

BOARD OF SELECTMEN
Minutes of February 1, 2010

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

ANNOUNCEMENTS: Chief McPherson approached noting that the Fire Department had approached the High School relative to possibly donating to their weight room a leg press which the firefighters do not use. He noted the equipment is valued at approximately \$2,500, and asked if the Board would support the donation. After a brief discussion, Mr. McLeod moved and Mr. McMahon seconded to approve the donation as described. Passed unanimously.

Mr. McMahon stated that the proposed legislation relative to LLC's will affect approximately 2500 businesses in the Rockingham/Hillsborough county areas; and that he was working to have Commissioner Clougherty down to host a discussion regarding the legislation. The date/location of the meeting will be posted in the local papers once established.

Mr. McMahon noted that the Town of Salem had recently discussed their concerns relative to I-93 toll booths, which are similar to Windham's, with the State, and asked whether the Board would support sending a letter of opposition to the State. After a brief discussion regarding the potential negative impacts of tolling, it was the consensus of the Board that staff draft a strong letter of opposition.

Mrs. Margaret Crisler announced that the Annual NH Orchid Show was scheduled for Valentine's Day weekend at the Radisson Hotel in Nashua. More information can be found at nhos.org.

LIAISON REPORTS: *Mr. McLeod* noted that tickets for the Annual Daddy Daughter Dance have sold out already and a waiting list begun. He also advised that the February/March tot Recreation programs are filling up quickly, and that Skateboard clinics will be scheduled for the summer.

Mr. McLeod then advised that the Recreation Committee has begun working on the Lighting Policy, and expected to have a draft for the Board for the February 22nd meeting. Mr. McMahon noted that the installation of the lights at Griffin Park has begun, and added that the bridge is currently 90% completed, as well.

Mr. Breton noted that he had been at the Recreation office the morning the Daddy/Daughter Dance tickets had gone on sale, and that the line for them had stretched all the way into the parking lot. He also noted that over \$600 in credit card sales had been completed in the first 90 minutes.

CABLE INTERVIEW: The Board interviewed Ms. Donna Mauro for possible appointment to the Cable Advisory Board. Mr. Hohenberger then moved and Mr. McMahon seconded to appoint Ms. Mauro as an alternate to the WCAB. Passed unanimously.

CORRESPONDENCE: *Bond Release/90 Indian Rock Road* – Mr. McLeod moved and Mr. McMahon seconded to approve the partial release of \$16,900 to DVMD Holdings, Inc.; retaining \$38,677. Passed unanimously.

Memo received from Chief McPherson relative to a recent house fire at 9 Ryan Farm Road. Chief McPherson approached to commend all, and in particular the first team, for their efforts in responding to the fire, which had ultimately been contained to the second floor attic/laundry area.

Letter received from the Cobbetts Pond Improvement Association relative to a January 27th sediment plume to Dinsmore Brook as a result of the I-93 project. Atty. Kathleen DiFruscia explained that a formal complaint has been filed with the Department of Transportation, which will be investigated by the Attorney General, and that the DES, DOT, contractor, and the Governor have been copied on the letter, as well.

The Board reviewed a change in financial procedures as drafted by the Finance Director and Town Treasurer. Mr. Sullivan explained that the document clarifies minor changes in procedural duties and their delegation. The Board executed the document accordingly.

Letter received from Mr. Raymond Rees relative to ongoing concerns with the fee assessments for Comcast service and their expenditure, and the Town's response to his inquiries. Mr. Sullivan indicated he believed Mr. Rees was referring to recent purchases of equipment for Cable and the transfer of old items to the High School; noting that the funds have not been spent frivolously as these types of purchases are what they are earmarked for. Discussion ensued, and it was the consensus of the Board that staff draft a response letter to Mr. Rees.

MINUTES: Mr. McLeod moved and Mr. Hohenberger seconded to approve the minutes of 11/23 and 30, 12/7, 15, 21 and 28, and 01/04 and 11 as written. Passed unanimously.

SELECTMAN VACANCY: Mr. Sullivan explained that, when Mr. Stearns had submitted his resignation effective February 7, 2010, his intent was to allow interested parties to sign up to fill his position during the filing period. In keeping with that intent, Mr. Sullivan advised the Town Clerk to post for a one year position; however Town Counsel subsequently advised that per the NH RSA's there was not a vacancy open at the time filing period began. Mr. Sullivan noted that one individual had signed up for the position, Ms. Ruth-Ellen Post, and that he had spoken to her about the error. Mr. Sullivan noted that the vacancy will need to be filled by the Board via an appointment, and inquired how the Board wished to proceed. Mr. Stearns then explained that he had been trying to maintain continuity on the Board, and expressed his apologies for the current situation.

Discussion then ensued regarding the timing of appointment of Mr. Stearns' replacement, the gap between Mr. Stearns' effective date and the election, and amending of the date of resignation. Mr. McLeod suggested the appointment be deferred until after the election, and indicated he would welcome a motion to reconsider acceptance of Mr. Stearns' resignation. Mr. Hohenberger moved to reconsider, and Mr. McLeod seconded. Motion passed 3-1-1, with Mr. Breton opposed and Mr. Stearns abstaining.

Further discussion ensued, and Mr. Breton expressed concerns regarding maintaining a quorum. Mr. Hohenberger then moved and Mr. McLeod seconded to rescind acceptance of Mr. Stearns' resignation from the Board. Passed 4-0-1, with Mr. Stearns abstaining.

After further, brief discussion, Mr. Stearns indicated he would be submitting a new letter of resignation with an effective date to be determined, and it was the consensus of the Board to establish the method of appointment for his replacement at a future meeting.

BOARD OF HEALTH: Mr. Breton moved and Mr. McLeod seconded to enter into the Board of Health. Passed unanimously. Mr. Stearns then read the following into the record: *"Notice is hereby given that a hearing will be held on February 1, 2010 at 7:30 pm at the Planning and Development Office concerning a request by Ryan K Bedard for Marc & Susan Solois for a Waiver concerning Section 1008.04 of the WASTE DISPOSAL/SEPTIC ORDINANCE, requiring wells to be a minimum of 75' from septic systems. The property is located at 10 MINISTERIAL RD, LOT 21-V-292."*

Mr. Ryan Bedard approached to explain that the current septic is in failure and is surfacing. He noted that the owners have executed the required State waiver relative to encroachment upon their own well, which is the only area well impacted, and that there is no other location available on the site to situate the proposed replacement. Mr. McLeod inquired how close to the owners' well the existing system was, and Mr. Bedard indicated it was just over 30' away.

Health Officer Dave Poulson inquired whether Mr. Bedard had obtained the approval of the NH DES as yet, and Mr. Bedard replied in the negative, noting that Town approval was necessary first. Discussion ensued regarding the DES requirement of 50' versus the Town's stricter requirement of 75', and the type of system proposed. Mr. Hohenberger inquired whether the home was currently year-round, and Mr. Bedard replied in the affirmative.

Mr. Alan Carpenter approached to seek clarification of the DES/Town requirements. Mr. Poulson indicated that the DES will now allow 50' as opposed to the former 75'. Discussion ensued, and Mr. Carpenter noted that the Board had amended the Town's regulations to 75' from 100' to be in keeping with the State's requirements and to avoid incrementalism. He expressed concerns regarding density, conversions and impacts to the Pond should the Board start relaxing the 75' requirement. Mr. Breton clarified that the home in question is a year-round dwelling and that the current system is in failure; noting that approval of the waiver would serve to protect the pond.

Mr. Carpenter then sought clarification from Mr. Bedard that the system to be replaced was not a holding tank. Mr. Bedard indicated it was not, and added that the current septic tank is not leaking, rather the leach field is in failure and surfacing. Discussion then ensued regarding the restrictiveness of the property.

Atty. Kathleen DiFruscia approached noting that the CPIA is always concerned when systems fail. She then suggested that if the Board were to grant the waiver it be done so as a conditional approval due to an emergency situation or similar reason.

After further, brief discussion, Mr. McLeod moved and Mr. Breton seconded to approve the waiver as presented given that the property owner will be increasing the distance between the septic and the well; the replacement is not within any other well radius; the current system is in failure; there is no other option for replacement location without extensive tree removal and waiver of the setback requirements; and the property is currently year round. Passed 5-1, with Mr. Stearns opposed.

Mr. Breton moved and Mr. McLeod seconded to adjourn the Board of Health. Passed unanimously.

The Chair called for a five minute recess.

UNDERWOOD ENGINEERING: Mr. Philip MacDonald approached to review Underwood's findings relative to the sewer study undertaken by them through CTAP funding. Highlights of his presentation included:

- At the Town's request the feasibility of connecting to Salem's current sewer system as part of the I-93 project had been evaluated.
- The report summarized possible connection points and identifies routing lengths and items for consideration in discussion with the Town of Salem.
- Salem currently pipes their sewage to the Greater Lawrence District, and their contract will be up for renewal in 2010.
- Possible connection points include: Old Rockingham Road, which is not a feasible option as it is currently at capacity and would require a re-build; old Digital Plant on Policy Street via a forced main to gravity system; along the west side of I-93 via a pump; via a forced main to the end of the current Salem system at Cross Street; or a tie-in to Manor Parkway.
- Service areas targeted/envisioned included the Cobbetts Pond area and the Commercial Gateway District (Wall Street) with a focus on preserving water quality and future development.
- Underwood makes the following recommendations regarding the Board's next steps: submit the current study results to Salem for review; initiate a discussion with the NH DOT relative to the corridor along I-93; schedule a meeting with the Town of Salem; and establish a driver for the project (ie: preservation of water quality and density on the Pond).

Lengthy discussion then ensued between the Board, staff, Mr. McDonald and members of the audience including: Atty. DiFruscia, Mrs. Margaret Crisler, Mr. Alan Carpenter, Mr. Karl Dubay, Salem Selectman Everett McBride, and Mrs. Kristie St. Laurent. Highlights of items discussed included:

- System would not be a combined sewer/wastewater system but waste water only, as construction of the former is prohibited by the State.

- Plan would be to service the entirety of Cobbetts Pond at the shoreline.
- Downstream improvements/upgrades were not considered as part of the study. All proposed tie-ins would require such improvements with the exception of Cross Street.
- Cost to construct collection systems in Windham would be significant.
- The eventual need for Town water if Town sewer is put in place and the need for much more study into both.
- Windham's current rights to utilize the Greater Lawrence District via Salem's agreement.

Mr. McMahon moved and Mr. Hohenberger seconded that staff arrange for a meeting with the Town of Salem to discuss this matter further. After further, brief discussion, the motion passed unanimously.

TRANSFER STATION WORKSHOP: Tabled.

OLD/NEW BUSINESS: Mr. Sullivan reminded all that the Town Deliberative Session is scheduled for February 6th at the Windham High School immediately following the School session which begins at 9 AM.

Mr. Sullivan indicated that a press release would be issued by staff relative to Article 4, the Salt Shed/Highway Garage proposal. Mr. Sullivan clarified that the overall "Town Budget" as discussed by staff includes all articles proposed by the Town. If all, #4-15, are approved by the voters the increase over last year will be 0%.

Mr. Sullivan advised that three (3) bids had been received for printing of the Annual Reports as follows:

<i>Courier Printing, Deposit, NY:</i>	\$ 8,919
<i>Proforma Printing, Melrose, MA:</i>	11,651
<i>EPrint, Hudson, NH</i>	19,400

He advised that, after contacting the low bidder, staff was not confident that they understood the magnitude of the project and, therefore, the recommendation was to award the bid to Proforma. After a brief discussion regarding requesting funding from the School District to bridge the gap between the available budget and bid amount, Mr. Breton moved and Mr. McMahon seconded to award the bid to Proforma for an amount not to exceed \$11,651. Passed 4-1, with Mr. Hohenberger opposed.

Mr. Sullivan advised the Board that the Cable Advisory Board had requested permission to utilize the "ABLE" group, which consists of senior citizens who perform activities such as general cleaning/organizing and other job-related services as they re-enter the job market. Mr. Sullivan noted that there is no cost involved to the Town for these services. After a brief discussion, it was the consensus of the Board that Cable proceed as requested, however, Mr. Breton did request that staff obtain liability information for his review.

Mr. Dennis Senibaldi, Recreation Chair, approached seeking the Board's support of a one-day ice skating event to be hosted by Recreation at the Griffin Park pond. Mr. Sullivan clarified that, though the Town's insurer strongly discourages such events, the Town would be covered.

A brief discussion ensued, and it was the consensus of the Board to support a one-day event as described, provided extensive precautions are taken by the Committee.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. McMahon seconded to enter into nonpublic session in accordance with RSA 91-A:3 II c and e. Roll call vote all "yes". The topics of discussion were reputations and legal, and the Board, Mr. Sullivan and Ms. Devlin were in attendance in all sessions.

Mr. Hohenberger moved and Mr. McLeod seconded to appoint Mr. McRobie as a member of the Conservation Commission. Passed 3-2, with Mr. Breton and Mr. McMahon opposed.

Mr. Sullivan reviewed with the members a legal document relative to leasing a portion of a commercial building for temporary use by the Highway Department, which the Board executed accordingly.

The Board discussed a right-of-way matter, and Mr. McMahon moved and Mr. McLeod seconded to authorize the offer of a settlement agreement not to exceed \$5,000. Passed unanimously.

Mr. McLeod motioned and Mr. McMahon seconded to adjourn. Passed unanimously. The meeting was adjourned at 7:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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