

## BOARD OF SELECTMEN

### Minutes of July 12, 2004

**ROLL CALL:** Chairman Alan Carpenter called the meeting to order at 7:30 pm. Those present included Selectmen Bruce Breton, Christopher Doyle, Roger Hohenberger, and Galen Stearns. Mr. Sullivan was excused. Mr. Carpenter read the agenda into the record.

**PUBLIC HEARING/LEXINGTON ROAD:** Mr. Carpenter read the public hearing notice into the record. Mr. Turner explained that Highway Agent Jack McCartney had requested that the Board not release the road bond until construction is completed by Bowes Landscaping, in the event that damage occurs during their work.

The Board and Mr. Turner discussed several issues, including the connection between Bowes and the owner of the land, Tai Deh Hsu; the length of time until construction is complete; the potential for damage; and how similar issues are handled on other Town-owned roads.

Mr. Breton questioned whether the Town could request that Bowes post a bond. Mr. Turner indicated that the Town could do so, and noted that Bowes' had been very good so far, with no damage occurring.

Mr. Stearns moved and Mr. Breton seconded to accept Lexington Road from station 0+00 to 3+65, and to release the bond in the amount of \$1,800. Passed unanimously.

As representatives from Pennichuck had yet to arrive, Mr. Carpenter suggested the Board move on to the scheduled bond releases.

### **ROAD BOND RELEASES:**

*Temporary Connector Drive:* Mr. Hohenberger inquired of Mr. Turner why this temporary connector was being removed, as he believed it was to be barred and kept as an emergency access. Mr. Stearns echoed Mr. Hohenberger's concerns. Mr. Turner noted that once the surrounding roadways were paved, the connector was no longer necessary.

Mr. Tom Case, resident, approached the Board noting that they did not have the authority to redesign an approved subdivision, and that the area in question cuts through an approved lot.

Mr. Turner explained that the connector runs through two lots and was designed only as a temporary easement with no right-of-way retained.

After further discussion, the Board tabled the release to a future meeting, at which staff will provide more information regarding the status of the connector and input can be received from the Fire and Police departments about its usefulness.

**PENNICHUCK:** Mr. Don Kovel, CEO, Steve Densberger, Executive Vice President, and Don Wehr, Senior Vice President were in attendance representing Pennichuck Waterworks.

Mr. Kovel presented a timeline of events leading up the current situation with the City of Nashua. He noted that the City has filed a referendum, and is attempting to claim eminent domain rights not only in Nashua, but in several other communities as well. He stated that Pennichuck is appealing, but does not see an end to the issue soon.

Mr. Hohenberger expressed concerns regarding the company's potential sale in previous years, and sought clarification of the company's future intentions.

Mr. Kovel explained that Pennichuck had not been attempting to sell, but to continue on as part of a larger enterprise. He noted that local and state control would have remained as it was. He also stated that they were not currently attempting to sell and were, in fact, moving forward with new franchises, etc.

Representative Charles McMahon inquired as to the viability of the company, and whether they were stable enough to withstand the litigation with Nashua and remain viable in the future. Mr. Kovel and Mr. Densberger replied that the company was sound at the time of the potential sale, and remains sound today, excepting expenses arising from the situation with Nashua, which will make it a challenge to issue future stock until resolved.

Margaret Case, resident, approached and stated she was pleased the Selectmen have not joined the Regional Water District, noting that Pennichuck's performance has been excellent. She urged the Selectmen to continue to support Pennichuck.

Karl Dubay, resident, requested clarification of the perception that Windham will be left out if they fail to join the consortium. He also inquired whether Pennichuck had any plan to expand their infrastructure, such as water lines from Canobie for Windham residents.

Mr. Kovel explained that the City of Nashua is attempting to take the Pennichuck assets via eminent domain and then turn them over the Regional Water Authority, which does not have eminent domain authority. He noted that "being at the table" is a common concern in several communities, and that most have joined simply because they did not want to be left out.

Mr. Wehr presented a map detailing Windham's existing Pennichuck systems. He noted that, several years ago, the Company had approached Salem and developed a plan to extend a line from Salem to Windham, however that had fallen through.

Mr. Breton extended the Board's thanks to the representatives for attending.

**I-93 IMPROVEMENTS:** Mr. Doyle noted that the Master Plan would be discussing the issue of water and sewer as part of the August 11 meeting.

Mr. Turner stated he believed this agenda item was specific to a particular email correspondence he had received from Weston and Sampson regarding water and sewer as part of the I-93 improvements. He then explained that he had been asked by Weston and Sampson if the Town would consider a proposal presented by them, to which he replied only that the Town considers all proposals presented to them.

Mr. Stearns felt the Board should attend the August 11 meeting, and then discuss the issue at a subsequent public hearing.

Mr. McMahon requested more information on Weston and Sampson: who they were and what they were proposing. Mr. Turner noted that they had been retained by the Department of Transportation to evaluate the proposed development.

After further discussion, it was the consensus of the Board that a meeting should be held immediately subsequent to the August 11 Master Plan meeting to discuss this issue.

Wayne Morris approached the Board to suggest they voice their continued support of four lanes on I-93, as several environmental organizations are seeking to have the State reduce the improvements to three.

**BOND RELEASES, CONTINUED:**

*Dunraven Road:* Mr. Doyle moved and Mr. Breton seconded to release the partial bond amount of \$2,160 to Carbo Development, LLC. Passed unanimously.

*Overton Road:* Mr. Doyle moved and Mr. Breton seconded to release the partial bond amount of \$41,040 to Carbo Development, LLC. Passed unanimously.

*Cardiff Road:* Mr. Doyle moved and Mr. Breton seconded to release the partial bond amount of \$24,960 to Carbo Development, LCC. Passed unanimously.

**APPOINTMENT INTERVIEWS:** Mr. and Mrs. Goldman, requesting an alternate and regular appointment respectively, were interviewed for consideration as Recreation Committee members.

**MINUTES:** Mr. Doyle moved and Mr. Hohenberger seconded to approve the minutes of June 21, 2004 as written. Passed unanimously.

Mr. Doyle moved and Mr. Breton seconded to approve the minutes of June 28, 2004 as written. Passed unanimously.

**CORRESPONDENCE:** A request was received for refund of a \$25 penalty paid for failure to license a dog. Mr. Carpenter explained that the requestor, who wished not to be publicly identified, had been incapacitated due to medical issues and had been unable to license her dog by the June 1 deadline.

As the members reviewed several documents in support of the request, Mr. Carpenter moved to the next agenda item.

**OLD BUSINESS:** Mr. Hohenberger requested that a further discussion on impact fees, including the current calculations of school impact fees, be placed on a future agenda.

Tom Case expressed concerns that some fees already collected are not legal, as proper procedures weren't followed. He noted that impact fees should be based upon a need generated by the development and, regarding the satellite station, response time is not a valid need.

Mr. Breton expressed discomfort with Town Counsel's opinion regarding fees collected, and felt they should be sent to another source for review.

Mr. Carpenter asked that staff arrange to post a public hearing to discuss impact fees.

Mr. Breton moved and Mr. Doyle seconded to send all information on monies already collected by the Planning Board for a second legal opinion. Information is to be forwarded to the Local Government Center, as well. Passed 4-1, with Mr. Stearns opposed.

**CORRESPONDENCE, CONTINUED:**

Mr. Doyle moved and Mr. Stearns seconded to return the \$25 fine paid based upon the parties being incapacitated for such a length of time. Passed unanimously.

A brief discussion ensued regarding increasing public awareness of dog licensing requirements. It was suggested that an agency program be explored as an option, such as availability of licensing at the Animal Hospital.

**OLD BUSINESS, CONTINUED:**

*Mr. Stearns* inquired as to the status of the beach project, and whether the new sand had been placed. *Mr. Breton* stated that the beautification project was complete; *Mr. Poulson* was continuing to work with the State regarding the stormwater issues; and the Recreation Committee was working to address the Planning Department staff concerns.

*Mr. Breton* was unsure of the status of the sand, and the Board requested that staff contact *Dennis Senibaldi* of the Recreation Committee for more information.

*Mr. Breton* inquired as to why the beach building continued to have Coca Cola® logos on the sign. He suggested the signs be whitewashed and Town seals placed on them instead.

*Tom Case* stated that the signs were donated by Coca Cola®, and thus the logos could not be covered. The signs would need to be replaced.

*Wayne Morris* reminded all of the DOT's upcoming scoping meeting scheduled for Thursday, July 15, 2004 at the Planning Department at 7:00 PM. He also noted that all abutters had been properly notified.

**NEW BUSINESS:** None.

Motion by *Mr. Hohenberger* and second by *Mr. Stearns* to adjourn. Passed unanimously. The time was 9:20.

Motion by *Mr. Hohenberger* and second by *Mr. Breton* to reconsider the adjournment. Passed unanimously.

**NON-PUBLIC SESSION:** *Mr. Hohenberger* moved and *Mr. Doyle* seconded to enter into a non-public session in accordance with RSA 93-A:3c. Roll call vote – all members “yes”. The subject was reputations.

*The Board* discussed appointments to various boards and committees. The following decisions were made:

*Mr. Breton* moved and *Mr. Doyle* seconded to appoint the Goldmans as regular members of the Recreation Committee. Passed unanimously.

*Mr. Breton* moved and *Mr. Hohenberger* seconded to appoint *Ralph Valentine* as a regular member of the Recreation Committee. Passed unanimously.

The above appointments are subject to availability of positions on the Committee.

*Mr. Stearns* moved and *Mr. Breton* seconded to adjourn. Passed unanimously.

The meeting was adjourned at 9:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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