

**BOARD OF SELECTMEN**  
**Minutes of August 13, 2007**

**MEMBERS PRESENT:** Selectman Margaret Crisler called the meeting to order at 7:00 PM. Selectmen Bruce Breton and Roger Hohenberger were present, as was Town Administrator David Sullivan. Chairman Alan Carpenter was excused. Vice Chairman Dennis Senibaldi was delayed and arrived at 7:35 PM. Mrs. Crisler read the agenda into the record, followed by the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. Hohenberger noted that the Senior Picnic had been very well attended by over 230 seniors.

**LIAISON REPORTS:** Mrs. Crisler advised that the Depot Advisory Committee had met the previous Friday. Progress is coming along well on the caboose, and its official opening has been scheduled for Saturday, September 15<sup>th</sup>.

Discussion then ensued regarding the Depot Advisory Committee budget and necessary supplies. Mr. Hohenberger moved and Mr. Breton seconded to authorize the Town Administrator to review and approve reasonable expenses toward the caboose up to but not to exceed \$1,288. Passed 3-0.

Mrs. Crisler then noted that the Depot Advisory Committee was requesting authorization to appoint an additional citizen member. After a brief discussion, Mr. Hohenberger moved and Mr. Breton seconded to allow an additional member at large to the Depot Advisory Committee. Passed 3-0.

Mr. Hohenberger then moved and Mr. Breton seconded to appoint Mr. Dick Forde to the Depot Advisory Committee. Passed 3-0.

*Mrs. Crisler* reported that the Planning Board had met the previous Wednesday and again discussed the composition of the Capital Improvements Committee. She noted it was the consensus of the Planning Board to direct the Planning Staff to draft an amendment to the by-laws to prohibit the appointment of two selectmen to the CIP but grandfather the existing members until their term expires.

*Mrs. Crisler* noted she had traveled to Goffstown the previous weekend to tour their transfer station, and would be drafting a report for the remaining members.

**MINUTES:** Mr. Breton moved and Mr. Hohenberger seconded to approve the minutes of July 9<sup>th</sup>, 16<sup>th</sup>, 23<sup>rd</sup>, and 30<sup>th</sup> as written. Passed 3-0.

**CORRESPONDENCE:** Letter received from Chief Lewis regarding the 1971 Volkswagen, indicating that the vehicle had been inspected as requested by the Board and found to be beyond safe repair. Discussion ensued, and Mr. Hohenberger moved and Mr. Breton seconded that further research be conducted into the original donor of vehicle to allow them first refusal. Passed 3-0.

*Letter received* from the Pelham Board of Selectmen relative to repairs to the Castle Hill bridge, authorizing the Town of Windham to proceed provided a copy of the plans are reviewed and approved by the Pelham Road Agent. Discussion ensued regarding the inability to expend funds on roadways outside of Windham, the pending final engineering, the storm damage to the roadway, and the possibility of March warrant article for construction.

*Letter received* from the Historic District/Heritage Commission regarding concerns relative to the planned powerwashing of the Armstrong Building and Senior Center. Mr. Sullivan indicated he had spoken to both Ms. Pynn and Ms. Webber and clarified that only the woodwork would be

powerwashed, not the stone, and that the bid specifications used were the same as for the Town Hall. He noted that the first priority is the Armstrong Building roof, and the powerwashing will be conducted only if funds remain.

**TAX ASSESSOR/ABATEMENTS:** Mr. Norman reviewed a total of twelve abatements with the Board, all of which have been reviewed and inspected.

Mr. Breton moved to approve the list of abatements dated August 13, 2007 totaling \$5,438.53 as recommended by the Assessor. A brief discussion ensued and clarification was sought by Mr. Hohenberger regarding the recommended abatement for Allen Road, a property Mr. Norman indicated had severely limited utility.

Mr. Senibaldi arrived at the meeting.

Mr. Hohenberger then seconded the motion, which passed 3-0-1, with Mr. Senibaldi abstaining.

*Discussion moved* to the Cooperative Kindergarten abatement request. Mr. Norman indicated that Town Counsel had advised that the Board could abate the taxes at any time through an Administrative Abatement, which would also approve them as a tax exempt entity.

Mr. Breton moved and Mr. Senibaldi seconded to abate the taxes in the amount of \$2,839.75 plus any accrued interest and approve the property as tax exempt per RSA 72:23(c). Passed 4-0.

**FUEL BIDS:** Mr. Sullivan noted that three (3) bids had been received for the Town's vehicle fuel purchases as follows:

<b>VENDOR</b>	<b>UL 87</b>	<b>UL 89</b>	<b>UL 93</b>	<b>DIESEL</b>
<i>Oasis Gas</i>	<i>2.769</i>	<i>2.889</i>	<i>3.059</i>	<i>2.829</i>
<i>Klemm's Mobil on the Run</i>	<i>2.319</i>	<i>2.469</i>	<i>2.599</i>	<i>2.359</i>
<i>Windham Variety</i>	<i>2.85</i>	<i>2.99</i>	<i>3.09</i>	<i>N/A</i>

Mr. Sullivan indicated that only one vendor had offered any type of discount, that being Klemm's at \$0.10 plus any fleet discount offered by Exxon, provided they are the sole provider of fuel. A lengthy discussion ensued regarding the availability of better pricing outside of a bid, the need for a card or similar service, and the benefits of a vendor who can address tax issues. Mr. Breton suggested that the Town secure fleet cards for multiple vendors and explore the possibility of implementing a town owned storage system to allow for bulk purchases and in-house fueling. Further discussion ensued regarding the Fire Department resuming fueling of their diesel vehicles at the Station. Chief McPherson will look into the cost impacts.

Mr. Breton then moved and Mr. Hohenberger seconded to table the award of the vehicle fuel bids. Passed 4-0. Mr. Sullivan will follow-up to get information on other fleet cards and diesel purchases. Chief Lewis will explore costs/means of providing fuel onsite for his vehicles.

**LEDGE ROAD BLASTING:** Mr. Turner advised the members that, since their previous discussion with residents regarding this issue, he had met with three firms relative to undertaking an independent evaluation of the impacts of this project to surrounding homes. He noted he had selected Stonehill Environmental and Haeger-Richter from the potential candidates, to evaluate water damage and seismographic data respectively, and that the Department of Environmental Services had also volunteered to assist with the evaluation.

Mrs. Crisler inquired whether representatives of Stonehill and H-R were present, and Mr. Turner replied in the negative, noting that the cost has yet to be finalized and no contract has been executed. Mr. Turner noted that the study will take 4-5 weeks, and will include review and testing of the wells exhibiting issues, and a complete review of all seismographic readings to date. The cost for the evaluation will be borne by the developer.

Atty. Bruce Marshall, representing Meadowcroft Development, approached, noting that, at the previous meeting, it had been agreed that blasting operations would voluntarily be halted for a period of 14 days and that the developer would pay for an independent hydrologist. Atty. Marshall reiterated that no activity to date had exceeded the allowed 2"/second, and then discussed concerns relative to the stockpiling/processing of material at the site. He noted that there are two processing locations on the site, which were chosen to minimize noise impacts, and that their expert will work with the Town's hydrologist to evaluate for any run-off concerns.

Atty. Marshall then proposed that the blasting operations resume with an average of three (3) blast days per week on the roadway cut and detention pond area, beginning with three pre-drilled holes from prior to the halt of operations. He noted that completing this cut would allow for the processing equipment to be moved to a lower elevation thereby reducing noise levels. Atty. Marshall felt this solution can address some of the residents' concerns, and that any further adjustments can be discussed after the 4-5 week evaluation period.

Discussion ensued regarding changing the hours of operation at the site. Atty. Marshall noted that operations have been between the allowed hours of 7AM and 5PM, with no activity on weekends, however they would consider the request to begin later.

Discussion then moved to blast days and the number of blasts per day. Atty. Marshall noted that it varies, however, the blasts themselves do not generally occur prior to 9AM. A blast day may consist of one production blast or a few trench blasts.

Mr. Breton expressed concerns that the warning signs are facing Ledge Road when they should be facing Route 111. He also expressed a desire to have a traffic detail on Ledge Road/Route 111 on all blasting days. Discussion ensued. Atty. Marshall indicated a willingness to address any safety concerns the Fire/Police departments may have.

Mr. Chuck Blakeman, Seismologist, approached. He noted that at the developer's request he had reviewed all of the seismographic data and records and had also checked to ensure that the equipment was working properly. Mr. Blakeman indicated he had seen no recorded vibrations that exceeded the minimum levels for possible structural damage. Discussion then ensued regarding the ability to achieve the same level of progress with a series of smaller blasts versus a single production, and whether or not the intensity of the production blasts can be decreased. Mr. Blakeman replied in the negative to both inquiries. Discussion then ensued regarding the impacts of blast delays on the ensuing vibration.

Discussion then moved to the seismic equipment in use, which Mr. Blakeman had evaluated and found to be functioning properly. Atty. Marshall noted that the equipment is re-calibrated and certified every three months. A brief discussion ensued regarding the apparent well impacts versus the reported minimal vibrations.

Atty. Marshall advised the members that his client had agreed to delay the start of crushing operations until 7:30 AM, and to limit the number of blasts on blast days to three. He noted that they would resume by blasting the three holes that are currently drilled, and then there would be a week or two lull in activity as more holes are prepped.

The Vice-Chairman then opened the floor to the public in attendance, and the following residents approached to reiterate concerns expressed at the July 30<sup>th</sup> meeting regarding noise/vibration, well water contamination/quantity issues, structural damage, silting, sinkholes, flying rocks, and the lack of responsiveness/ follow-up testing by the developer/blasting company and their insurance companies, and to raise additional concerns regarding the accelerated "settling" of homes and the amount of liability insurance held by the blasting company: Julia Wissell, 55 Haverhill Road; Jack Hamburger, 57 Haverhill Road; Ken Phillips, 47 Haverhill Road; Greg Kindrat, 61 Haverhill Road; Wendy Keller, 17 Bear Hill Road; Louise and Claude Peltz, 70 Blossom Road; Steve and Heidi Allan, 2 Meetinghouse Road; Beth Robson, 63 Haverhill Road; Terri Marescia, 6 Meetinghouse Road; and Joanne Vignos, 4 Meetinghouse Road.

Mrs. Peltz and Mrs. Keller requested that a reporting of insurance claims filed versus paid be made available by the blasting company's insurance provider. Atty. Marshall indicated he would follow-up to obtain same.

Mr. Peltz sought clarification as to what would constitute proof that the property damage correlates to the blasting. Mr. Turner indicated that that would be up to the insurance company to determine. Discussion ensued regarding the pending independent evaluation and the Board of Selectmen's purview on this matter, which Town Counsel has not yet clarified in writing.

Concerns were raised by Mr. Allan regarding the safety hazard posed by the slope on the site. Mr. Turner will follow-up to inspect the area and ascertain the need for fencing/barriers, if any.

Discussion ensued regarding the timing/duration of the seismographic equipment placement, the training/skills necessary for proper placement, and the number/location of items placed.

Mr. Phillips approached expressing concerns regarding the paperwork on file with the Town, questioning whether a blast supervisor is onsite daily as required.

After a brief discussion regarding the Town's Blasting Ordinance, Mr. Breton moved and Mr. Hohenberger seconded to make public Town Counsel's opinion letter dated February 3, 1999 regarding its development. Mr. Breton noted that Counsel had recommended in that correspondence that the Town not become involved in civil matters related to blasting, and felt that the discussion that evening should focus on any safety issues. After a brief discussion, the remaining members concurred.

Mr. Blakeman approached to address several questions, including the possible travel of blast vibrations along plate/ledge to areas far outside the expected radius and the optimum placement of the seismic equipment. He noted that the former is not possible, as the plates are hundreds of feet deep and not affected by surface blasting. Mr. Blakeman then noted that the optimum seismograph placement would be at ground level as close as possible to the item being monitored with the equipment being topped by a 50lb weight.

Atty. Marshall approached reiterating that all records are on file with the Town. He noted that the ordinance only requires placement of two seismographs at the two closest structures to the blast however, at times the company has placed 6 or more. Atty. Marshall further noted that the data had been evaluated by an expert as requested, and the results indicated the blasts to be under the 2"/second requirement and that the company is utilizing the proper delays for minimal damage. He noted that the developer had met his obligation regarding any claims filed, and advised that the NH Insurance Commission is available for consultation if the owners' need further assistance.

Atty. Marshall then noted that the developer would like to resume activities as proposed earlier in the meeting and would work with Mr. Turner regarding the placement of additional seismographs, as well as with whichever hydrologist the Town chooses.

Discussion ensued regarding increasing the accessibility of claim forms. Atty. Marshall indicated he would speak to his client's carrier about possibly leaving forms at the Town offices.

Mr. Senibaldi inquired as to the blasting company's procedure to place seismographs. Mr. Turner replied that the first two are placed at the two closest structures, and any remaining are placed in accordance with complaints. Atty. Marshall indicated the equipment is not always placed by the same crew, however all are trained in the proper placement as per the manufacturer's specifications.

After some discussion relative to the testimony received, Mr. Breton moved to rescind the developer's blasting permit until October 1<sup>st</sup>. Discussion ensued relative to the Board's legal authority to do so, the time needed to evaluate the issue and the need to blast to obtain accurate results, and safety concerns on the site. There was no second on Mr. Breton's motion.

Mr. Breton then inquired whether the developer would voluntarily hold off on blasting activity for another seven days. Atty. Marshall replied in the affirmative, noting they would do so only to allow for Town Counsel to provide a legal opinion. He stated that to go beyond seven days, however, would result in a large cost impact to the developer due to the loss the pre-drilled holes at the site.

Discussion ensued regarding placing of blasting company names, telephone numbers, and insurance carrier information on the Town's website for all such activity in Town. Staff will follow-up to do so.

Mr. Senibaldi closed the discussion by clarifying that the Town will be closely monitoring the activity at the site and its impacts via independent contractors.

*Mr. Senibaldi* then called for a five minute recess.

**OLD/NEW BUSINESS:** Tabled.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mrs. Crisler seconded to enter into a non-public session in accordance with RSA 91:A-II:3 b and d. Roll call vote – all members "yes". The topics of discussion were personnel and land acquisition.

*The Board*, Mr. Sullivan, Police Chief Lewis, and Ms. Devlin were in attendance in the first session.

Chief Lewis discussed a personnel matter with the Board, however, no decisions were made. The Chief will follow-up to provide the Board further information.

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

Mr. Sullivan presented information on a potential land donation to the Board for review. After discussion, Mr. Hohenberger moved and Mrs. Crisler seconded to authorize the Conservation Commission to move forward to accept the donation as presented. Passed 4-0.

Mr. Hohenberger moved and Mrs. Crisler seconded to adjourn. Passed unanimously. The meeting was adjourned at 11:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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