

BOARD OF SELECTMEN
Minutes of June 4, 2012

MEMBERS PRESENT: Chairman Bruce Breton called the meeting to order at 7:00 PM. Selectmen Ross McLeod, Phil LoChiatto, Kathleen DiFruscia and Roger Hohenberger were present, as was Town Administrator David Sullivan. Mr. Breton opened with the Pledge of Allegiance, and then requested a moment of silence for former Selectman Fred Noyles who recently passed away.

ANNOUNCEMENTS: Community Development Director Laura Scott approached noting that the Town had won two awards relative to the Wall Street Corridor Study; extending thanks to Cliff Sinnott and the Rockingham Planning Commission for their assistance. She went on to note that the Village District portion of the study was being implemented, with the formation of a sub-committee scheduled to meet in the near future.

Ms. Scott then advised that the Department Head Open Forums would begin the following evening, and continue each Tuesday at a different department through June. Information is available on the Town website or by contacting the Town Administrator.

Mrs. DiFruscia noted that the Annual Strawberry Festival had been held the previous Saturday with a tremendous turnout. She extended thanks to all who worked so hard to host such a successful event.

Mr. McLeod also extended his thanks to Mr. Sinnott for his assistance on the Wall Street study; noting that it was because of the strongly managed process that the Town had won the awards in the end.

LIAISON: None.

CORRESPONDENCE: Mr. Sullivan noted that the Historic Commission had extended an invitation to the Board to attend a future workshop with them at the Searles facility. It was the consensus of the Board that Mr. Sullivan schedule such a workshop.

REGIONAL PLANNING COMMISSION PRESENTATIONS: Ms. Scott noted that the purpose of this evening was for the Board to hear from the Rockingham Planning Commission (RPC), Southern NH Planning Commission (SNHPC), and the Nashua Regional Planning Commission (NRPC) regarding the various types of services they offer, the steps to change affiliation should the Board choose to, and to answer any questions they may have. Ms. Scott noted any decision to change affiliations would be made in July, and emphasized that this discussion is not a reflection on the service received over the years from the RPC. She stressed that the Town is not dissatisfied with the RPC, but that every now and then it should evaluate their membership.

Ms. Scott then went on to note that the presentations would proceed as follows:

- Mr. Cliff Sinnott of the RPC will discuss factors that the Town should consider in determining which region is the best fit for Windham.
- Mr. David Preece of the SNHPC will discuss the common purposes of the regional commissions, as well their functions, structures, etc., under State statute.
- Ms. Kerrie Diers of the NRPC will cover the process involved in changing regions.
- Each representative will then discuss their own unique services/programs.

Mr. McLeod noted that several years ago the Planning Board had experienced difficulty in obtaining maps from the RPC and had, at that time, spoken about the NRPC to Town staff who had found that mapping was a strong asset of that particular commission. He requested that each representative give an idea of such services, and clarified for the record that the mapping issue with the RPC had been satisfactorily resolved. Mr. Hohenberger added that he had concerns regarding geographical relationships, and asked that the representatives address that, as well.

Mr. Sinnott then opened the discussion by hosting the attached presentation, and the highlight of the ensuing discussion included the possibility of Salem switching commissions and the potential impacts of that on Windham.

Mr. Preece then proceeded with the attached, followed by Ms. Diers. Following Ms. Diers presentation, Mr. Hohenberger inquired what would happen if a Town opted not to fund participation in a regional commission. Ms. Diers replied that community would no longer be a member with access to the commission services. Mrs. DiFruscia inquired whether there are any NH communities that do not participate in any commission, and Ms. Diers replied in the affirmative; adding that approximately 90% do belong, however.

Ms. Diers then proceeded with the NRPC's presentation as attached, detailing their services, and a discussion ensued regarding iTrac, how Windham "fits" geographically with the NRPC, and the potential impacts to CTAP funding if Windham were to switch to Nashua, of which Mr. Sinnott clarified there would be no impact. Mr. Hohenberger also inquired as to the NRPC's record on successfully obtaining grant funds, which Ms. Diers replied was good; noting their recent receipt of a TIGER grant.

Mr. Sinnott then presented the RPC's attached slideshow, followed by a discussion regarding the RPC's service to date and successful working relationship with the Town, as well as invitations extended by the other commissions for the Selectmen to attend an upcoming Commission meeting to aide in their evaluation.

Mr. Preece, along with the SNHPC Chairwoman Barbara Griffin, presented the attached slideshow, and a discussion ensued regarding the wide range of communities involved with the SNHPC and whether much of their work is focused on the City of Manchester. Ms. Griffin noted that Manchester likely utilizes their services the least, and added that if the Town were to inquire of Chester or some of the other small communities she believed they would indicate they did not experience a loss of services to Manchester. She went on to note that she believed Manchester's participation in the SNHPC was a benefit to the smaller communities, as it was easier to obtain funding. Further discussion ensued.

Mr. Breton suggested that the Board evaluate the three Commissions during the ensuing months, and anyone who wished to should attend the upcoming meetings of same to aide in their evaluation with their recommendations being submitted for further discussion in September. He inquired if Ms. Scott would facilitate, and she replied in the affirmative. Mr. Sullivan noted that he believed Salem would likely make their determination well in advance of the Board's September discussion.

The Board then extended thanks to all representatives for their time in attending.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. McLeod seconded to enter into nonpublic session in accordance with RSA 91-A:3 II b and e. Roll call vote all "yes". The topics of discussion were personnel and legal.

The Board, Mr. Sullivan, Chief McPherson, Assistant Chief Martineau and Ms. Devlin were in attendance in the first session.

The Board discussed the vacant firefighter positions. Mr. Hohenberger moved and Mr. McLeod seconded to extend an offer of employment to the recommended candidates in accordance with the Employee policy. Passed unanimously.

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

On behalf of the Recreation Coordinator, Mr. Sullivan reviewed with the Board the recommended candidates for lifeguard. Mr. LoChiatto moved and Mr. McLeod seconded to approve the hires as recommended. Passed unanimously.

The Board, Mr. Sullivan, Chief Lewis, Assistant Town Administrator Dana Call, and Ms. Devlin were in attendance in the third session.

The Board discussed the vacant dispatcher position. Mr. Hohenberger moved and Mr. McLeod seconded to extend an offer of employment to the recommended candidate in accordance with the Employee policy. Passed unanimously.

The Board discussed a request to return to service as a Special Officer. Mr. McLeod moved and Mr. Hohenberger seconded to approve the request. Passed unanimously.

The Board discussed the vacated Sergeant position. Mr. McLeod moved and Mr. Hohenberger seconded to fill this position as recommended by the Chief. Passed unanimously.

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

The Board discussed the recommended candidate for the Bookkeeper position. Mr. McLeod moved and Mr. Hohenberger seconded to extend an offer of employment per the Employee policy. Passed unanimously.

Public Session resumed at 9:35, and Mr. Sullivan advised that the Board had made several personnel decisions regarding hiring of staff.

SUSTAINABLE COMMUNITIES INITIATIVE: Mr. Sullivan noted that the purpose of this agenda was to continue the discussion regarding the Town's possible participation in the SCI. He then, at the Board's request, summarized Town Counsel's opinion regarding same. Mr. Hohenberger moved and Mr. McLeod seconded to release Attorney Campbell's letter to the public. Passed unanimously. Said letter is attached hereto.

Mr. Sinnott approached and noted that, at the previous meeting, Mr. Eyring had raised several questions which he believed merited further inquiry. He indicated that he spoken to HUD and found their answer to be very clear that the Westchester incident cited by Mr. Eyring has no relevance, and went on to synopsize his memo dated June 4th, as attached. Mr. McLeod inquired whether the Town was being asked to sign anything other than the proposed Partnership agreement, and Mr. Sinnott replied there was an attachment to it, as well.

Mr. McLeod then proceeded to review the various paragraphs of the agreement and attachment thereto as attached; summarizing that they are participatory in nature only, and that the only thing that counts is what is written therein. He added neither is a contract with HUD, that the program is going to happen with or without Windham, and that when one looked at it the answer as to whether to participate was clear.

Mr. McLeod then moved, and Mrs. DiFruscia seconded to enter into the Partnership Agreement with a Granite State Future. Mrs. DiFruscia then inquired whether a paragraph could be added to the agreement specific to Windham, and Ms. Diers replied in the affirmative. Discussion ensued as to the language and where it should be inserted; with Mrs. DiFruscia suggesting that the following language be added immediately following paragraph 8: *"Whereas it is understood that upon completion of the project activities, the Town of Windham will not be bound by HUD or any other governmental entity to implement or otherwise adopt any of the Program's findings or recommendations with the understanding that such findings and recommendations are advisory only."* Mr. McLeod amended his motion to add said language, and Mrs. DiFruscia amended her second.

Mr. Hohenberger then expressed concerns to Mr. Sinnott regarding the Town's payment of dues to be a member of the RPC in that we should therefore have the ability to participate in the program without entering the agreement. Mr. Sinnott indicated that the Town does not have to enter the agreement however the partners may have greater involvement via the Regional Advisory Committee. He then noted, however, that at the end of the day the RPC Commissioners will receive updates and be part of the final adoption. Discussion ensued.

Mr. Sullivan inquired what, besides a seat at the table, the Town would give up if it didn't execute the agreement ie: potential grants resulting from the process. Mr. Sinnott indicated that he was not sure, adding that some communities may get preferred status if they've participated. Discussion ensued regarding grant criteria and the regional plan. Mr. LoChiatto expressed his agreement with Mr. Hohenberger, citing concerns that the Town may be precluded from grant funds yet is not obligated to participate. Lengthy discussion ensued regarding the agreement, grant scoring systems, and points afforded to communities with preferred status.

Mr. McLeod then requested the Chair call the motion, noting that two discussions regarding this had been held to date and questioning what more the Board could hear. A point of order was then made by Representative Kolodziej. Mr. Breton allowed Mr. Kolodziej to approach, and the latter indicated he believed it was arrogant to derail the discussion at that point. After a brief discussion, Mr. Breton called for the vote, which was 2-2-1, with Mr. Hohenberger abstaining.

Mr. Breton then opened the floor for public input, requesting that only new speakers or those with new information approach. A lengthy discussion ensued, with input from several including:

- Mr. Ted Maravelis, who was opposed to the agreement citing its unconstitutionality and concerns with HUD.
- Mr. Phil Messina, who was opposed citing government interference and the lack of a reason for the Town to execute the agreement.
- Mrs. Betty Dunn, who supported executing the agreement with the amendment as posed by Mrs. DiFruscia. She expressed concerns regarding who would be looking out for Windham if the Town were not a participating member.
- Mr. Minoru Mashimo approached in opposition of the agreement, citing concerns regarding who is ultimately in control when participating in the Sustainable Communities Initiative.
- Ms. Neelima Gogumalla, of Go Green Windham, approached in favor of the agreement and presented a petition to the effect to the Board. She expressed concerns that Windham is falling behind other communities in the area of sustainability.
- Mr. Greg Carson, Senior Officer for HUD NH, approached; noting that he was also a lifelong resident of NH. He clarified that the main thrust of the SCI program is to determine how the Federal Government will give funding to communities for projects. He went on to clarify the irrelevance of the Westchester case, and noted that the “substantial involvement” of HUD refers to a fiduciary responsibility to ensure that funds are expended as they should be. Mr. Carson noted that HUD does not care what the final plan is, as that will be decided by the individual communities; rather they care that a plan is developed. Mr. Carson noted that while extra points for grant funding will be given to participants, communities will not lose any points.

Mr. Hohenberger noted that the program seems geared toward more towards cities, and sought clarification as to whether HUD was trying to impose city aspects on rural communities. Mr. Carson replied in the negative; noting that all grants are written generically for larger cities. He then added that the under-represented population regarding which concerns had previously been raised includes the elderly, single mothers, veterans, and the disabled.

- Mrs. Vanessa Nysten approached in support of entering the agreement; noting that if the Town wants to participate it should do so as much it can and not do so from the audience.
- Mrs. Ruth-Ellen Post, Planning Board, approached noting that the Planning Board deals with issues that do not stop at the Town border, such as water tables, and that what surrounding communities do effects Windham. She noted she would be very disappointed if Windham did not have an equal seat at the table as this plan is developed; adding that the voters are the only people authorized to change zoning and neither HUD nor any other agency would do so. Discussion ensued regarding the workforce housing mandate.
- Ms. Carolyn Webber approached in support of signing the agreement with the amendment; noting it was impossible to secure a voice at the table without doing so and citing the importance of knowing what other towns are doing via a regional plan.
- Mr. Neil Fallon approached in support of signing the agreement with the amendment, and extended his thanks to Mr. Carson for attending and putting a “face” on the Federal government.

- Mr. Peter Griffin approached opining it was incumbent upon the Board to sign the agreement, especially regarding looking toward federal funding.
- Representative Charles McMahon approached expressing concerns that Windham needs to come first and urging the Board to not capitulate to the Federal government. He asked that the Board not sign the agreement or, if it were going to, that they have Town Counsel review Mrs. DiFruscia's proposed amendment before doing so.
- Mrs. Eileen Mashimo approached in continued opposition of the SCI; and engaged Mr. Sinnott and Ms. Diers in a lengthy discussion regarding the relationship of the TLU to same, the 2009 Climate Action Plan, the Greenhouse Gas Tax, HEAL, mixed use/rental development requirements, and several other matters.
- Mr. Alan Carpenter approached indicating he agreed with some of the concerns raised, however, he also noted that the effort is going forward regardless of those concerns and the Board must ask what part it wants to play in that. Discussion ensued regarding voter control and Mrs. DiFruscia's amendment. Mr. Carpenter indicated that, while he felt bad that the Town had to sign the document, he supported the Board doing so with the amendment. Further discussion ensued.
- Representative Rick Okerman approached in opposition, pointing out that Mr. Sinnott had indicated that a signature does not necessarily ensure a seat on the Committee.
- Mr. Allen Johnson approached in opposition, noting that signing the agreement gave credence to the Federal government's power.
- Mr. Ken Eyring approached in opposition of the SCI and this agreement; reiterating several previous concerns and citing new ones related to the need for an analysis of impediments and that the SCI is not representative of the nation's founding fathers as it does not provide equal opportunity but equal access. A lengthy discussion ensued.

Mrs. DiFruscia then moved, after what she termed careful consideration of all, to execute the partnership agreement as amended. Mr. McLeod seconded, and after some discussion, the motion passed 3-2, with Mr. LoChiatto and Mr. Breton opposed.

OLD/NEW BUSINESS: None.

Mr. McLeod moved and Mr. LoChiatto seconded to adjourn. Passed unanimously.

Meeting was adjourned at 11:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant.

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