

BOARD OF SELECTMEN
Minutes of March 28, 2011

MEMBERS PRESENT: Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Phil Lochiatto, Kathleen DiFruscia and Roger Hohenberger were present, as was Town Administrator David Sullivan. Mr. McLeod opened with the Pledge of Allegiance.

ANNOUNCEMENTS: Mr. McLeod extended thanks to the Fire Department for hosting another successful Ball this past weekend. Also, congratulations to Cheryl Haas on another, very successful Daddy/Daughter Dance. Mrs. DiFruscia, on behalf of Ms. Haas, extended thanks to Debbi MacKenzie, Laura Scott, and Barbara Coish for their assistance with the Dance. She then added the following announcements: the fields and skate park are still closed; Senior Game Day is coming up; Easter Egg Hunt is scheduled for the 16th; and Spring Tot class registration will begin on April 6th.

Mr. Hohenberger noted that he, Mr. Sullivan, Mrs. Call, and Chief Lewis had attended Police union negotiations, and no resolution had been reached.

LIAISON REPORTS: None.

MINUTES: Tabled.

CORRESPONDENCE: None.

9/11 PRESENTATION: Chief McPherson and Firefighter Gary Kurgan approached to advise the Board that, as part of the World Trade Center Artifact Program, the Town of Windham had been selected to receive a portion of steel for display at the Station. The Chief extended his thanks to the local Union for their efforts in taking the initiative to ensure the Town obtained this artifact, which is a great opportunity to memorialize the tragedy of September 11th.

Mr. Lochiatto moved and Mrs. DiFruscia seconded to accept the donation of said 9/11 memorial piece. Passed unanimously. Brief discussion ensued regarding the Department's plan for a special service this year to mark the 10th anniversary of 9/11.

ASSISTANT CHIEF MORGAN/PINNING CEREMONY: Chief McPherson briefly introduced Deputy Chief Morgan, noting that he had come to the department in 2009 with over 30 years of experience. He then invited Chief Morgan and his wife Jackie to the podium, where Mrs. Morgan conducted the official pinning to commemorate the Chief's promotion to Assistant Chief. Chief Morgan extended his thanks to Chief McPherson, Mr. Sullivan, and the Board for their support; noting that he was honored to be part of the Windham Department. He also extended his thanks to his family.

HISTORIC DISTRICT COMMISSION: Chairman Carol Pynn approached to advise the HDC continues to sell prints of the Fellows Home, and to note that as the HDC does not have a special account available these proceeds are currently going into the Town's General Fund. She noted that the HDC would like to be able to utilize these funds towards documentation or future surveys.

Mr. Sullivan noted that he advised Ms. Pynn that, since the HDC does not have a revolving or similar fund available to them, that the Board could authorize the over-expenditure of the HDC budget by an amount equivalent to the revenue received. He added that, barring that, these funds would remain as general revenue. Discussion ensued regarding the number of prints remaining to be sold and possible changes to the HDC at next year's Town meeting to address such issues.

Mr. Hohenberger then moved and Mrs. DiFruscia seconded to authorize the HDC to expend in excess of \$1,000 budgeted up to that amount raised through the sale of the Fellows prints. Brief discussion ensued regarding the timing of the sales and the end of the fiscal year. Motion passed unanimously.

FIRE TRUCK BID AWARD: Chief McPherson extended thanks to the Truck Committee established last May for their efforts in drafting out specifications for this vehicle: Lt. Scott Delaney, and Firefighters Scott Zins, Scott Savard, Pat Robertson, Michael Specian, and Robert Taylor. He then noted that five (5) bids had been received, as follows:

Vendor	Manufacturer	Bid Price before trade-in	Trade-in Value of Engine 3	Bid Price after trade-in
Bulldog Fire Apparatus, Woodville MA	Kovatch Mobile Equipment (KME)	\$517,956	\$2,500	\$515,456
Ed Pollard, Holden LA	Ferrara Fire Apparatus	\$549,084	\$0	\$549,084
Fleetmasters, Inc., Still River MA	Seagrave Marauder II	\$599,377	\$9,500	\$589,877
Yankee Fire Rescue, Palmer MA	Rosenbauer	\$518,935	\$0	\$518,935
Greenwood Emergency Vehicles, North Attleboro MA	E-One	\$542,043	\$0	\$542,0

Chief McPherson advised that the bids had been scrutinized by the Committee and, based upon their recommendation, he would request that the Board award the bid to KME/Bulldog Fire Apparatus for an amount not to exceed \$517,956.

Mr. Hohenberger sought clarification that the warranty on the pump was only five years. Firefighter/Mechanic Scott Zins replied in the affirmative and that this was the standard warranty, adding that Hale pumps hold up quite well. Mr. Hohenberger inquired whether the vehicle would be able to access pond/private roads easily, and Mr. Zins replied in the affirmative, noting it had been designed to resemble E-1 as closely as possible.

Mr. Hohenberger then inquired why the cost was so high compared to similar vehicles, and Mr. Zins noted that this engine will be 2010 Emissions compliant which represents an increased cost. In addition, the engine will not be an “off-shelf” vehicle, as one could not be located to meet the Town’s needs. Chief McPherson added that the Department relies on the tank as there is no municipal water; which requires an increased tank size.

Mr. Lochiatto raised concerns regarding the offering of \$2,500 for the trade. Chief McPherson indicated that he did not recommend the Town accept this amount, but rather sell the vehicle outright. Mr. Lochiatto then inquired whether the \$3,000 equipment mounting allowance was adequate, and the Chief replied that the pre-build conference would determine that. Discussion ensued.

Mr. Lochiatto then sought clarification of the penalty clause contained in the contract, and Chief McPherson explained that anything beyond 240 days on the delivery would result in a \$100/day penalty.

Mr. Hohenberger then inquired if KME was the same company that the Department had experienced issues with regarding a previous piece of equipment. Chief McPherson replied in the affirmative, noting that the tanker had experienced issues shortly after purchase, however these had been satisfactorily resolved.

Discussion ensued regarding discounts offered, such as pre-payments, versus cash flow, the pre-bid conference, and the anticipated return on selling the trade outright which Chief McPherson felt confident was well in excess of \$2,500.

Mr. Hohenberger then moved and Mr. Lochiatto seconded to award the bid to Bulldog Fire Apparatus for purchase of a KME vehicle; cost not to exceed \$517,956. Brief discussion ensued regarding the bid specifications, and Lt. Delaney clarified that the pre-bid conference affords the opportunity to evaluate options for further savings. Motion passed unanimously. Chief McPherson extended his thanks to the current and former Board members for their support.

OLD/NEW BUSINESS: Mr. McLeod asked that the Chief speak to the previous week's non-public session regarding a soil issue. Chief McPherson explained that the Department had received anonymous calls regarding a potential leak in the area of North Shore Road, which was described as a sheen on the water at the shoreline. The Hazardous Materials team had responded and deployed booms to contain the area, and had discovered a couple of holes on the adjacent property which may have indicated an underground tank. Chief McPherson noted that the sheen was tested and found to be petroleum based, however, it could not be determined what the material was. The Department of Environmental Services had then been contacted, and confirmed that the Town's response was appropriate before assuming jurisdiction. DES has contacted the owner and a clean-up company has been secured. Chief McPherson will keep the Board apprised.

STORM WATER ORDINANCE: Storm Water Committee Chairman Dave Poulson reminded the Board that this ordinance is required per Phase II of the US Environmental Protection Agency regulations and the Phase II MS4 Management plan requiring a local ordinance.

Mrs. DiFruscia suggested that, on page 1 of the Policy, "municipal" be added to the definition of "MS4" to be consistent with the first paragraph. She also sought clarification that "30" days as noted in Section VII was not too long a time period. Mr. Poulson clarified that 30 days are afforded to make a correction, however, a cease and desist will be implemented immediately. Brief discussion ensued regarding MS4 requirements. Mr. McLeod also requested that Section VIII: Waivers, be amended to read "good cause shown".

Mr. Lochiatto then moved and Mr. Hohenberger seconded to approve the Storm Water Management Ordinance as amended. Passed unanimously.

HOPKINS ROAD: Mr. Sullivan advised that, upon further review since posting of the agenda, it has been determined that this request for discontinuance is not within the Board's purview; rather it would require a Town Meeting vote. He explained that H & B Homes will be crossing the railroad bed in this area as part of their subdivision, and the State has requested that the Town eliminate all crossings, as well. Discussion ensued, with no decisions being made.

OLD/NEW BUSINESS: Mr. Sullivan advised the Board that, procedurally, they had neglected to waive the bid process the previous week as it pertained to continuing with Herbert Associates for the Griffin Park parking lot. Mr. Hohenberger moved and Mrs. DiFruscia seconded to reconsider the Board's vote of March 21st. Passed unanimously.

A lengthy discussion then ensued amongst the members regarding the engineering costs, input from the CPIA which may result in additional costs, placing the engineering out to bid despite the price point now being public, and the overall bid process. Mr. Sullivan clarified that he had broached the matter as a procedural issue only, and added that the Board must consider that by placing the engineering out to bid, the related documentation will need to be started from scratch as Mr. Zohdi currently has ownership of \$60-80K worth of donated services, studies, documents., etc. Further discussion ensued, and it was the consensus of the Board to table this matter until next week. Staff will contact Mr. Zohdi and Mr. Monson of the CPIA to attend to discuss this matter with the Board.

Mr. Sullivan requested that the members check their calendars to see if April 11th at 6 PM is adequate for all to meet with Town Counsel for his annual legal update. Mr. McLeod noted that, while 6 PM is fine, he will be unavailable on the 11th. Mr. Sullivan will endeavor to find another date that works for all.

SPECIAL USE PERMIT: Mr. Sullivan advised that a three year Special Use Permit has been drafted relative to the former Rogers Service Station site between the State and the Town. This agreement will allow the Town to utilize the area for additional rail trail parking/access. The site is currently graveled, and the agreement allows for this area to be used/improved as approved by the State.

Mr. Mark Samsel, Rail Trail Alliance, approached to review a conceptual plan of the site with the Board. He noted the plan had been drafted 4-5 years ago when the State first offered the site for use. Mr. Samsel stressed the need for this area, and the Police Chief's support, as parking is becoming an issue on Roulston Road. Mr.

Samsel noted that the lot could be used as is, with no improvement, with access to the trail via the sidewalk. He noted that the Alliance will maintain the lot at first, as they do the Rail Trail, and likely re-gravel the area. At some future point, a new access may be created, and the Alliance will explore the possibility of improving the area through TE grant funds.

Mr. Breton expressed concerns that this discussion should be taking place as part of a joint meeting with the Town of Salem; as part of the lot is in their Town. Mr. Sullivan noted staff could send the proposed agreement to Salem for review, however, they have expressed no interest in the property in the past several years. Discussion ensued regarding the portion of the property in Salem being unusable for parking, and the entire parking area/access from Route 28 being in Windham.

Mrs. DiFruscia expressed concerns regarding potential liability, and further discussion ensued regarding Salem. Mr. Sullivan reiterated that Salem staff has been contacted several times in the last few years, and no interest has been expressed in using the property. However, he indicated staff would send the agreement to them with a request for reply/input. Further, lengthy discussion ensued regarding potential expenses/liability, future ADA needs, the need for a fully engineered plan, and cost estimates. It was the consensus of the Board to table this discussion to allow for input from Salem.

Mr. Samsel then briefly updated the Board on the following:

- TE Grant project is moving forward, and Windham's portion is expected to begin in 2012.
- On May 14th the annual Trail Cleanup will take place.
- The Annual Flat and Fast Race is scheduled for June 12th.
- The gate at the Depot is now in place, and the guardrail project is ongoing.
- Two Eagle Scout candidates will be coming to the Board to propose projects for the Rail Trail.
- The most recent Merrimack Valley Magazine focused on Windham and the Trail.

OLD/NEW BUSINESS CONTINUED: Correspondence received from the Tax Assessor regarding the passage of SB133 and the potential impacts to impending utilities revaluation. It was the consensus of the Board that Mr. Norman attend the next meeting to expound on this matter.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Lochiatto seconded to enter into non-public session in accordance with RSA 91-A:3 II a and c. Roll call vote all "yes". The topics of discussion were personnel and reputations.

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

Mr. Sullivan reviewed a forbearance agreement with the Board relative to tax deeding. Mr. Lochiatto moved and Mr. Breton seconded to enter into the agreement as discussed; with a minimum payment of \$200/month. Passed unanimously.

The Board, Mr. Sullivan, Allan Barlow, and Ms. Devlin were in attendance in the final session.

Mr. Sullivan discussed a personnel matter with the Board relative to compensation. No decisions were made.

Mr. Lochiatto moved and Mrs. DiFruscia seconded to adjourn. Passed unanimously.

The meeting was adjourned at 9:35 PM.

Respectfully submitted,
Wendi Devlin, Administrative Assistant

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