

BOARD OF SELECTMEN
Minutes of December 30, 2013

CALL TO ORDER: Vice-Chairman Kathleen DiFruscia called the meeting to order at 4:00 PM. Selectmen Al Letizio, Ross McLeod and Roger Hohenberger were present; as were Town Administrator David Sullivan and Assistant Town Administrator Dana Call. Chairman Phil LoChiatto was delayed and arrived at 4:30 PM. Mrs. DiFruscia opened with the Pledge of Allegiance.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. McLeod seconded to enter into a nonpublic session in accordance with RSA 91A:3, II, c. Roll call vote – all “yes”. The topic of discussion was reputations, and the Board, Mr. Sullivan, Mr. Al Seifert, and Ms. Devlin were in attendance. No decisions were made.

ANNOUNCEMENTS/LIAISON REPORTS: Mr. Letizio noted that per a recent newspaper article resident Jimmy Morgan, a pairs skater, will be competing in the US Figure Skating Championships. Good luck wishes were extended to Mr. Morgan, and a brief discussion ensued.

Chief McPherson approached to update the Board on the previous weekend fire at the Common Man Restaurant. He indicated the facility was not open at the time that the blaze broke out in the second floor restaurant area, wherein the damage was limited to. He extended thanks to the firefighters and police involved in bringing the fire under control, and noted that the Common Man is hoping to re-open within a week or two. Discussion ensued regarding previous calls to the restaurant for electrical issues, as well as a simultaneous incident that had occurred on Cobbetts Pond Road during this event.

Chief McPherson then advised that on 12/27, staff had responded to North Lowell Road and had occasion to use on the new Lifepack 15 units on site. The patient was then transferred to the hospital, and a full recovery is expected. The Chief noted a job well done by Firefighters Savard, Zins, Roberts, and Lt. Jim Brown. Brief discussion ensued regarding the incident, as well other new equipment the Department has; such as the thermal camera that was used at the Common Man.

CORRESPONDENCE: None.

MINUTES: Tabled.

IMPACT FEE UPDATE: Mr. Sullivan noted that, per the Board’s request, staff had reviewed all commercial building permits issued since 2008, when the fee was implemented, to determine what should have been collected versus what was. He explained that that the fee encompasses eight (8) different categories, each with a different cost per foot, and that twenty-five (25) permits had been issued in total. Mr. Sullivan then clarified that:

- Of the 25 permits, 14 should not have been (and were not) assessed a fee; while the remaining 11 should have been (and were).
- Of the 11 assessed a fee, 3 were charged correctly and the remaining either had errors in the collection or were not charged at all.
- Overall, \$9,273.76 went uncollected; however, 2 parcels have yet to receive their certificate of occupancy and \$2,689.45 can be collected at that time.

Mr. Sullivan noted that the primary reason for the miscalculations was miscategorization of the project. He indicated that, going forward, procedures and calculation templates have been put in place to preclude any future errors; adding that it had been suggested to the Planning Board that all future plans reflect the appropriate impact fee calculation.

Discussion ensued regarding the impact fee methodology and apportionment of fees across varied classifications within the same structure; as well as common space, unfinished versus finished space, and the timing of the assessment of the fee. Mr. Sullivan indicated that the Planning Board is proposing that the impact fees be collected upon issuance of the Certificate of Occupancy, and that State Statute allows applicants to request to pay same upon permitting of the project with Planning Board approval.

Mr. McLeod cautioned that having the fees shown on the plans could become a crutch, and indicated that he would like to see an audit of 2014 collections, as well. Discussion ensued, and Mrs. DiFruscia expressed her thanks to staff for their efforts.

Mr. Sullivan indicated that, once the School impact fee audit is complete, staff suggests a workshop be held involving all parties to review all of the analyses. Mr. Hohenberger expressed his concurrence with Mr. McLeod regarding an audit of 2014, and discussion ensued regarding the process of monthly checks which has been put in place.

Mrs. Vanessa Nysten approached, noting she was speaking as a resident rather a Planning Board member, and expressed disappointment that she had yet to see the Building Inspector in attendance at any of these discussions; questioning why that was. Mr. Sullivan indicated that Mr. McGuire would be in attendance at the aforementioned workshop.

Mrs. Nysten went on to note that, to her understanding, Mr. McGuire would consult with other staff members regarding what numbers he should be using. She questioned how it was, if he were given the wrong numbers, that these errors could be his fault. She also noted that Community Development staff had encouraged the Planning Board to remove floor plans, and questioned how the impact fees could be calculated without them.

Discussion ensued, and Mrs. DiFruscia inquired whether the planned workshop was not a more appropriate venue for Mrs. Nysten's questions. Mrs. Nysten then indicated she felt it was imperative that the Building Inspector be a part of any discussion regarding impact fees. Mr. Sullivan clarified that he had spent most of the previous month working very closely with Mr. McGuire. Further, brief discussion ensued.

Mr. LoChiatto assumed the Chairmanship.

WATER STUDY RECONSIDERATION: Mr. LoChiatto reminded all that there had been a 2-2 vote on whether to include this request for \$35K in funding as a Town Warrant article. After brief discussion, Mr. Letizio moved and Mr. Hohenberger seconded to reconsider the previous vote on the inclusion of the Water Study. Passed unanimously.

Mr. McLeod, who had not been in attendance at the previous vote, clarified his position on several points in respect to the Board's previous discussion, including:

- The study will establish potential locations for Town water.
- There is a potential, future benefit to all taxpayers.
- Whoever were contracted to do the study would need to strictly adhere to the Request for Proposal.
- This process is in the early phases and as far as what could be garnered for the \$35K, flexibility would need to be built into the scope to allow for more information if possible, while not exceeding said price.
- This article is not for water, but to study same; and is a relatively small investment to get the information necessary to answer any questions regarding benefit/cost and a better understanding of growth opportunities in areas such as the Village Center and Gateway districts.

After a brief discussion, Mr. Letizio moved and Mr. McLeod seconded to include the request for \$35,000 to conduct a water study on the Town warrant. Passed 3-2, with Mrs. DiFruscia and Mr. Hohenberger opposed.

Mr. McLeod excused himself from the meeting.

RECREATION COMMITTEE: Recreation Coordinator Cheryl Haas advised that, on December 19th, the committee had discussed requesting authorization to hold an ice skating party on the pond at Griffin Park; adding that a similar request had been approved in 2010. She noted that final details would need to be worked out should the Board approve the request.

Mr. Sullivan advised that the Town does have coverage for these types of events, as long as there is no fee involved; adding that the Town will not complete a certification of the ice's safety. Discussion ensued in that this is a common type of event across the State, the depth of the pond being 13-15' in the middle, and that the aerator is removed during the winter season.

Ms. Haas advised that Recreation would also want to do a bonfire, and would need the Board's authorization for that, as well. After a brief discussion, Mrs. DiFruscia moved and Mr. Letizio seconded to approve this event as requested. Passed 4-0.

DELAHUNTY ROAD: Mr. Sullivan advised that the State is asking the Board to weigh in on a proposed plan to expand Delahunty Road, which has been conditionally approved by the Planning Board, before they'll review same. Mr. Shane Gendron, Herbert Associates on behalf of Cafua Realty Trust, approached to review the proposal with the Board. He indicated that one of the Planning Board conditions of approval was to work with the State relative to establishing two (2) dedicated lanes on Delahunty Road, 11' to the right and 11.5' on the left, with striping for turns onto Route 111. Mr. Gendron indicated that the Highway Agent has reviewed the proposal and has no issue with it.

Discussion ensued in that the State's only concern is with work within their right-of-way at the end of Delahunty Road, Planning Board versus Selectmen purview, that left/right turns are currently permitted, and the future signal at this intersection.

Community Development Director Laura Scott approached and clarified that a traffic study had been completed, that conduit is in the area, and the Department of Transportation indicates minimal impacts to Route 111. She also noted that there will be no drive-thru at the proposed facility.

After further discussion, Mrs. DiFruscia moved and Mr. Letizio seconded to authorize the Chairman to execute the driveway permit as requested. Passed 4-0.

PINE HILL REQUEST: Mr. Sullivan advised that a request had been received for a warrant article to discontinue Pine Hill Road, which is currently a class VI roadway. Mr. LoChiatto then apprised the Board that he currently has an active project underway with the requestor and, as such, recused himself from the Board. Mrs. DiFruscia assumed the Chairmanship.

Attorney Jim Steiner approached, indicating the proposal was for a Town warrant article to discontinue Pine Hill Road from North Lowell to its intersection with Sheffield Road; primarily for environmental/wetland preservation reasons. Mrs. DiFruscia questioned how many homes would be impacted by same, and Attorney Steiner indicated only 6-C-290, which is owned by his client Stefan Dapergolas, would be required to change address. Discussion ensued regarding area development.

Attorney Steiner clarified that this proposal does not interfere with the Walker Woods/Sheffield development; and that the Sheffield intersection has already been surveyed. Mrs. DiFruscia inquired whether there were any Planning Board conditions regarding Pine Hill Road, and Attorney Steiner replied in the negative.

Ms. Scott advised that the Board of Selectmen had previously approved the laying out of Sheffield over Pine Hill Road. She then expressed concerns that, as proposed, frontage of other properties would be lost. Discussion ensued regarding the existing survey of the area, Mr. Dapergolas' existing easement of necessity, and access to the properties at 54 North Lowell and the Town owned property on Sheffield.

Mr. Hohenberger indicated that he would be opposed this, as it could still be utilized in the future to connect to Route 111 via Wall Street. Discussion ensued regarding the lack of feasibility for such a connection, given the 100-year flood plain and environmental impacts.

Mr. Dapergolas approached and clarified for the record that his project, as noted by Mr. LoChiatto, was strictly limited to his lot. Discussion ensued regarding lack of abutter notification regarding the discontinuance request at this point. Mr. Sullivan clarified that, if this moves forward, then the abutters will be notified per statute.

Mr. Shane Gendron approached expressing concerns that, if this were to move forward, access would be fully eliminated to one parcel, and severely limited to the Town's property; adding that as Pine Hill Road exists now it allows residents to walk it and the adjacent conservation/open space areas.

Lengthy discussion ensued before Mr. Hohenberger moved and Mr. Letizio seconded to not include this request as a Town warrant article. Passed 3-0.

Mr. Sullivan advised that Mr. Dapergolas may now submit it as a petition article, with 25 signatures from registered voters, and that the deadline to do so is January 9, 2014.

Mr. LoChiatto resumed the Chairmanship.

Review of Additional Warrant Articles (see attached): Lengthy discussion ensued regarding Articles 24 and 25, including the intent to harvest the Town forest and the related statutory requirements. Mr. Letizio moved and Mr. Hohenberger seconded to include on the warrant that version of #24 that establishes a Town forest; without reference to the Commission serving as Forestry Committee. Passed 3-1, with Mr. LoChiatto opposed.

Mr. McLeod returned to the meeting at 6:30 PM.

Lengthy discussion ensued regarding Article #26, and the need to consider zoning of the area and the future potential for the property. It was the consensus of the Board that Article 26, as written, not be included. Mr. Sullivan then presented to the Board the deed from the School District returning the property to the Town, which Mr. LoChiatto executed accordingly.

Article 27 was discussed, and Mr. Sullivan advised that now is the time to do this; before a new term begins. Mrs. Call reviewed a proposed structure of pay with the Board. Town Clerk Nicole Bottai approached noting that, while she agrees with the concept, things such as starting pay grade would need to be further fine-tuned/negotiated. Further discussion ensued regarding further analysis/discussion with the Town Clerk.

Mr. Hohenberger moved and Mr. McLeod seconded to not include Article 27 on the warrant. Passed unanimously.

PERSONNEL POLICY: Mr. Sullivan advised that these proposed amendments, relative to establishment of a hard cap on Earned Time, had been posted accordingly with no comments/concerns received. Mr. Letizio moved and Mr. McLeod seconded to approve the Personnel Policy as amended. Passed unanimously.

DONATIONS: On behalf of Ms. Haas, Mrs. Call requested the Board accept donations from the following toward the Annual Tree Lighting and Senior Party: Convenient MD, coffee/cider; anonymous, cookies; Chunky's, hot chocolate; Common Man, \$25 gift card; Great Escape Massage, \$75 gift card; Convenient MD, \$525 in gift cards, and; McDonalds \$25 in gift cards. Mrs. Call also noted that \$123.54 had been donated toward the Town Beach as residual fundraising monies from the Eagle Scout Project, and that \$500 had been received from the Windham Wolverines & Cheer for use toward field maintenance.

Mrs. DiFruscia moved and Mr. McLeod seconded to accept the above with gratitude. Passed unanimously.

Mrs. Call then advised that the Police had received a \$500 grant from Walmart for use towards equipment purchases. Mrs. DiFruscia moved and Mr. Letizio seconded to accept same with gratitude. Passed unanimously.

RECREATION COMMITTEE: Mr. Sullivan advised that the Committee was requesting that current alternate member Fred Connarn be moved to Regular member. Mr. Hohenberger moved and Mr. Letizio seconded to appoint Mr. Connarn as a regular member as requested. Passed unanimously.

YEAR-END MATTERS: Mrs. Call advised that the financing for the Highway Loader had been finalized at 2.2%; and that Mr. Sullivan will execute the documents accordingly.

Mr. Sullivan noted that a request had been received to allocate \$500 of the remaining 2013 Senior Center budget towards additional funding for the Meals on Wheels program. After a brief discussion, Mrs. DiFruscia moved and Mr. Hohenberger seconded to reallocate and expend the funds as requested. Passed unanimously.

Mr. Sullivan advised that the Eagle Scout project to revitalize the American Legion kiosk in front of Town Hall had been completed; noting a wonderful job had been done.

Brief discussion ensued regarding the Police budget/proposed Community Resource/Animal Control Officer position. No decisions were made.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mrs. DiFruscia seconded to enter into a nonpublic session in accordance with RSA 91A:3, II, a. Roll call vote – all “yes”. The topic of discussion was personnel, and the Board and Mr. Sullivan were in attendance.

Mr. Sullivan updated the Board on a personal matter. No decisions were made.

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

Meeting was adjourned at 7:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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

**ADDITIONAL ARTICLES TO BE CONSIDERED BY BOARD FOR WARRANT
DISCUSSION FOR DECEMBER 30, 2013**

ARTICLE 18. – To see if the Town will vote to change the purpose of the existing Nesmith Library Building Expansion Capital Reserve Fund, establish in 2000, to the Library Maintenance and Renovation Capital Reserve Fund. (2/3 vote required)

ARTICLE 19. To see if the Town will vote to raise and appropriate the sum of \$35,000 for the purpose of completing a water supply study which will evaluate the feasibility of supplying municipal water in the areas including the Route 93-Exit 3 interchange and Route 111. The study will provide an estimate of water demands, identify and evaluate water sources, rank the alternative sources, develop opinions of probable costs and identify sources of funding. This will be a non-lapsing account per RSA 32:7, VI and will not lapse until the project is complete or for a period of two (2) years, whichever is less.

ARTICLE 20. – To see if the Town will vote to rescind the Tattoo and Body Piercing in the Town Ordinance (#2:06:20:99) which was originally adopted by the Town Meeting on July 27, 1999

ARTICLE 21. – To see if the Town will vote to rescind the Town's Class "C" Firework Ordinance (#2:02:04:89) which was originally adopted by the Town Meeting on March 18, 1989

ARTICLE 22. – To see if the Town will vote to rescind the Town's Swimming Pool Ordinance (#2:06:10:77) which was originally adopted by the Town Meeting on March 10, 1977

ARTICLE 23. – To see if the Town will vote to rescind the Town's Accepting Payments by Credit Card Ordinance (#5:00:17:09) which was originally adopted by the Town Meeting on March 10, 2009

ARTICLE 24. – To see if the Town will vote to establish a Town Forest as authorized by RSA 31:110 to be comprised of the following town parcels: 25-R-7010, 25-R-8000, 25-R-7025, 25-R-103, 25-R-6000A, and 25-R-6500, all located in the Southeast section of town. And further to authorize the Conservation Commission to serve as the Forestry Committee as allowed by RSA 31:112 II. Said funds raised from the management of the town forest shall be placed into a special forest maintenance fund per RSA 31:113 and be allowed to accumulate from year to year unless otherwise voted by a future Town Meeting.

Or separate the establishment of a forest and who runs it

ARTICLE 24. – To see if the Town will vote to establish a Town Forest as authorized by RSA 31:110 to be comprised of the following town parcels: 25-R-7010, 25-R-8000, 25-R-7025, 25-R-103, 25-R-6000A, and 25-R-6500, all located in the Southeast section of town. Said funds raised from the management of the town forest shall be placed into a special forest maintenance fund per RSA 31:113 and be allowed to accumulate from year to year unless otherwise voted by a future Town Meeting.

ARTICLE 25. – To see if the Town will vote to authorize the Conservation Commission to serve as the Forestry Committee as allowed by RSA 31:112 II. This article will be null and void should Article 23, which would establish a Town Forest, not be approved.

ARTICLE 26. To see if the Town will vote to authorize the Board of Selectmen to sell, for the greater of \$TBD or the then current appraised value as determined by an appraiser mutually selected by the Board and purchaser, a parcel of Town owned land, designated as parcel #20-D-900, containing 1 acre located off of Route 111, site of the former Police Station then School District kindergarten; reserving to the Town existing utility, drainage, and other easements; and further to authorize the Board of Selectmen to negotiate other terms and conditions of the sale. Said authorization to expire on December 31, 2013.

ARTICLE 27. To see if the Town will vote to place Town Clerk on a salary basis beginning March 2015.