

**BOARD OF SELECTMEN**  
**Minutes of August 1, 2011**

**MEMBERS PRESENT:** Vice-Chairman Bruce Breton called the meeting to order at 7:10 PM. Selectmen Phil Lochiatto, Kathleen DiFruscia, and Roger Hohenberger were present; as was Town Administrator David Sullivan. Chairman Ross McLeod was delayed and arrived at 7:20 PM. Mr. Breton opened with the Pledge of Allegiance.

**ANNOUNCEMENTS:** None.

**LIAISON REPORTS:** Mr. Lochiatto advised that the CIP Committee had met earlier in the week with the School Board.

**MINUTES:** None.

**CORRESPONDENCE:** Letter received from Patricia Mahoney requesting to utilize the Town's van to travel to Crotched Mountain rehab. Mr. Sullivan advised that the Board has granted a previous special exception for use twice, and that the Mahoney's cover any fuel costs. He added that the only concern would be the age of the van as it pertained to wear and tear. Discussion ensued.

Mrs. DiFruscia moved to allow Mrs. Mahoney to utilize the Town van as requested on August 5<sup>th</sup> and September 1<sup>st</sup> of 2011. Mr. Hohenberger seconded for discussion, and inquired whether the van was needed for the upcoming Senior Picnic. Mr. Breton suggested that the assisted living facilities in Town be asked to provide pickups if needed, and Mr. Sullivan noted he could inquire. Discussion ensued, and Mr. Hohenberger asked that the Mahoney's be notified in writing that in the event the van breaks down they would be responsible for towing charges to return the vehicle to Windham. Motion then passed 4-0.

**ANNUAL AUDIT PRESENTATION:** Mr. Bob Vachon and Jenn Dorr of the independent auditing firm Vachon, Clukay & Co., presented an overview of their recent audit to the Board, highlights of which included:

- The Town had received an unqualified opinion, which is the best that can be received.
- The Town's total capital assets equal \$35.7M
- The Town's long-term liability equals \$1.7 with an unrestricted fund balance of \$874K
- General revenues totaled \$12.3M
- An additional \$150K will be available for the tax rate setting due to higher revenue than anticipated plus savings across departments

Discussion ensued regarding the tax rate setting procedure as it pertained to revenue estimates. Mr. Breton inquired whether the firm had issued a Management letter, and Ms. Dorr replied in the negative noting that no issues had been discovered. Mr. Breton noted that, in the past, the firm had made written recommendations regarding internal procedures and, on behalf of the new members, he would have liked to have seen a letter this year. Mrs. Call clarified that letters are not issued each year, and it is a good thing when the Town does not receive one. Discussion ensued regarding previous letters received by the Town.

The Board then thanked Mr. Vachon and Ms. Dorr for their presentation.

*Mr. McLeod* assumed the Chairmanship.

**INVOLUNTARY MERGER PROCESS:** Tax Assessor Rex Norman provided a historical background for involuntary mergers and the related legislation which is pending regarding same, which refers to owners who, over time, had multiple lots combined by the Town to one for tax purposes. Mr. Norman explained that there are several areas impacted in Windham, such as the "coffee lots" around the ponds which were shown on the first set of tax maps in 1967/68 but issued single tax bills for convenience reasons. He noted that the Town needs to address the new law which affords the property owners the right to restore the single lots to their pre-

merger status. Mr. Norman indicated that he had spoken to Town Counsel regarding how best to address this issue, and had drafted a procedure/application regarding same which had been reviewed by Mr. Sullivan and Community Development Director Laura Scott. Ms. Scott approached noting that she agreed a process does need to be put in place, with requirements for fees, plan submissions, and formal hearings/notices of decision. Discussion ensued.

Mr. Sullivan noted that the Board must address two issues; the first being a process moving forward and the second being a pending application for restoration from Mr. Maynard on behalf of his client, Charles Roberts. Discussion ensued as to whether the Board could or should proceed on the latter without the former in place. Mr. Hohenberger moved and Mr. Breton seconded to table Mr. Maynard's request until a policy is in place. Discussion ensued regarding the timing of the Board's next meeting, and Mr. Hohenberger amended his motion and Mr. Breton his second to schedule Mr. Maynard/Mr. Roberts for the September 15<sup>th</sup> agenda.

Further discussion ensued, and Mr. Maynard approached noting that he understood a policy needed to be developed, however, Mr. Roberts is only in Town for a limited period. Mr. Maynard added that he had met the majority of the proposed application requirements, and a lengthy discussion ensued as to the legislation versus the proposed procedures and fairness to Mr. Roberts.

Mr. Sullivan suggested that Mr. Maynard ask Mr. Roberts to be in attendance on the 15<sup>th</sup>, and that the Board ask Town Counsel to attend, as well, and that both issues be handled independent of each other. Mr. Lochiatto agreed, noting he did not believe that it was fair to impose the proposed process on an individual already in the queue. Further discussion ensued as to when Mr. Roberts had first applied for restoration, and Mr. Maynard clarified it had been in mid-July.

Discussion ensued regarding Mr. Hohenberger's motion, and Mr. Hohenberger clarified his motion as being that the Board will first discuss the proposed process on September 15<sup>th</sup>, and hear Mr. Roberts' request immediately thereafter. Discussion ensued and Mr. Sullivan clarified that the Board would not be able to immediately hear Mr. Roberts request due to posting requirements in new process. Mr. Breton then withdrew his second. Mrs. DiFruscia then seconded Mr. Hohenberger's amended motion, which passed 3-2, with Mr. Breton and Mr. Lochiatto opposed.

Discussion then moved to posting of the proposed fees for restoration requests. Mr. Lochiatto moved and Mr. Breton seconded to post the fees as proposed by Ms. Scott including: \$6/abutter, \$100 application fee, \$25/newspaper notice. Passed unanimously.

**GRIFFIN PARK PARKING LOT PLAN REVIEW:** Mr. Lochiatto recused himself from the Board for this matter. Mr. Peter Zohdi approached to review with the Board the final draft of the proposed parking lot plan, consisting of 235 spaces. He noted that he had worked with the CPIA as requested regarding the drainage and that the latter had concurred with the design as being the best for the area. Mr. Zohdi also noted that he had met with Mr. Johnson regarding possibly moving the bio-detention pond, however, the meeting had been unsuccessful.

Mr. Zohdi explained that the drainage plan consisted of two drainage areas, one leading to a grassy area and the other to a cape cod berm/bio-retention area. He noted that, previously, all the run-off had gone to a swale then cross culverts to a catch basin on Range Road, and that the proposed design resulted in no impacts downstream.

Mr. Zohdi indicated that the purpose of tonight's discussion was to obtain permission for Mr. Sullivan to execute the Alteration of Terrain permit application and, in addition, to advise that a new curb cut would be needed from the DOT for the new access on the Johnson Farm side. Mr. Zohdi indicated that new access will now be 80-85' away from Johnson's, with adequate site distance. This new access will represent the one-way entrance to the park, with the center entrance gated for emergency access only, and the exit being at the Squire Armour end. Discussion ensued regarding possibly rebuilding the stone wall if funds are available, and Mr. Zohdi indicated there would be room to do so.

Discussion ensued regarding sheet drainage and the bio-retention pond, and the possibility of making two way traffic within the parking area. Mr. Zohdi explained that a circular design could be done, however, the one way in/one way out flow may be impacted. Discussion ensued regarding possibly making the entrance tighter in order to force a circular flow.

Mr. Hohenberger inquired as to the existing railing on the interior of the lot, and Mr. Zohdi noted that the post and beam fencing would be disassembled and moved. Discussion ensued regarding the gated center access, and the means to secure it, and Mr. Zohdi indicated he would meet with the Chiefs and Mr. Sullivan to establish the best method; adding that once the Board is satisfied with the plan as a whole the bid specifications will be drafted and forwarded to Mr. Sullivan. Further discussion ensued.

Mr. Derek Monson, CPIA, approached to extend his thanks to Mr. Zohdi for working with the CPIA on the drainage aspects of the project. He noted that he believed the drainage as proposed was adequate if it works as intended, that the proposed drainage pond was bigger than that recommended by CPIA's firm, Geo-Syntec, and that the proposed drainage was better than what existed currently. Mrs. DiFruscia extended her thanks to both Mr. Monson and Mr. Zohdi for their efforts, adding that she was certain their efforts would go a long way toward protecting Cobbetts Pond.

Mr. McMahon approached to express concerns regarding bus/van access to the lot if the entrance curve is tightened. He also added that angling the spaces as had been suggested took up more room. Mr. McMahon then advised that the estimated cost to rebuild the stone wall would be \$48K, however, he reiterated there is room to do so. Mrs. DiFruscia inquired whether there was an area available to store the rocks for future rebuilding, and Mr. McMahon replied in the affirmative.

Lengthy discussion ensued regarding signage, target date for construction which is September/October after Fall Ball, and placing the project out to bid while the permit is pending.

Mr. Breton inquired whether the project could be done in-house, and Highway Agent Jack McCartney replied that it could be done in-house dependent on timing of the project. Discussion ensued regarding the bid specifications and scheduling of sub-contractors.

Mrs. DiFruscia then moved and Mr. Breton seconded to approve the plans as reviewed subject to approval of the Alteration of Terrain permit, obtaining of the necessary curb cut from the DOT, and a meeting with the Chiefs, Mr. McCartney, and Mr. Sullivan regarding emergency access and entrance/exit signage.

Mr. Sullivan sought clarification that it was the Board's intent to bid the project as soon as the specifications were available. The Board replied in the affirmative.

Discussion ensued, and Mrs. DiFruscia amended her motion and Mr. Breton his second to add that the plans be placed out to bid and, if the DOT and/or DES require changes they be amended as part of the bid process; and further to authorize staff to execute the Alteration of Terrain permit application.

After further, brief discussion, motion passed 4-0.

*Mr. Lochiatto* resumed his seat with the Board.

**PAVING BID AWARD:** Mr. McCartney advised that four bids had been received for paving of Galway Road, as follows:

Brox Industries, Dracut MA	\$130,660
Tate Brothers Paving, Hudson NH	145,580
Hudson Paving & Excavating, Hudson NH	146,578
JGE Enterprises, Bedford NH	154,083

Discussion ensued as to the requirement for a bond and the disparity of the bids between Brox and the remaining vendors. Mr. McCartney requested that if the bid were awarded to Brox, the Board do so with the stipulation that Brox offer written assurance that they will complete all work as specified and that they will provide a bond.

Mr. Hohenberger then moved to award the bid to Brox subject to Mr. McCartney's stipulations. Mr. Lochiatto seconded for discussion, which then ensued regarding the 11% disparity and the bid specifications, particularly regarding drainage, and the possibility of doing the project in house.

Motion then passed 3-2, with Mr. Breton and Mr. Lochiatto opposed.

**OLD BUSINESS:** None.

**NEW BUSINESS:** Mr. Sullivan discussed with the Board a previously denied grievance relative to step-raises and the Evergreen law. He noted that, after further review and contact with Attorney Broth, the various contracts had been found to address continuing step raises in the absence of a new contract as follows: police would receive no raises as there is no contract language regarding same, and; municipal and fire unions would, based upon built in Evergreen clauses within their contracts, be eligible for steps. Mr. Sullivan noted that the latter language was negotiated in exchange for increased health insurance co-pays. He advised that the impacts for the fire department raises, of which 4 employees are eligible, would be \$3,728; and for the 3 eligible municipal employees the impact would \$3,531. Mr. Sullivan added that these funds are budgeted.

Mr. Breton noted that while he agreed regarding the step raises, he disagreed that any other cost items should be continued, such as shift differentials, as the fire contract speaks specifically to what will be continued. Lengthy discussion ensued.

Mr. Hohenberger, Mrs. DiFruscia, and Mr. McLeod indicated their concurrence with granting of the step raises in question, and Mr. Breton inquired whether an official vote would be taken. Mr. McLeod inquired whether any member wished to make such a motion, and a discussion ensued. There was no motion made, and Mr. Sullivan clarified for the record that there was an error made in not granting the step raises and that he would advise the unions that the matter would be corrected.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. Lochiatto seconded to enter into non-public 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.

The Board, Mr. Sullivan, Mrs. Call, Tax Assessor Rex Norman and Ms. Devlin were in attendance in the first session.

Mr. Norman reviewed a legal matter with the Board relative to a tax appeal decision. It was the consensus of the Board that Mr. Norman proceed to appeal the decision as discussed.

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

Mr. Sullivan updated the Board on a tax deeding issue. Mr. Hohenberger moved and Mrs. DiFruscia seconded to continue with the waiver and that the administrative fee be increased to \$3,000. Passed unanimously.

*The Board*, Mrs. Call, Community Development Director Laura Scott, and Ms. Devlin were in attendance in the third session.

Ms. Scott updated the Board on a personnel matter related to a grievance. Mr. Lochiatto moved and Mr. Hohenberger seconded to support Ms. Scott's denial of the grievance. Passed unanimously.

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

Mr. Sullivan discussed appointments to the Conservation Commission with the Board. Mr. Hohenberger moved and Mrs. DiFruscia seconded to appoint Mr. Wayne Morris, Ms. Pam Skinner, and Ms. Lisa Ferrisi as regular members for a period of 3 years; and Mr. John McRobbie as regular member for a period of two years. Passed 4-0-1, with Mr. Breton abstaining.

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

The meeting was adjourned at 10:00 PM.

Respectfully submitted,  
Wendi Devlin, Administrative Assistant

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