

BOARD OF SELECTMEN'S MEETING

MINUTES OF AUGUST 29, 2011

Members Present: Ross McLeod, Bruce Breton, Roger Hohenberger, Phil LoChiatto and Kathleen DiFruscia. David Sullivan, Town Administrator, and Dana Call, Assistant Town Administrator, were also present. Meeting commenced at 7:00 with Mr. McLeod leading the Pledge of Allegiance.

Hurricane Irene Update – Fire Chief Thomas McPherson reported that the Town began preparing for hurricane Irene last Monday. He stated that all preparations were a collaborative effort of employees, Selectmen, volunteers and local businesses. He thanked Cairns & Sons Construction, Al Letizio Marketing & Sales and Arthur Klemm for their use of their message boards during the storm for updates.

Chief McPherson stated that the volunteers and fulltime staff prepared on Saturday to set up a shelter at the high school if needed. On Sunday, the department began receiving multiple calls and all staff were called in. At one point there were 19 full or partial road closures and 80% of residents were without power. The utility companies are still restoring power tonight. He stated that residents whose power is not restored to notify their power company and if the problem continues to call the Fire Department.

The Chief further stated that the Department may be eligible for FEMA funds and will submit the necessary reports and storm data. The Department is continuing their assessment of damage and response. No injuries were reported.

Chief McPherson cautioned residents on the use of generators and recommended that generators be installed professionally and if residents have any questions, to contact the manufacturer or the Fire Department.

Chairman McLeod thanked the Chief and all involved for their efforts and doing a great job.

Liaison Reports – Mr. LoChiatto reported that the CIP is ongoing.

Minutes – To be addressed at the next meeting, September 12, 2011.

Agenda Item – Mr. Breton asked that the agenda item, JLMC Audit be deferred to the next meeting on September 12, 2011.

Public Hearing – Mr. Sullivan read the following notice – *“The Board of Selectmen will hold a public hearing on August 29, 2011 at 7:00 pm at the Community Development Department to consider the application of Charles Roberts, owner of 25 Cobbetts Pond Road (Tax Map 21-Z-268) to unmerge his lot/parcel to its pre-merged status as provided for in RSA 674-39-aa; and in accordance with the Town’s “Application for Restoration of Involuntarily Merged Lots” process. All public input is welcomed and encouraged. Posted August 17, 2011.”*

It was noted by the Chairman that all abutters were notified and that Town Counsel, Bernard Campbell, has been consulted and is present.

Joe Maynard of Benchmark Engineering gave the applicant’s presentation for the owner, Charles Roberts. Mr. Maynard explained that there is a new law which allows an owner to apply to the Town for the restoration of involuntarily merged lots. He further stated that his client has completed the Town’s application for this pursuant to RSA 674:39-aa. The request is to unmerge lot 21-Z-268 to the pre-merger configuration as identified on the December 13, 1913, Horne Heirs Recorded Plan #57 (lots 8 -14). Mr. Maynard showed maps depicting the area and stated that the first town tax maps in 1968 showed it as one lot (involuntary merged by town), but these maps were for taxation purposes only. He stated that his firm has done a boundary survey and now there are four viable lots (Lot 8 & 9, Lots 10 & 11, Lot 12, Lots 13 & 14).

Questions were asked and answered by Board members of Mr. Maynard, Rex Norman (Town Assessor) and Charles Roberts.

Town Counsel, Bernard Campbell, stated that he reviewed this matter at the request of the town and did a title search. He reviewed all recorded transfers from 1917 to present and showed changes on each lot as they were recorded. He advised the Board to consider granting the relief to the current owner to set up a separate lot for Lot 13 and part of 14, and possibly lot 12, but to deny any other relief.

Both Mr. Maynard and Mr. Roberts refuted Attorney Campbell's findings. Mr. Roberts read the following for the record –“A perimeter description is used by the writer of a deed as a “style” which would outline a piece of land and be used as a scribe's practice to avoid the lengthy description of many individually contained lots. A specific description contained in a deed would always trump a general description, and what could be more specific than referring the reader to the Record on Plan 057 of 1913, the land of the Horne heirs and each lot drawn thereon within the meaning and intending clause.” He stated he received this information from attorneys he consulted.

Much discussion, opinions and questions followed by the Board, Town Counsel, Mr. Maynard and Mr. Roberts. Subjects included previous land transfers, position of buildings, driveways, septic systems and beaches; also compounds, lot line changes, tax maps, etc. Mr. Roberts read excerpts from a court case in Superior Court in 1995 “Richard H. Snow v. Town of Candia” and the decision by Judge Snow and asked that it be made part of the record tonight. Decree is attached.

Public comments were invited. Phil Bouchard owner of 2 Horne Road expressed concern over additional development on Cobbetts Pond Road as it is presently curvy, narrow and crowded. Felt changes would be dramatic and damaging.

Carolyn Webber, 19 Cobbetts Pond Road, stated that creating new lots would require that present homes be renumbered. She did not want her number changed and had spoken with the owner of the Emergency Veterinary Hospital at 3 Cobbetts Pond Road and she does not want the number of her business changed.

Carol Pynn, 19 Cobbetts Pond Road, also expressed her objection to a change of house number.

Laura Scott, Community Development Director, stated that the owner of the Emergency Veterinary Hospital had also contacted her and asked her to state that she does not want her street number changed.

Chairman McLeod stated that the street renumbering would be addressed at a later meeting when all residents have been noticed. Board members also stated that although they understood the abutters concerns, they had to make their decision based on the law.

Representative David Bates of 12 Range Road stated that street numbers, future use of the land and traffic issues cannot be relevant to the Board's decision. He offered himself as a resource on this law and noted that the law states that the burden of proof is on the town. He stated that he is in favor of this request as presented and urged the Board to approve it.

Following more discussion Mr. Hohenberger motioned to keep a portion of lot 8 and lots 9, 10 and 11 as a single voluntarily merged lot by the “owner” at the time and lots 12, 13 and 14 as individual lots. Mrs. DiFruscia seconded. After discussions by the Board, Mr. Hohenberger amended his motion to have a portion of lot 8 and the entire of lots 9, 10 and 11 as 1 entity, lot 12 as 1 entity and lot 13 and a portion of lot 14 as 1 entity. Mrs. DiFruscia seconded. Motion passed 3-2 with Mr. Breton and Mr. LoChiatto opposed.

Griffin Park Parking – The Board requested Mr. Sullivan to have Mr. Zohdi's office prepare a map of Griffin Park depicting the whole boundary on Range Road and placement of the stone wall where the construction is proposed prior to the September 12 meeting.

Map, Block and Lots Numbers – Rex Norman, Assessor, stated that he had the following numbers available for the new lots created by the Board in the preceding public hearing:

- o Lots 13 & 14 21-Z-275
- o Lot 12 21-Z-276
- o Lot 8,9,10,11 21-Z-268 (Existing)

Cobbetts Pond Road Renumbering – The discussion of the renumbering will be held at the Board’s meeting on September 19th and residents will be notified.

Spruce Pond II Street Lights – Laura Scott, Community Development Director, told the Board that the developer/applicant for Spruce Pond II asked that the requirement for street lights be removed from the approved plan. She further explained that these would become town lights and that the requirement was added by staff and not the Planning Board. Mr. Ross stated that he was on the Planning Board when Phase II was approved and he does not recall any discussions regarding street lights. Mr. Maynard stated it was not in the road profile plans and Phase I had no lighting requirements.

Mr. Coole asked the number of lights requested – Mr. McLeod stated six lights. Mr. LoChiatto stated that the Board’s input would be advisory for the Planning Board.

Mr. LoChiatto motioned and Mr. Hohenberger seconded for the Board to support the applicants request to delete street lights from Spruce Pond II. Passed unanimously.

Town Buildings Painting – Meeting with Bidders – The bid award for this project was continued from the August 22 meeting. Dana Call, Assistant Town Administrator, reminded the Board of the bids which were opened on August 16th.

Vendor	Town Hall	Com Devt	Bartley Bldg	Total Cost
Target New England	\$24,760	\$34,640	\$7,780	\$67,189
M & L Maintenance	\$18,000	\$ 7,084	\$2,300	\$27,384
Finalcoat LLC dba Rhino Shield NE	\$62,345	\$33,200	\$11,111	\$103,000*

*Discount included if all 3 awarded.

The disparity of the bids led to the Board requesting this meeting with the bidders. Target New England was represented by Jim Doherty, M & L Maintenance was represented by Roy Leeman and Rhino Shield was represented by Ron Roderick. Mr. LoChiatto expressed some concern with our bid specifications and noted that there are professionals that know the industry who write these type of specifications.

The Board questioned each representative about their EPA certification, prep work, primer and final coat. It was noted that the Town Hall and Community Development are assumed to have lead paint due to age. The Bartley Building is just being quoted for painting the trim and not as having any lead paint. All three representatives stated that they are lead paint certified.

The Board and the vendors discussed the methods to best protect and maintain historical buildings – type of preparation (sanding vs scraping, type of primer-oil based, type of paint-oil or acrylic, methods for catching and removing lead paint chips, repair of rotted wood, etc.).

Mr. Breton also spoke of a newer process – Rhino Shield – which is a coating (ceramic) which is guaranteed to last for 25 years on commercial buildings. He said it has been used on many historic buildings around the

country. He wants the Board to consider this option as there will most likely be construction in the area in the near future and this may protect the buildings better than paint.

Mr. Roderick explained the process for Rhino Shield – 11 part process – not paint but a ceramic coating which should last 25 years. He did note that the company has been in business for 13 years.

Carol Pynn and Jerry Parsons of the Historic District Commission stated they have contacted the State Historic Cultural Resources and are concerned about power washing and other processes. They suggested that the Town's specifications may be need to be redone. Also expressed some concerns with Rhino Shield and need for more information.

Mr. Sullivan stated that the Historic District Commission has the final approval on the painting with the Board awarding the contract. He stated that earlier this year, he spoke with the Commission regarding Rhino Shield and advised them to look at the Methodist Church in Sandown which had recently been done with the Rhino Shield process. He also clarified regarding the bid specifications that he feels they are adequate, however, the previous painting contractor was allowed by the Board to use stain instead of paint, which wasn't per the specifications and has led to much of the peeling..

The Board discussed painting of other town building and possible funding thru the CIP. The Board also requested the Historic Commission's input before future deliberations.

After further discussion, it was ascertained that M & L Maintenance did not bid the painting of the Town Hall and Community Development as a lead based job while Target New England did, therefore, M&L was disqualified from consideration.

The Board agreed to discuss this again on September 19th to give all parties time to visit references for the bidders: Target – Derry Church (corner Crystal Ave and Rt 102) and Rhino Shield – Methodist Church – Sandown.

Mr. LoChiato motioned and Mrs. DiFruscia seconded to postpone the award of the bid until September 19th; reject the bid from M & L and to have the specifications reviewed further by the HDC and State Historical Resources to validate the type of paint called for in the specifications. Passed unanimously.

Utility Appraisal Contract – Presentation from Thos. Y. Pickett & Company – Rex Norman, Assessor, stated that the Town received eight USPAP acceptable Appraisal Reports from Thos. Y. Pickett & Company on Windham Public Utility Property. Mr. Bell of Thos Y. Pickett & Co. presented his utility assessment results. He noted that two of the eight are estimated, as additional information is still needed from the companies. They are Comcast and FairPoint Communications. Mr. Bell explained the methods used to determine the values and stated that the utilities could challenge either with the NH Board of Tax & Land Appeals or the Court. Thos. Y. Pickett & Company would defend the values at a cost per day plus expenses. Mr. Norman recommended that the Board agree to doing a supplemental tax bill for Comcast and FairPoint when complete and noted that the Department of Revenue is in agreement with this. Both Mr. Norman and Mr. Bell answered questions from the Board.

Mr. Sullivan noted that with the new values, discounting Comcast and FairPoint, the Town will be losing revenues and Mr. Breton noted lost revenues plus the cost of the valuation. The Board does not need to make any decisions tonight and will wait for completion of Comcast and FairPoint.

Rex Norman – Abatements – Mr. Norman submitted a list of 17 abatements with his recommendation for approval (he previously gave the Board members the details on each one) and one request for an abatement denial. Total value abated \$1,895,400. Total tax to be refunded \$41,660.89. Mrs. DiDruscia motioned and Mr. Hohenberger seconded to approve the recommendations by Mr. Norman (17 granted and 1 denial). Passed unanimously.

Request from Laura Scott to Reallocate Community Development Budget Funds to Conduct Workforce Housing Audit – Mr. LoChiatto rescued himself from this agenda item. Laura Scott, Community Development Director, asked the Board to approval reallocation of funds from Community Development to have Keach Nordstrom Associates conduct a Workforce Housing Compliance Assessment.

The Board questioned that the audit did not have full Planning Board approval and that three quotes were not provided. Ms Scott stated that it was not presented to the full Planning Board but was requested by a subcommittee which included Ruth Ellen Post, Margaret Crisler, Jonathon Sycamore and Nancy Pendergast. She also stated that Keach Nordstrom was selected as they are already the Planning Board’s consultant, are knowledgeable about the Town’s Site Plan, Subdivision and Zoning Ordinance and very familiar with the Workforce Housing law.

Mr. Breton motioned and Mrs. DiFruscia seconded to approve the request as presented. Passed 2-1 with Mr. McLeod abstained. Mrs. DiFruscia requested that in the future she would like requests approved the by Planning Board in advance.

Oil and Propane Bid Awards - Dana Call, Assistant Town Administrator, read the bids for the Town’s heating oil (fixed prices) with the Board, which were opened on August 25. Ms. Call recommended the Board consider the fixed option only.

Fred Fuller Oil, Hudson	\$3.245 per gal
Difeo Oil & Propane, Atkinson	\$3.39 per gal
B & H Oil, Salem	\$3.399 per gal
Palmer Gas/Ermer Oil, Atkinson	\$3.399 per gal

Mr. Breton stated that consideration should be give to B & H Oil as they have serviced the Town for many years and have assisted in many ways – charities and excellent prices on servicing our equipment. Mr. Breton also noted B&H has assisted Kathy Davis and Helping Hands with their services.

Mr. Hohenberger motioned and Mrs. DiFruscia seconded to award the bid to Fred Fuller as the low bid price. Passed 3-2 with Mr. Breton and Mr. LoChiatto opposed. Mr. LoChiatto stated he was concerned about service and asked Mrs. Call to contact Fred Fuller Oil and check on their service capabilities and hours.

Mrs. Call reviewed the bids for the Town’s propane heating fuel (fixed prices) with the Board, which were opened on August 25. Ms. Call recommended the Board consider the fixed option only.

Eastern Propane & Oil, Hudson	\$2.24 per gal
Difeo Oil & Propane, Atkinson	\$2.23 per gal
Palmer Gas/Ermer Oil, Atkinson	\$2.02 per gal
Ferrellgas, Chepachet RI	no bid for fixed price; bid index only

Mr. LoChiatto motioned and Mrs. DiFruscia seconded to award the bid to Palmer Gas/Ermer Oil for the low bid price. Passed unanimously.

Surplus Vehicle Sale – Ms. Call updated the Board on Mr. DeLuca’s efforts to obtain the best auction price for the Town’s vehicles and noted they would likely be sold this upcoming week.

Non-Public Session – Mr. Hohenberger motioned and Mr. Breton seconded to go into non-public session in accordance with RSA 91-A:3, IIa. Roll call vote – all members - yes. The subject was personnel. Mr.

Sullivan and the Board were present. The Board reviewed an employee evaluation and will provide additional information to Mr. Sullivan as needed.

Public Session - Mr. Hohenberger motioned and Mrs. DiFruscia seconded to adjourn. Passed unanimously. Meeting adjourned at 12:05 am.

Submitted,

Kathleen Davis

Human Resources Coordinator

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