

BOARD OF SELECTMEN
Minutes of May 4, 2009

MEMBERS PRESENT: Chairman Galen Stearns called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Roger Hohenberger, Charles McMahon, and Ross McLeod were present, as well as Town Administrator David Sullivan. Mr. Stearns opened the meeting with the Pledge of Allegiance, and then read the agenda into the record.

ANNOUNCEMENTS: Mr. McMahon announced that the NH Low/Moderate Income Property Tax Relief program has begun and will run until June 30th. He noted there are several conditions that must be met, and that form DP8 must be completed by applicants. Mr. McMahon advised that property owners contact the Town for more information.

Mrs. Barbara Coish, Sister City Committee, approached to update the Board on their latest trip to Suzdal, Russia. Among other items, she advised the Board that the Town's annual donation of \$500 had, once again, been taken to the orphanages. Mrs. Coish then presented gifts from Suzdal to the Board.

Mr. McMahon advised that he is working with the NH Department of Environmental Services to clean the irrigation pond at Griffin Park, and with Town Planner Laura Scott on the permit application. Mr. McMahon noted that the project will be presented to the Board of Selectmen and the Conservation Commission for review.

LIAISON REPORTS: Mr. McMahon advised that the consultant to the Windham Housing Authority for the elderly housing complex on Fellows Road has changed. In addition, work continues on the Post Office option agreement relative to access to the site.

MINUTES: Tabled.

CORRESPONDENCE: Approved Alteration of Terrain Permit for the construction of the new section of Londonbridge Road was received from NH DES. Mr. McMahon extended his thanks to Mr. Mauck of the DES for expediting the permit and, further, noted a great job had been done by Herbert Associates in preparing the application.

Copy of letter from Herbert Associates to Town Planner Laura Scott requesting that a public hearing be scheduled for the Planning Board relative to the Londonbridge Road extension. Mr. Sullivan asked that the Board consider waiving all related Planning Board fees for the Town and the abutters.

Mr. McMahon moved and Mr. Breton seconded to waive the fees as stated by Mr. Sullivan. Mr. McLeod then inquired what the estimated fees were, and Mr. Sullivan replied in the area of \$200. Motion passed unanimously.

Memorandum received from Transfer Station Manager David Poulson, projecting decreased tonnage and revenue for 2009.

Copy of letter received from the NH Department of Transportation, noting that the landscaping project along the Route 111 By-pass has been started by Salmon Falls Nursery, Inc.

Email received from Ann Dodd of Harvey Construction inviting the Board to attend a final walkthrough of Londonbridge Road. Mr. Sullivan noted there were multiple discussions scheduled, as well, regarding the timing of the paving and other Board of Selectmen concerns. Mr. McMahon suggested that the Town's engineer be present, and Mr. Sullivan concurred that he should be present at the walkthrough.

Copy of letter received from the Cobbetts Pond Improvement Association to George Campbell, NHDOT Commissioner, relative to several items discussed between the parties and the NHDES relative to Cobbetts Pond and the I-93 project/State road issues.

ANDY DUFOUR/RIGHT OF WAY CONCERN: Mr. Dufour approached and indicated he had requested this agenda item on behalf of Mr. Ray Childs relative to issues the latter is having with the owners of 93 Governor Dinsmore Road. Mr. Dufour explained that Mr. Gill and Ms. Hobbs had excavated the discontinued portion of Governor Dinsmore Road and installed irrigation heads within the area. He noted that this portion remains a public right-of-way, as it had never been officially discontinued, and was still a class VI Town road. Mr. Dufour noted that RSA 236 prohibits anyone from disturbing such a roadway without permission, and requires anyone who does so to restore it to its original condition. Mr. Dufour indicated he had measured the distance from the stone wall to the irrigation heads as being 27', and stated that the right-of-way is 33'.

Mr. Dufour then indicated that he realized everyone wants the front of their homes to look nice, but most don't go into the roadway make them so. He noted that Mr. Childs has owned the property beyond the right-of-way since 1982, and there have been no problems with kids and/or trash in the area. Mr. Dufour asked that the Board instruct Mr. Gill to remove the loam and restore the area, stating that if they allowed it to remain they would set precedent for similar, future occurrences. Mr. McLeod sought clarification that Mr. Childs needs access over this area to parcel 7A-595, which he owns. Mr. Dufour replied in the affirmative. Mr. Sullivan confirmed that Mr. Dufour was correct that the road had never officially discontinued, and a discussion ensued regarding whether Mr. Gill was endeavoring to block the road with a large sign and/or debris.

Ms. Laurie Hobbs approached and noted there were several other issues ongoing in this area of Governor Dinsmore Road, which she felt were of greater importance, including the lack of a Stop sign and lighting. Ms. Hobbs indicated that the road ends at her property, and a sharp right turn is required to continue on Mockingbird Hill Road. She noted, as well, that there have been issues in the past with kids hanging out in the woods and trash being dumped. Ms. Hobbs indicated that she hadn't believed she was doing anything wrong in improving the area with loam and seed, and noted the area had not been purposely blocked with debris. Mr. Stearns inquired if Ms. Hobbs realized the area in question was still a Town road. Ms. Hobbs indicated she did now, and pointed out that owners throughout Town improve their properties up to the edge of the road. Ms. Hobbs then noted that road is wide, and the only regular use it sees is PSNH to service the pole in the area. She indicated that, even with the irrigation heads, vehicles can still pass by.

Mr. McMahon inquired of Ms. Hobbs where the debris had originated from that Mr. Dufour claimed was placed to block the roadway, and Ms. Hobbs replied it was December storm debris from that immediate area. Discussion ensued.

Mr. McMahon then inquired of Ms. Hobbs what she would like to see as a result of this discussion, and Ms. Hobbs indicated she would like to see the safety concerns in the area addressed. Discussion ensued regarding access to the area as it is a Town road, whether Ms. Hobbs or Mr. Gill were preventing anyone from entering the area, and having the Highway Safety Committee review the area. Chief McPherson, as Chairman of the Highway Safety Committee, indicated he would arrange for the latter.

Mr. Dufour approached and expressed his agreement with Ms. Hobbs regarding her safety concerns, noting that often busses don't even stop at the intersection. He reiterated, however, that the road bed should be restored, noting that even though the irrigation heads are not in the travel way they are still in the right-of-way.

Mr. Childs then approached indicating he was present because Mr. Gill had prohibited him from using the roadway; stating he had purchased it from the Town. Mr. Stearns clarified that the area's status as a Class VI road meant that he had the right to travel over it to his property. Mr. McMahon then inquired whether Mr. Child had concerns with what was there. Mr. Childs replied that he was not concerned with whether the area was grass or gravel, provided he could pass through.

Mr. McLeod noted that this area serves as access to Mr. Child's lot and the old County Road, as well, and that by making it a part of their front lawn Mr. Gill and Ms. Hobbs preclude others from using it. He further noted that he believed the Highway Safety Committee could find a solution to the safety concerns and, as it pertained to the irrigation heads, while others around Town did install them in the right-of-way they did not dig up the roadway to do so.

Mr. Gill approached to clarify that the only area that had been excavated was from the telephone pole to Mockingbird Hill Road to clear an overgrowth of poison ivy, and that the grade of the road, etc., had never been altered. Mr. Gill then disagreed that he had ever stated to Mr. Childs that he owned the area, rather he indicated he had spoken to the Town Administrator to express an interest in purchasing it should it ever be discontinued.

Mr. McLeod sought clarification as to how the road differed now. Mr. Gill replied that some loam had been spread where the ivy was removed. Mr. McLeod asked if anything had been dug up for the irrigation heads, and Mr. Gill replied in the negative, noting that a puller had been utilized. Mr. Gill then stated that if the irrigation heads were infringing it was not done intentionally.

Highway Agent Jack McCartney then approached and indicated that previous statements regarding the status of the road and landscaping around the Town were correct. He further noted that, if the roadway were paved it would be to 22', and the irrigation heads' location at 27' would not be an issue provided they do not interfere with Mr. Childs' access. Brief discussion ensued.

Mr. McMahon then clarified that the matter appeared to be resolved, and all that remained was for the Highway Safety Committee to conduct their review. Ms. Hobbs sought clarification as to whether they could seed the area, and the Board replied in the affirmative provided it was understood that the grass will be driven over. Mr. McLeod then clarified, for the record, that Mr. Gill and Ms. Hobbs cannot block access to the roadway.

AMBULANCE BID: Chief McPherson advised that four bids had been received in response to a 60+/- bid specification developed by the Ambulance Committee formed in 2008, for which he thanked the members for their time and effort. The Chief recommended that the bid be awarded to Greenwood for their bid price of \$153,763. Mr. Stearns inquired whether previous issues experienced with Greenwood had been resolved. Chief McPherson replied that he believed so, noting there were some issues in the past, but Greenwood has since responded well. Mr. Breton inquired when the Department could expect delivery of the vehicle, and Chief McPherson replied 120-150 days from the order date.

Discussion ensued regarding the value of the current ambulance, and the bid specifications. Mr. Hohenberger then moved and Mr. McMahan seconded to award the bid for the ambulance to Greenwood for an amount not to exceed \$153,763 after trade-in of \$5,000. Passed unanimously.

DEBRIS REMOVAL: Mr. McCartney approached indicating that all paperwork had been completed with FEMA for review of the bids for clean-up of the Town's right-of-way. He then requested that the Board reject all bids and approve his establishing an agreement with the three (3) local bidders for a flat, hourly rate to conduct the removal. Discussion ensued regarding the two (2) remaining bids, which Mr. McCartney indicated were from companies in Alabama and North Carolina.

Mr. Hohenberger sought clarification that FEMA had approved a certain amount of funds for the clean-up. Mr. McCartney replied that FEMA had walked the areas to establish an estimated amount/size of trees, debris, etc., and that while bids were required the Town did not have to utilize the bidders to obtain the 75% reimbursement. Mr. Hohenberger inquired what the Town's 25% would be if conducted as requested, and Mr. McCartney replied approximately \$30K.

After a brief discussion regarding the timing of the project with local vendors versus bidders and Town staff costs, Mr. McMahan moved and Mr. Hohenberger seconded to reject the bids received as recommended by Mr. McCartney. Passed unanimously.

Mr. McMahan then moved and Mr. Hohenberger seconded to authorize Mr. McCartney to contract with the three (3) individuals as recommended. Passed unanimously.

OLD/NEW BUSINESS: Mr. Stearns advised that he would be unable to attend the Strategic Planning meeting on May 16th as planned. Discussion ensued, and it was the consensus of the Board to move the meeting to a Monday evening beginning at 5:30 PM in place of a regular meeting. Meeting will be held May 18th at the Searles School at 5:30 pm.

Mr. Sullivan noted he had emailed a proposed roster for the Wall Street Corridor Study Committee to the Board, and requested they review it for finalization at the next meeting.

Recreation Coordinator Cheryl Haas approached to advise that the Windham Mom's Club had contacted her to inquire about donating a tree for planting at Griffin Park. Ms. Haas noted that the Recreation Committee supports the donation, as does she, however no location had been determined. Discussion ensued regarding the landscaping plan developed by Mr. McMahan, which Ms. Haas will review.

Ms. Haas updated the Board on the skate park registration program; noting that 180+/- residents had obtained permits, to date. Ms. Haas also noted that Mr. Breton had gone through the registration process, as well, and that four (4) more non-resident classes have been scheduled.

Mr. McMahon requested the Board support Mr. Sullivan and Mr. McCartney working to develop a policy regarding acceptance of brush at the old landfill. Discussion ensued and it was the consensus of the Board to support such a policy if the cost effectiveness is also analyzed.

Mr. Hohenberger inquired as to the status of the Salt Shed, and Mr. Sullivan indicated that Mr. McCartney was following up to reduce/re-bid the project as directed by the Board.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. McLeod seconded to enter into a non-public session in accordance with RSA 91-A:3-II a, c and e. Roll call vote; all members "yes". The topics of discussion were personnel, reputations, and legal.

The Board, Mr. Sullivan, Tax Assessor Rex Norman, and Ms. Devlin were in attendance in the first session. Mr. Norman discussed a legal matter with the Board relative to an abatement request. Mr. Hohenberger moved and Mr. McMahon seconded to allow Mr. Norman to reduce the assessments on ten (10) lots by \$10K, as recommended. Passed unanimously.

Mr. Norman discussed a legal matter with the Board. No decisions made.

The Board, Mr. Sullivan, Recreation Chairman Dennis Senibaldi, and Ms. Devlin were in attendance in the second session.

Mr. Senibaldi updated the Board on a reputations matter relative to Town property. It was the consensus of the Board that Mr. Sullivan follow up with Town Counsel to ascertain the Town's standing in this matter, and to readdress this issue the following week after further review of related documents.

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

Mr. Sullivan discussed a personnel matter with the Board relative to compensation. Mr. McMahon moved and Mr. McLeod seconded to approve the request for salary increase retroactive to April 1, 2009. Passed 3-2, with Mr. Breton and Mr. Hohenberger opposed.

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

Meeting was adjourned at 9:40 PM.

Respectfully submitted,
Wendi Devlin, Administrative Assistant

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