMahan then questioned whether the property was being expanded, and Mr. Gendron noted that owners would be seeking a variance from the ZBA to construct a 10' addition to the second floor, however, no bedrooms would be added. Discussion ensued regarding the State and local regulations and the current septic system.

Mr. Rich Grant approached as owner of the abutting property, and indicated his only concern is with the proposed well, noting that he has had issues in the past with his yield. He noted that he currently has a dug well at approximately 275', and recently had to replace his pump. Mr. Poulson clarified that there is a local yield requirement for new wells, and Mr. Gendron concurred, noting that if the yield requirement is not met a Certificate of Occupancy will not be issued. Discussion ensued regarding test boring for yield.

Mr. Stearns noting that the proposed leach field would also be encroaching on the back abutting well, as well. Mr. Gendron replied in the affirmative, noting there is a slight encroachment, however, it is the closed pipe area which poses no potential for leaking. Discussion ensued regarding the location of the well in question and its infringement on the owners' use of the subject property, and the design of the proposed septic system.

Mr. Ray Harmacinski, 1 Viau Road, approached indicating his main concern is related to pollution of the drinking water in the area from the septic system. He then noted that the lot is only 6,150 sft, and that Mr. Grant has already had water issues in the past. He indicated that, during heavy rains, all the run-off slices downhill from the ledge and onto his and his neighbor's property, and could potentially carry sewage with it. He then noted that the area is overcrowded now and the wells are too close together.

Mr. Breton noted that there would be less chance for pollution with installation of new, state of the art system versus the existing one. Discussion ensued, and Mr. Gendron noted that the house itself would essentially create a dam, and any impacts from run-off would be minimal, if at all.

Mr. Gendron then reiterated that the property is year-round with a substandard system that will, eventually, fail, and that the owners are trying to better the property by making it more compliant. Mr. Gendron was asked what the results of the test pits were, and he replied at approximately 7" good material had been realized. Discussion ensued regarding a Clean Solutions system versus the proposed.

Mr. McLeod noted that the only encroachment would to the owner's own well, and that one current abutting impact would be eliminated. He added that this owner's use of his property was, in fact, being impacted by other, surrounding properties. Mr. Hohenberger indicated that all the lots in the area are undersized and, by systematically allowing waivers, the Board is contributing to the overcrowding. He then expressed concerns with the precedent being set by granting such a waiver, in light the Board's previous decision to lower the required distance to 75'.

Mr. McLeod then questioned which was more prudent in the light of the fact the property was already year-round: leaving it as is with a substandard system and risk failure; or, approve the waiver for an improved system that impacts only the owner's own radii. Discussion ensued.

Mr. Fred Marquebruek approached to inquire whether the stone wall in front of the property would be removed as part of the project noting, if so, vehicles will then be travelling over the roadway edge. Discussion ensued, and Mr. Gendron replied efforts would be made to preserve the wall.

After further, brief discussion regarding the abutting property owners, yield requirements, and the possibility of a shared well or easement, if necessary, Mr. McMahan moved and Mr. McLeod seconded to grant the waivers as requested to improve the efficiency of the septic system. Passed 3-2-1, with Mr. Stearns and Mr. Hohenberger opposed, and Mr. Poulson abstaining.

Mr. Stearns and Mr. Hohenberger noted, for the record, that their opposition had been based on concerns relative to precedent.

Mr. Breton moved and Mr. McLeod seconded to adjourn the Board of Health. Passed unanimously. The Chairman then called for a five minute recess.

**RECREATION/LIGHTING PROPOSAL:** Mr. McLeod recused himself for this portion of the meeting. Recreation Coordinator Cheryl Haas opened the discussion by noting the Windham Soccer Association had approached her regarding temporary lighting of the fields for a one week trial period; either at Griffin Park or Nashua Road. Ms. Haas noted that the Recreation Committee had discussed the matter, and supported the concept, however not their use at Griffin Park. She added that the Police Chief had also been consulted.

Mr. Joe Connolly of the Soccer Association approached, and explained that each fall practice time is lost as the days grow shorter. This season, there are approximately 900 children participating in the soccer programs, and it is becoming difficult to find adequate practice time for them. Mr. Connolly noted that WSA's first choice for lighting would be Griffin Park due to the number of teams that could practice there. He then explained that the temporary portable lights, which would be extinguished at approximately 8:00 – 8:30 PM, are 30' +/- high and light approximately 1 acre.

Mr. Connolly noted that WSA is proposing one week as a pilot program, and there has been talk in the past of having at least one (1) lit field. If the pilot is successful, then Soccer would request their use be extended for a period of one month; otherwise the lights will be removed and alternative solutions explored for next season. Mr. Connolly stated there is no cost involved to the Town, as the Soccer Association will pay for the rental of the lights and all related insurance.

Mr. Hohenberger inquired whether the lights would remain extended while not in use, and Mr. Connolly replied in the affirmative, adding that the units will be secure and insured. Mr. Hohenberger then inquired about the noise level from the generators. Mr. Connolly noted there will be some noise involved, but reiterated they will be off by 8:30 PM.

Discussion then ensued regarding the age groups that will benefit, and Griffin Park versus Nashua Road or Searles. Mr. Stearns then noted for the record that two (2) emails had been received from residents expressing their opposition to this proposal.

Mr. Gary Garfield, WSA, approached and encouraged the Board to allow the one week pilot, which he felt was a reasonable request and would allow all to observe the situation before making a decision. He then noted that there is a good size buffer available at Griffin Park.

Ms. Elizabeth Bondolian, Squire Armor Road, approached to express her opposition of this proposal. She cited several concerns, including: the number of close calls with vehicles in and out of the park during daylight hours; the ongoing, unresolved parking issues; the current dusk curfew; that the lighting will eventually become permanent; cumulative decibel levels from the generators; and possible negative impacts of the lighting on her property values and quality of life as an abutter to Griffin Park.

Mr. Jeremy Catt, Squire Armor Road, approached to echo some of Ms. Bondolians concerns, and inquired where it would stop if this lighting was approved. He noted that, while it was true WSA was not extending the hours of the park beyond normal summer uses, the buffer between the park and Squire Armor is not a forest. He then inquired whether an ordinance is/would be in place regarding after dark hours, and whether the use would be limited to fields or would the entire park be accessible. Mr. Sullivan noted that the dawn to dusk curfew had been established in 2009 in response to vandalism concerns at the Skate Park. Mr. Catt replied that lighting the fields will re-open those concerns, there are no safeguards in place, and the entire park would need to be lit and policed.

Mr. Connolly suggested that a permit could be developed and issued specific to Soccer's use of the rear field. He indicated he understood the safety issues and concerns, and reiterated WSA was only requested a one week trial. Mr. Scott Mueller, Recreation Committee Chairman, then approached and indicated that the Committee in their discussion of the request had considered the current field use/sharing issues. He indicated that, safety issues aside, there is a need for this as a test as, in the future, new facilities may have to be built or programs cut across all teams/activities.

Ms. Bondioli disagreed that approving the lights would be just a test case, opining that there would be no stopping additional lighting. She also noted approval would set a precedent for the Windham Baseball Softball League and other organizations, and felt that safety issues should not be set aside.

Mr. McLeod approached and noted that the issue faced by the Rec Soccer teams is how to find adequate space/time to instruct the participants, and that it becomes an issue in the fall only. He indicated that WSA is trying to keep the existing practices going, and is requesting the one week trial to see if it is of help to those efforts; noting there is no intent beyond that. Discussion ensued regarding the scheduling of the Rec and Travel teams, and whether WSA was fully utilizing the available fields during daylight/weekend periods. Mr. Hohenberger inquired why Herbert Field was not being utilized, and Mr. Garfield noted that it was due to access and condition issues at the site. Further discussion ensued.

Chief Lewis approached and noted he was endeavoring to weigh both sides of the issue, that he shared the safety concerns expressed by others, and much is just speculation at this point. After further, brief discussion, Mr. Hohenberger moved and Mr. Stearns seconded to allow a one (1) week trial as requested at the Nashua Road field with the lights to be operational no later than 8:30 PM. WSA is to work with Ms. Haas and Chief Lewis regarding the positioning of the units and there is to be no cost impacts to the Town. Passed 4-0.

Mr. Stearns requested that, subsequent to the trial period, input be gathered and presented to the Board in follow-up.

*Mr. McLeod* then acknowledged the efforts of Mr. Garfield on behalf of the Soccer Association and, in particular, his recent work with Mr. Dennis Senibaldi to complete the earthen bridge at Griffin Park.

Mr. Garfield thanked Mr. McLeod, and then presented a donation in the amount of \$650 to the Chairman for the bridge materials. The Board thanked Mr. Garfield, and noted a public hearing would be posted to formally accept the funds.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that the Board still needed to appoint a member to the Wall Street committee. After a brief discussion, Mr. Hohenberger moved and Mr. McMahon seconded to appoint Mr. McLeod and Mr. Breton as co-members. Passed unanimously.

*Finance Director Dana Call* advised the Board that, per their request, she had contacted several banks regarding available rates and it did appear there may be some investment options available. It was the consensus of the Board that this item be placed on the October 5<sup>th</sup> agenda for further discussion.

*Chief Lewis* advised the Board that the Department is moving forward with the laptop installation, and that the related support fee has been clarified as an additional \$3,200 annually. This fee will cover five (5) laptops and related message switching, etc.

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

The Board, Mr. Sullivan, Ms. Call, Chief Lewis and Ms. Devlin were in attendance in the first session.

The Chief updated the Board on a legal matter. No decisions were made.

The Board, Mr. Sullivan, Ms. Call, and Ms. Devlin were in attendance in the second and third session.

Mr. Sullivan updated the Board on a union matter relative to disciplinary action. No decisions were made.

Mr. Sullivan updated the board on a legal matter relative to a property easement. No decisions were made.

The Board, Mr. Sullivan, Ms. Call, Town Treasurer Robert Skinner and Ms. Devlin were in attendance in the final session.

The Board discussed a reputations matter. No decisions were made.

Mr. McMahon moved and Mr. McLeod seconded to adjourn. Passed unanimously.

Meeting was adjourned at 10:55 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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