

**BOARD OF SELECTMEN**  
**Minutes of April 4, 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:** Mrs. DiFruscia made several announcements, as follows:

- Easter Egg Hunt is scheduled for April 16<sup>th</sup> for ages up to 9, at 10:45 AM, rain or shine.
- Presbyterian Church will be hosting breakfast and cookie decorating on the 16<sup>th</sup> from 11 AM to 1 PM.
- Earth Day Cleanup is also scheduled for the 16<sup>th</sup>. Registration will take place between 9AM and 10 AM at the Bartley House Parking lot.
- April 9<sup>th</sup> will be the first Annual Pet Fair and Rabies Clinic at Griffin Park.
- April 10<sup>th</sup>, Styles and Smiles Fashion Show will take place at Windham High School; proceeds of which will benefit Breast Cancer research.
- April 15<sup>th</sup>, Bella Vino will be hosting a Wine Tasting event from 4:30-7:00 PM.

**LIAISON REPORTS:** None.

**MINUTES:** Tabled.

**ANNOUNCEMENTS CONTINUED:** Mr. McLeod noted that he had attended the Roomful of Blues concert at the High School, and that it had been a tremendous show with the Windham Jazz group joining in for the last two songs. Mr. Lochiatto concurred, and extended thanks to the Samsels who spearheaded getting the group to come to Windham.

**CORRESPONDENCE:** Memo received from Chief McPherson relative to 25 North Shore Road, advising that ENPRO has undertaken cleanup operations at the site. Mr. Sullivan added that the NH DES and the Town's Health Office are monitoring the situation, as well.

*Letter received* from the State of NH relative to sale of surplus property.

*Letter received* from Senator Rausch relative to SB133.

**REX NORMAN:** Mr. Norman advised that legislation relative to pole tax exemptions has been "laid on the table" by the House. He noted that, while it is still possible this legislation may resurface, as of April 1 of this year telecommunications poles and conduits are now taxable and, with the recently approved change to the Pole Licenses, Windham is now able to identify and assess all taxable interests utilizing the Town's rights of way. Mr. Norman indicated that he has instructed Thos. Pickett to itemize these items accordingly. Mr. Norman went on to note that he does not have a firm estimate of what the Town will gain, however, the last full appraisal of all utilities was completed in 1995 and he felt that, best case, the properties will double in value.

Mr. Hohenberger sought clarification that the vote to "lay the legislation on the table" meant that the Town could collect such taxes, and Mr. Norman replied in the affirmative. Mr. Sullivan added that it would require a 2/3 vote in the House to bring the issue up again.

Representative David Bates approached to clarify that the legislation was, by no means, dead as there is a strong will at the State level to have it pass. Mr. McLeod inquired what Mr. Bates position was on this legislation, and the latter indicated he supports its passage. Mr. Bates clarified his position in that it is the goal of House to balance the budget with no increases, including fee increases and from a policy perspective it makes sense to keep this legislation in place. He added that telephone service is a regulated utility, in that they must provide service to residents, with no means to recoup their infrastructure costs and that of the five or six providers in the State two, including Fairpoint, have already indicated they will approach the Public Utility Commission to request a consumer rate increase. Brief discussion ensued, and the Board thanked Mr. Norman and Representative Bates for their input.

**OLD/NEW BUSINESS:** Mr. McLeod executed the Deputy Fire Warden appointments.

Mr. Sullivan advised the Board that the Fire Department had successfully negotiated with KME for the new engine purchase a final price of \$514,736, which was less than the bid award based upon the Town's ability to pre-pay a portion. Mr. Lochiatto inquired whether the final figure included all connections and retro-fits as required. Mr. Sullivan replied in the affirmative, noting that those items are included within the vehicle specifications, however additional costs, within the overall budget, will be bid out to cover miscellaneous equipment needs. Mr. Hohenberger then moved and Mrs. DiFruscia seconded to authorize the Chair to execute the contract with KME at the revised cost of \$514,736 due to prepayment made. Passed unanimously.

*Mr. Lochiatto* inquired whether the Board establishes an annual set of goals or long-term agenda. Mr. Sullivan replied that, historically, he used to request that the members forward a set of five items for staff to compile for discussion/prioritization. However, the Board has opted not to do so for the last several years. Discussion ensued regarding Strategic Planning.

Mr. Sullivan indicated he could submit his Administrative project list to the Board for review. He added that, if the Board wished to proceed with a Saturday Strategic Planning meeting as they've done in the past, he would advocate scheduling a workshop with the Department Heads prior to doing so. He then suggested that the Board plan to submit their items to him for compilation within the next two weeks, and the members concurred.

**CORRESPONDENCE CONTINUED:** Notice of easement received relative to Londonbridge Road. Mr. Sullivan clarified that this item required no action from the Board, as it pertained to the Town's agreement not to impose betterment assessments on those parties contributing to Londonbridge Road. He stressed, however, that the Planning Board may still assess offsite improvement fees. Discussion ensued.

**GRIFFIN PARK PARKING LOT:** Mr. McLeod explained that the Board had requested Mr. Zohdi attend to clarify concerns some of the members had regarding additional engineering costs. Mr. Hohenberger noted that his concern pertained to the Board assuring the Cobbetts Pond Improvement Association that Mr. Zohdi would work closely with them to ensure that Geosyntec's recommendations regarding future retro-fits were taken into consideration as part of the expanded parking. Mr. Hohenberger indicated he wanted to be sure that Herbert Associates and Mr. Zohdi shared that intent, and sought clarification of Mr. Zohdi's correspondence regarding additional costs.

Mr. Zohdi explained that he was referring to costs to have another engineering firm review his plan, should the Town choose to do so. He noted he has worked with the CPIA's engineer in the past, and has no issue doing so for this project, however, he is not willing to incur the cost of a consultant engineer retained by the Town, such as Keach or CLD.

Mr. Hohenberger sought clarification that Mr. Zohdi was willing to work Mr. Monson and the CPIA while designing the drainage structures, to which Mr. Zohdi replied in the affirmative; noting he had done so on the previously proposed parking across the street from Griffin Park. Mrs. DiFruscia confirmed the latter, and noted that she did not believe that, in this case, the CPIA expected Herbert Associates to absorb any costs should the Association want their engineer to review the proposed plan.

Discussion ensued, and Mrs. DiFruscia inquired as to how Mr. Zohdi had initially become involved in this project. Mr. Sullivan clarified that the previous Board had authorized Herbert Associates to draft a conceptual plan, and Mr. Zohdi added that he has donated quite a bit of time and money to the Park. Discussion ensued, and Mrs. DiFruscia clarified that she would make the same inquiry of any firm, as she is new to the bid process. Further discussion ensued.

Mr. Sullivan indicated that, based upon previous experiences, he believed that the cost to fully engineer the project will exceed \$35K. He also stressed that Mr. Zohdi was aware there was no assumption that he would automatically be awarded the project based upon his gratis work. Mr. Sullivan then reiterated that he advocated waiving the bid process to remain with Herbert Associates as he believed doing so to be the most prudent business decision.

Mr. Hohenberger noted that Herbert Associates is more familiar with the Park than anyone, and that he would be concerned with going with another firm who does not have that same knowledge. He added that Mr. Zohdi is aware of the playground and other drainage issues at the site, and that his overall knowledge is priceless.

Mr. McLeod inquired as to the scope of work involved, and Mr. Zohdi noted the end result will include a grading plan, preliminary estimates, and meeting of all State requirements.

Mr. Lochiatto inquired whether Herbert Associates would bid if the Board placed it out, and Mr. Zohdi replied in the affirmative. Mr. Breton inquired whether bid specifications were available, and Mr. Sullivan replied in the negative; noting they would have to be drafted.

Mr. Lochiatto noted that the State has ultimate approval over any drainage plans, and concurred that Mr. Zohdi's institutional knowledge could be lost if the project is placed out to bid. Mr. Sullivan added that, in addition, the project will have to be started from scratch if placed out to bid. Mr. McLeod then inquired why the Town does not have the previous plans and documentation that Mr. Zohdi has done. Mr. Sullivan replied that Mr. Zohdi retains ownership of the plans created to date. Discussion ensued.

Mr. Derek Monson, CPIA, approached indicating the CPIA only wanted the opportunity to work with Mr. Zohdi to keep the future retro-fits in mind. Mr. Sullivan then asked that Mr. Zohdi confirm for the record that the end product would be a full set of construction plans for bidding of the project; to which Mr. Zohdi replied in the affirmative. Discussion ensued.

Mr. Hohenberger moved and Mr. Lochiatto seconded to waive the bid process for the parking lot engineering. Passed 3-2, with Mrs. DiFruscia and Mr. McLeod opposed.

Mr. Hohenberger then moved and Mr. Breton seconded to award the engineering phase of the parking lot project to Herbert Associates for an amount not to exceed \$35K. Discussion ensued regarding the scope of work and working with the CPIA. Mr. Sullivan inquired whether Mr. Zohdi would draft a scope similar to that for the Salt Shed. Mr. Zohdi replied in the affirmative.

Mr. Hohenberger amended his motion and Mr. Breton seconded to make the award contingent upon receipt of a scope of work. Passed 3-2, with Mrs. DiFruscia and Mr. McLeod opposed.

Mr. McLeod clarified that he is grateful for Mr. Zohdi's efforts, but his opposition was based upon concerns about the Town being handcuffed by institutional knowledge of the Park. He added he feared it was precluding the Town from going with any other firm in the future. Mrs. DiFruscia added that she knows Mr. Zohdi will do a great job, however, her opposition was only about the process. Discussion ensued. Mr. Lochiatto indicated he agreed with Mrs. DiFruscia, however, it would be difficult to reverse engineer the project.

**OLD/NEW BUSINESS CONTINUED:** Mr. Sullivan advised that several of the Highway Department contracts were coming due; some for bid and some for extension of their options.

*Basin Cleaning:* Highway Agent Jack McCartney indicated that there is an option to continue with Larry Blanchette at an increase of \$0.50/basin; and that he has been very satisfied with Mr. Blanchette's service. Discussion ensued regarding extending the contract or placing the cleaning out to bid; and the re-use of the material collected for fill.

Mr. Hohenberger then moved and Mrs. DiFruscia seconded to place the basin cleaning out to bid. After further discussion, the motion passed unanimously.

*Roadway Sweeping:* Mr. McCartney recommended that the contract be extended via the option, and discussion ensued regarding timing of the sweeping and the bid price. Mr. Lochiatto then moved and Mr. Hohenberger seconded to execute the option to continue with Immaculate Sweeping for the bid price of \$69.75/hour. Passed unanimously.

*Roadside Mowing and Crack Sealing:* Mr. Hohenberger moved and Mr. Lochiatto seconded to place both these services out to bid. Passed unanimously.

*Mr. McCartney* then requested the Board's authorization to continue undertaking projects in-house with local contractors for non-CIP projects. Discussion ensued regarding past authorization, and Mr. Sullivan clarified that for the last several years Mr. McCartney has been authorized to complete projects in this manner.

Lengthy discussion then ensued regarding processes and procedures, and it was clarified that although the projects are not subjected to a full bid, price quotes are obtained from local vendors for each rather than the Highway Agent simply selecting a contractor.

Mr. McCartney noted that, if one looked at the projects completed in this manner to date, he believed the overall work was better and the cost represented less per foot than the last road that had been bid out. Mr. Sullivan added that significant projects are placed out to bid, and that those in question represented one or two jobs per year. Further discussion ensued, and it was the consensus that Mr. McCartney return with information on the proposed projects/estimated costs.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. Breton seconded to enter into non-public session in accordance with RSA 91-A:3 II c. Roll call vote all "yes". The topic of discussion was reputations, and the Board, Mr. Sullivan, and Ms. Devlin were in attendance.

Mr. Sullivan discussed a forbearance agreement with the Board relative to tax deeding. Mr. Hohenberger moved and Mr. Lochiatto seconded to approve amendment of a forbearance agreement to reflect a minimum payment of \$500/month due. After further discussion, motion failed 1-4, with all but Mr. Hohenberger opposed.

Mrs. DiFruscia then moved and Mr. Breton seconded to deny the extension of the forbearance agreement and that staff direct the property owner to return with a revised proposal. Passed 4-1, with Mr. Hohenberger opposed.

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

The meeting was adjourned at 9:00 PM.

Respectfully submitted,  
Wendi Devlin, Administrative Assistant

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