

**BOARD OF SELECTMEN**  
**Minutes of September 20, 2010**

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

**ANNOUNCEMENTS:** Police Chief Gerry Lewis approached noting that the Department's 1<sup>st</sup> Annual Shredding Day had been very successful, with 30-40 residents participating. He indicated he hoped the response next year would be even greater.

*Chief Lewis* noted that the following Saturday, from 10 AM to 2 PM, the Department would be holding a "Take Back" day in conjunction with the DEA. Chief Lewis noted that residents can bring their old/expired prescription medication to the station during these hours, no questions asked, for proper disposal by the DEA. Discussion ensued regarding the possible placement of year-round drop boxes at Stations around NH.

*Community Development Director Laura Scott* announced that on Saturday, 10/2, a "Fall Into Savings" event will be held. Six local businesses are participating, and residents are urged to check the Town website and local papers for more information.

*Ms. Scott* noted that on 10/14, Fringe Boutique will be holding a Grand Opening/fashion show/wine tasting event from 5:30 PM to 7:30 PM.

**LIAISON REPORTS:** None.

**MINUTES:** Tabled.

**CORRESPONDENCE:** Letter received from the State of NH Department of Safety relative to the Town being awarded \$7,471.30 in FEMA funds.

*Ms. Scott* advised that the recent event at "Woof it Down" had been very successful with over 100 people and their dogs attending. She then requested the Board accept donations from the following toward this event: Windham Animal Hospital, \$100 gift card; Canobie Lake Veterinary Hospital, \$142.80 for placement of an ad for the event; various raffle prizes from Rockingham Emergency Veterinary Hospital, Woof it Down, Village Bean, and Windham Deli. Mr. Breton moved and Mr. McLeod seconded to accept these donations with thanks. Passed unanimously.

**PUBLIC HEARING:** Mr. McMahon read the public hearing notice into the record as follows: "*Notice is hereby given that a hearing will be held on September 20, 2010 at 7:10 PM at the Planning and Development Office concerning a request by Donald & Paula Jones for a waiver concerning RSA 485-A:30b, Release from Protective Well Radii and the Town Water Supply Regulations, Section 2.5 requiring wells to be a minimum of 75' from septic systems. The property is located at 20 Ash St. lot 16-F-2.*"

Mr. Stearns moved and Mr. Hohenberger seconded to enter into the Board of Health. Passed unanimously.

Mr. Jones approached and explained that he is in need of a new well, and after consulting with several contractors, none will drill in his preferred location due to the steep slope and ledge. He noted that he is therefore seeking a waiver for the alternative location, which had been reviewed by

Mr. Schofield of the NH DES and was being proposed as per his recommendations. Mr. Jones noted that the alternate location was 65' from his septic, 60' from his neighbor's septic, 56' from the septic across the street, and over 100' from all other area septic.

Discussion ensued regarding Mr. Schofield's recommendations, which include of a minimum 40' of casing, and the state's required distance of 50' from area septic systems versus the Town's 75'.

Health Officer David Poulson indicated that he would recommend the Board grant the request for waiver based upon the owners' adherence to the State's recommendations.

Mr. Stearns inquired why the Jones were seeking to drill a new well, and Mr. Jones replied that the current well is too close to his house/septic system. Discussion ensued regarding how the proximity had been approved when the house was constructed, as at that time the required distance had been 100'. Mr. Jones clarified that when he built the home he had installed the septic system but the well had already been in place on the property. Mr. Jones indicated he did not know how or why approval had been granted.

Mr. McMahon inquired whether there was anything that prohibited granting of Mr. Jones request, and Mr. Poulson replied in the negative.

Mr. Hohenberger indicated he would like to see the history of the property to ascertain how the well got on the property. He then inquired why Mr. Jones wanted to move the well. Mr. Jones replied he wished to do so because he did not know how deep the casing was on the current well. Mr. Poulson added that leaching into the current well should be a concern. Mr. Jones noted that there is documentation for the well, which is approximately 200' deep, and that the property had previously had a cottage on it. Discussion ensued as to Mr. Jones' original plan for the current home and any approvals/waivers related thereto. Mr. Poulson felt if the plan couldn't be located then the request should be approved to legitimize the well/septic.

Mr. Breton noted Mr. Jones' plan indicates that the DES approved his septic plan in 1996. Mr. McLeod expressed concerns that Mr. Jones was proposing to move the well from a location with one potential source of contamination to another with three potential sources. Discussion ensued.

Ms. Scott clarified that in 1997 a variance had been granted to construct a new building subject to installation of a new septic system. She noted that the Town had approved the plan, as well, with no waiver.

Mr. Breton then moved and Mr. McMahon seconded to approve the request for a waiver for lot 16F-2 as presented.

Mr. McMahon noted that he felt moving the well further away from Cobbetts Pond was a good thing, and added that the Town had approved the septic and this waiver would now improve the situation on the property (ie: greater casement).

Mr. Hohenberger disagreed, noting that currently the well is only close to the owners' own septic and that moving it places it in danger of contamination from the neighbors' properties.

Mr. Poulson noted that, if the Board denied the request, the DES would demand an explanation of why the Board left the well within 45' of a septic system. Discussion ensued.

Motion failed 3-3, with Mr. McLeod, Mr. Stearns, and Mr. Hohenberger opposed.

Mr. Stearns suggested that Mr. Jones contact the state regarding possibly re-sleeving the existing well. Mr. McMahon suggested that Mr. Jones continue to work with Mr. Poulson to reach a resolution. Discussion ensued.

Mr. Poulson suggested that Mr. Jones leave the property as is, noting that if he contacts the State to inquire about re-sleeving the well another waiver may be required. Further discussion ensued regarding the DES recommendations and state requirements.

Mr. Stearns moved and Mr. McLeod seconded to adjourn the Board of Health portion of the meeting. Passed unanimously.

**PUBLIC HEARING/JOHNSON ST. CUL-DE-SAC:** Mr. McMahon read the public hearing notice into the record, and noted that the area had been inspected and signed off on by staff as required. Mr. McLeod inquired whether there were any issues, and Mr. Sullivan replied there were minor issues relative to the title of the property, however the Town does have the deed and there was not sufficient reason to delay acceptance of the road.

Mr. Hohenberger then moved and Mr. McLeod seconded to approve the Johnson Street cul-de-sac as a town road; and to fully release the bond in the amount of \$12,733.96 plus accrued interest to Century Builders. Passed unanimously.

**DAVID POULSON:** Mr. Poulson requested that the Board considering eliminating scale transactions at the Transfer Station as a means of cost savings, noting that:

- The scale involved \$1200 per year in related expenses.
- Currently, only three vendors have need of the scale.
- Beginning next year, audits of scale activities will be required at a cost of \$100 plus potential fines.
- Discontinuing of the scale operations will eliminate cash coming into the Station and possible issues related thereto.
- The scale will continue to be utilized to track tonnage, etc.
- Weighmaster licenses will no longer be required, which the Town currently pays for.
- Vendors do still have alternative scale locations to go to.

After a brief discussion, Mr. Hohenberger moved and Mr. McLeod seconded to approve Mr. Poulson's request to discontinue scale transactions at the Transfer Station. Passed unanimously.

**JACK MCCARTNEY/MAINTENANCE OF UNACCEPTED ROADS:**

Mr. McCartney advised that there are currently 7-8 miles of unaccepted roads in new subdivisions that the Town plows and sands. He indicated that he did not have a recommendation on this matter, and added that he didn't know how the Town could now stop maintaining these roads as it has been Town practice for over 20 years. Mr. McCartney suggested that the Board look at changing the subdivision regulations relative to the time allowed to Developers to complete their roadways.

Mr. Breton inquired as to the cost involved to do winter maintenance, and Mr. McCartney replied approximately \$3,500/mile. Mr. Breton then noted that the town of Pelham makes developers set funds aside in escrow from which it collects when plowing is done. Mr. Hohenberger indicated that he agreed, in theory, however some of these homes pay substantial amounts in taxes. He indicated he concurred with Mr. McCartney's suggestion that a specific time frame for completion be set. Discussion ensued.

Mr. Hohenberger suggested that those roads that can be accepted should be as soon as possible. Mr. McCartney replied that, in his opinion, some of the roads in question could be accepted. Mr. Stearns suggested that, moving forward, the Town not plow subdivision roadways until formally accepted.

Mr. McMahon pointed out that, when the Town issues a certificate of occupancy, it has essentially deemed the roadway a town road. Discussion ensued. Mr. McLeod noted that the expectation is, all along, that these roads will be public roads and that the owners' property taxes are based on that supposition. Discussion ensued as to whether or not other taxpayers were subsidizing the developers if the Town plows the roads.

Planning Board Chairman Phil Lochiatto approached noting that he and Ms. Scott had met with the Highway Safety Committee to discuss the different options available to the Town. He noted that there was no proposal to discontinue plowing, as it is a safety issue, however ways were being suggested to allow the plowing to be funded by the developer via escrow funds, for example. Mr. Lochiatto recommended that, going forward, escrow costs be calculated for the next subdivision. Discussion ensued.

Mr. McLeod indicated that, going forward, he felt that escrow funds were a good solution to the issue, however, his expectation would be to continue status quo for the existing roadways.

Mr. Tom Case approached and stated he felt the plan going forward made sense, however, he did not agree with maintaining the status quo on current roads. Mr. Case noted that the current subdivision regulations require the roadways to be bonded for two years only, and then the bond taken and the roadways completed if necessary. He noted that some of these roadways are 6+ years old, and felt the Town should move the developer forward or, alternatively, take the bond and finish the roads.

Chief McPherson approached and advised that the Highway Safety Committee had, indeed, met with Ms. Scott and Mr. Lochiatto, however no official position had been taken on this matter. He noted that the Highway Safety Committee had understood why this issue had been brought up, but the Committee's discussion had centered on maintaining public safety. Discussion ensued.

Mr. Robert Coole approached noting that he believed escrow funds were a good idea, and added it would serve as an incentive to the developers to finish the roads.

Mr. McMahon suggested that the Board consider drafting a policy going forward and grandfathering the existing roads. Mr. Breton suggested that the developers in question be billed for Town plowing expenses in 2010.

Mr. Hohenberger concurred, and noted that the Town needs to move forward to get the existing roads approved. Mr. Stearns also concurred, and noted that the list of currently unapproved roads needs to be amended to include approval date and the date of issuance of the first certificate of occupancy.

Ms. Scott noted that the subdivision regulations are in the process of being re-done, and a provision for a cash escrow account can easily be incorporated. She then noted, as it pertained to the existing roads, it was a long process to present them for acceptance as current staff needs to go back and re-create the entire process. Mr. McLeod noted that the regulations will also have to address what will happen if the escrow funds are not paid.

Mr. Breton suggested that staff work to ensure that all current bonds/letters of credit are up to date and, if not, their amounts be increased to reflect current material/labor costs. Ms. Scott replied that the bond amounts cannot be increased without agreement from the applicant. Discussion ensued.

Finance Director Dana Call pointed out that the list as reviewed by the Board is the same reported every year in the Town Report, and that bonds are reviewed annually and all are current. She noted there is no provision for cost escalation at this time.

Lengthy discussion ensued regarding the status of the subdivisions in question, some of which are still being built on, and subdivision approval requirements.

Mr. Hohenberger suggested the Planning Board add another line item requirement to the road bond relative to winter maintenance, similar to the cistern requirements. Mr. Stearns concurred, and suggested an escalation clause be included, as well.

Mr. McCartney noted that “substantial completion” within 2 years, as required, includes completed base coat, drainage, etc. He pointed out that the Town should have a bond requirement for housing contractors, as much of the damage to new roadways is as a result of their activities. Mr. McCartney noted that most of the roadways on the list have been built-out and are only awaiting inspection.

It was the consensus of the Board to agree with Mr. Hohenberger and Mr. Stearns suggestion, and that a policy be drafted relative to the existing roads. Ms. Scott noted administrative staff would also need to develop a process for tracking/paying out these escrow accounts. Further discussion ensued.

Mr. McMahan clarified that residents should know that their roads will continue to be plowed.

**OLD/NEW BUSINESS:** Mr. McLeod recused himself from the Board. He then inquired whether Mr. Stearns and Mr. Hohenberger had an opportunity to view the temporary lights at Griffin Park. Both replied in the negative, and a brief discussion ensued.

Mr. Breton then moved and Mr. Stearns seconded to approve the request of WSA to relocate the temporary lighting as discussed at the September 13<sup>th</sup> meeting of the Board. Passed 4-0.

*Mr. Hohenberger* sought clarification of a penalty recently paid to the NH Retirement system. Ms. Call explained that Retirement had deemed two of the Town payments as being late and assessed a 10% penalty on the submissions. She added that the lateness was related to postmark versus

receipt date, and that a lengthy request had been submitted by staff to Retirement requesting that the fee be waived; which had been denied. Brief discussion ensued.

*Mr. Sullivan* requested the Board's authorization to execute amendments to the Town's Diversified Investment Plan; noting that the amendments did not effect the Town but rather were part of the overall policy. Mr. Stearns moved and Mr. McLeod seconded to authorize Mr. Sullivan to execute the amendments as requested. Passed unanimously.

*Mr. McMahon* noted that the Spruce Pond Plan is now available for the members' review.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. McLeod seconded to enter into a non-public session in accordance with RSA 91-A:3, b and e. Roll call vote – all members “yes”. The Board, Mr. Sullivan, Ms. Scott, and Ms. Devlin were in attendance in the first three sessions.

Ms. Scott updated the Board on an enforcement matter relative to Town property. It was the consensus of the Board that a letter be sent to the parties in question advising they have 14 days to remove the object in question before the Town takes step to remove it.

*Ms. Scott* updated the Board on a legal matter relative to enforcement. It was the consensus that Ms. Scott proceed as presented.

*Ms. Scott* advised the Board of a potential legal matter. No decisions were made.

*The Board*, Mr. Sullivan and Ms. Devlin were in attendance in the remaining sessions.

Mr. Sullivan updated the Board on a matter related to sale of Town property. It was the consensus of the Board that the property be put out to bid again, with a minimum bid of \$25K.

Mr. Sullivan updated the Board on a personnel matter.

Mr. Hohenberger moved and Mr. Stearns seconded to approve amendments to the Earned Time Donation Policy to include donations in response to the death of a spouse or child not to exceed two weeks. Passed 4-1, with Mr. McLeod opposed.

Mr. Stearns moved and Mr. Hohenberger seconded to adjourn. Passed unanimously.

Meeting was adjourned at 9:50 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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