

BOARD OF SELECTMEN
Minutes of June 17, 2013

MEMBERS PRESENT: Chairman Phil LoChiato called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger, Kathleen DiFruscia, and Al Letizio were present; as was Town Administrator David Sullivan. Selectman Ross McLeod was delayed and arrived at 7:05 PM. Mr. LoChiato opened with the Pledge of Allegiance, then requested a moment of silence in memory of the passing of Carolyn Webber.

ANNOUNCEMENTS/LIAISON REPORTS: Mrs. DiFruscia reminded all that Town Day was scheduled for June 29th at Griffin Park; and volunteers are needed. Those interested in assisting should contact the Recreation Coordinator. Mr. Sullivan added that the Blue Bros. Next Generation band would play at the High School beginning at 7:00 PM, followed by fireworks.

Mr. Sullivan noted that Cobbetts Pond had been treated that day for milfoil, and the beach closed as a result. He added the latter would reopen the following day at 11:00 AM.

Mr. Letizio noted that the Economic Development Committee had met the previous Friday and, with regret, had accepted the resignation of Ms. Sally D'Angelo. Discussion ensued regarding posting of the vacant position, which staff will do, and that Mr. Al Gallagher had expressed an interest.

Mr. McLeod made several announcements as follows:

- He extended thanks to Mark Samsel, Steve Tomasi, Wayne Morris, Norm Boutillette, and John Mangan of the Windham Rail Trail Alliance for coordinating the Annual Flat & Fast 5K Race at the Trail.
- He extended kudos to the Windham High School "Next to Normal" production; which involved highly motivated students and a tremendous pit band.
- He indicated that he had attended the High School Graduation; noting it had been a great event. He recognized speakers Cassie Cole and former Principal Tom Plocharczyk; as well as long time volunteer Barbara Coish for running video for the event.
- He noted that Mrs. Ann Senibaldi had recently been recognized at CASA's annual dinner as one of seven, 10-year volunteers to the program. He gave a brief outline of CASA's activities as an advocate to the NH courts for abused/neglected children.
- He complimented Mr. Dick Forde on his eulogy to Ms. Webber; noting it was both poignant and eloquent.

CORRESPONDENCE: Letter of resignation received from Ms. Sally D'Angelo from the Windham Economic Development Committee. Mrs. DiFruscia moved and Mr. Hohenberger seconded to accept same with regrets. Passed unanimously.

MINUTES: Mr. Letizio moved and Mr. McLeod seconded to approve the minutes of 5/20 as written. Passed unanimously. Mr. Hohenberger moved and Mrs. DiFruscia seconded to approve the minutes of 5/23 as written. Passed 3-0-2, with Mr. Letizio and Mr. Hohenberger abstaining due to absence. Mr. McLeod moved and Mr. Hohenberger seconded to approve the minutes of 5/28 as written. Passed unanimously. Mr. Hohenberger moved and Mr. Letizio seconded to approve the minutes of 6/3 as written. Passed unanimously.

PINNING CEREMONY: Chief McPherson noted that firefighters Jason Sliver and Dan Doherty had completed their probationary period; and extended thanks to the remaining fire staff and the Deputy Chiefs for aiding the two in successfully completing same.

Chief McPherson briefly outlined FF Sliver's background before Mr. Letizio moved and Mrs. DiFruscia seconded to remove FF Sliver from probationary status and make him a regular member of the department. Motion passed unanimously, and FF Sliver's wife, Mandy, completed his pinning.

Chief McPherson then briefly outlined FF Doherty's background. Mrs. DiFruscia moved and Mr. McLeod seconded to remove FF Doherty from probationary status, as well. Motion passed unanimously, and FF Doherty's wife Rebecca, along with his son Caden, completed his pinning.

LAURA SCOTT/DONATION ACCEPTANCE: Community Development Director Laura Scott advised that the Adopt a Spot Program kickoff had gone well, despite the weather, and requested the Board formally accept the following donations:

- Public Service of NH: \$500
- Delahunty's Nursery & Florist: Truckload of flowers
- Cyrl Lumber: Pots and seeds
- Village Bean: Coffee throughout the day
- George R. Cairns & Sons: Ten (10) "Road Crew Ahead" signs estimated to be valued at \$100/each
- The Dirt Doctors: Ten (10) yards of mulch
- Dunkin Donuts: Miscellaneous refreshments

Mrs. DiFruscia moved and Mr. Hohenberger seconded to accept the donations as noted, with gratitude. Passed unanimously.

Ms. Scott went on to explain that the program encompassed two types of areas, garden areas and clean-up spots. She indicated it was a very successful first year, and she was already looking to expand the program for next year to include the median areas and the alternative to make cash donations. Ms. Scott went on to note that there is also an Eagle Scout who's proposing to construct two (2) "Welcome to Windham" signs, and that she is working with him on a presentation for the Board. She then extended thanks to the participants, as attached. Discussion ensued as to the kickoff event, the assistance of the Highway Department in facilitating same, and the hope to obtain plaques in the ensuing years to recognize participants.

POLICY COMMITTEE: Town Clerk Nicole Merrill approached, noting that in May proposed amendments to the *Residency Policy* had been presented to the Board. These included the addition of methods to prove residency, such as presentation of a utility bill. Mr. Letizio moved and Mr. Hohenberger seconded to adopt the Residency Policy as amended. Passed unanimously.

Chief McPherson approached relative to proposed amendments to the *Fireworks Ordinance* as previously discussed; noting that in response to feedback received from the Board he had conducted further research into similar ordinances throughout the State. Chief McPherson indicated it would now be his and the Committee's recommendation that the existing ordinance be rescinded and replaced with a Fireworks Bulletin; which allows individuals to obtain the knowledge they need regarding what they can and cannot do/use. He added that the Town would then follow the current State law regarding firework usage.

Chief McPherson went on to note that any reference to the Town's Noise Ordinance as it pertains to fireworks has been removed, as it does not fit with the latter as far as enforcement. He indicated that the Bulletin would be posted on the general Town, Fire, and Police websites, and would be comprised of hyperlinks leading to such things as permissible items and the State Fire Marshall's website.

Discussion ensued regarding the support this proposal has from the Committee and Department Heads, and support was expressed for this approach which is more in keeping with what residents would utilize. Mr. Sullivan clarified that the Board cannot repeal the existing ordinance, as it must go to Town Meeting, and thus the Bulletin would not go into effect until next year. After further discussion, in which Chief McPherson clarified that any further revisions would be presented to the Board in advance of Town Meeting, it was the consensus of the Board that the Committee proceed as discussed.

Mr. Sullivan reviewed with the Board a draft Junkyard license application, explaining that this was the third phase of requirements per the Junkyard Ordinance adopted at Town meeting; the first being ZBA application/compliance, the second being adherence to Planning Board regulations, and the third being this application to the Board for final licensing approval. Discussion ensued, and Ms. Scott clarified that legitimate junkyards would first have to get approvals from the ZBA and/or Planning Board, then be licensed annually by the Board of Selectmen. Mr. Sullivan added that the application fees would need to be posted separately for public hearing.

After further brief discussion, Mr. Hohenberger moved and Mr. Letizio seconded to post the fees for public hearing and to approve the application as drafted. Passed unanimously.

SALE OF TOWN PROPERTY/14B-2101: Mr. Sullivan explained that, per Town Meeting, the Board has been authorized to sell this parcel located on Londonbridge Road; adding that prior to the warrant article there had been two (2) parties interested in buying the property, with no interest expressed by either since the vote. He sought the Board's direction as to how they wished to proceed; reminding the Board that the Warrant article did include conditions including a minimum bid of \$20K and completion of an appraisal.

Discussion ensued regarding the options for sale available to the Board, and the requirement for an appraisal. Mr. Sullivan indicated he believed the Board should put it out to sealed bid based upon the conditions. After further discussion regarding the appraisal cost and adding same to the bid price, Mr. Hohenberger moved and Mr. McLeod seconded to place 14B-2101 out to sealed bid for a period of 30 days, and that the previously interested parties be notified of same. Passed unanimously.

WINDHAM HIGH BOOSTERS CLUB: Mr. Sullivan explained that the Boosters were present relative to their request for permission to install a sign in the Town's right of way at the corner of Londonbridge Road and Route 111. He indicated that the Board must authorize such placement, per the Right of Way Ordinance. Mr. LoChiatto then disclosed, for the record, that he had met with Mr. Joe Maynard and Mr. Don Bielinski about this request on the previous Tuesday.

Mr. Bielinski of the Boosters approached and reviewed with the Board a proposed design for the sign, before deferring to Ms. Robin Cino, also of the Boosters. Ms. Cino explained that the Boosters wanted to construct the sign as shown and donate same to the School District; adding that the sign itself will be fabricated by NH Signs, and the masonry base will be done by Mr. Bielinski. Ms. Cino stressed that there was a need for a sign for the High School at that intersection, noting that visiting teams can't locate WHS.

Mr. Hohenberger inquired about bids on the parcel 14B-2101 and how this affects the sign. Mr. Bielinski noted that he had walked the property with the Highway Agent and Mr. LoChiatto, and it was determined that there was a 60' right of way from the edge of the pavement to 14B-2101, and that the area where the sign would be installed does not involve same as it would only be approximately 35' off the pavement. Mr. Bielinski advised that the Boosters have received an email from the School's Business Administrator, Adam Steele, advising that the School Board supports the concept of the sign, however, they would like the details to be worked out with the Selectmen.

Discussion ensued as to who would control the sign postings, and it was clarified that the Athletic Director, High School Principal, and the Boosters would have access to the sign via modem, that the sign would also be available for emergency purposes, and that it will be designed so as to be run with a generator if necessary.

Mr. McLeod indicated he supported the concept of the sign, but that he had concerns given that it is a prohibited type of sign that is being proposed. Lengthy discussion ensued regarding the design, the sign itself being Town versus School property, and ways to incorporate the land into the sign should it be the School's property, eg via Town Meeting.

Mr. Sullivan clarified that the Town and School district are exempt from the requirements of the sign ordinance, and suggested that the Board approve the School District's installing the sign in the Town's right of way; adding that the Town can seek to grant a permanent easement to the District at Town Meeting. Mr. LoChiatto noted that, while he understood the exemption from the ordinances, he hoped the sign would be built to meet those requirements as it pertained to height, etc.; adding that there are also requirements relative to how often an electronic display can change. Discussion ensued as to the intent of the Boosters regarding the latter, and it was noted that they could limit the number of cycles to 3-4/day and can also adjust the speed of the change.

Mr. Letizio noted that he had no issue with sign other than that the design flies in the face of the ordinance; which he indicated was poorly written and needed to be re-examined. Mrs. DiFruscia disagreed, indicating she believed the ordinance was fine but that there are exceptions such as in this case. Ms. Scott clarified that the ordinance prohibits changeable copy, and that if the Boosters were to submit the permit application then they would need to adhere to the regulations. Ms. Scott also noted that the Board must consider the potential for an additional free standing sign in the same vicinity, and suggested the Boosters consider installing theirs across Londonbridge Road near the Town land. Discussion ensued regarding the proposed versus potential placement of the sign.

Mrs. Barbara Coish approached to agree that a sign was needed at the intersection, but expressing concern it will not be utilized. Discussion ensued regarding support from School staff for the sign, training in its use, and a need to reach out to the community.

Mr. Bob Coole approached to note that the question before the Board is the sign's placement in the right of way; not the design of same. Further discussion ensued regarding the proposed location of this sign versus any future signs on the adjacent property. Mr. Joe Maynard indicated that the latter would be placed some distance from this proposed sign. Brief discussion ensued, with input from Ms. Scott.

Mr. McLeod indicated that he would support installation of the sign subject to a single notice per day and conveyance of either property or an easement to the School District at Town meeting. Further discussion ensued regarding possible other means of supporting the sign, such as a donation to the District, and the requirements of the right of way ordinance. Mr. Bielinski noted that the School Board is planning to follow through on the required steps once the Selectmen indicate their support. Mr. Dennis Senibaldi, School Board member, approached to clarify that the School Board is awaiting the Board of Selectmen's approval/support of the installation.

After further discussion, Mr. McLeod moved and Mr. Hohenberger seconded to support, in concept, the School Board coming before the Selectmen to seek permission to install a sign in the Town's right of way off London Bridge Road as presented. Passed unanimously.

SALE OF TOWN PROPERTY: Postponed.

RIGHT OF WAY REQUEST: Mr. Sullivan advised that he had been contacted relative to the property at 1 Brown Road, for which a purchase and sale is pending, as the mortgage company believes that a portion of the garage is potentially located in the Town's right of way. He indicated that the Highway Agent does not agree, however, the seller is requesting permission from the Board to allow the garage to remain based upon a waiver of liability and potential removal of the structure, at the owner's cost, if it is deemed a hazard in the future. Mr. Sullivan advised that Town Counsel does not believe the Board can grant such a request because no structures are permitted in the right of way; and that it was recommended the Board take no action.

Mr. Gary Butterfield, representing the seller, approached indicating that the garage was built somewhere around 1952, and there had never been any issues or problems; adding that this concern had just arisen a week ago. Mrs. DiFruscia noted that, barring a survey in the future that shows the garage is in the right of way, she would concur with Town Counsel that the Board should take no action.

After a brief discussion, Mrs. DiFruscia moved and Mr. McLeod seconded to affirm that there is no current action or enforcement to require the removal of the garage located at 1 Brown Road. Passed unanimously.

OLD/NEW BUSINESS: Mr. Letizio inquired as to the status of a follow-up meeting with the Department of Transportation relative to the signal at Range Road/Route 111. Mr. Sullivan noted that Mr. Stamnas has confirmed that Woodland Design Group has not provided any further information or final studies to them; which they are waiting for before proceeding. Discussion ensued regarding the timing of the project/bids for same, and that any decision to keep the signal would be a change order. It was the consensus of the Board that this be put on the agenda for 7/15, and that Woodland be directed to provide their information to the DOT in preparation for same. In the event the DOT is not available on the 15th, an additional meeting will be scheduled.

Mrs. DiFruscia expressed concern that the medians along Route 111 did not appear to have been done by the landscaper. Mr. Sullivan indicated that one cutting had been done, along with some weeding, and that the contractor will be back out there again to do more work.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. McLeod seconded to enter into nonpublic session in accordance with RSA 91-A:3 II c and e. Roll call vote all "yes". The topics of discussion were reputations and legal and the Board, Mr. Sullivan, Chief Lewis, and Ms. Devlin were in attendance in the first session.

The Chief discussed with the Board a personnel request for light duty. Mrs. DiFruscia moved and Mr. McLeod seconded to approve the move to light duty for the officer in question, based upon the availability of same in this instance in the form of ample administrative activities that need performing and the lack of employees on Worker's Compensation requiring same. Passed unanimously.

The Chief then updated the Board on a potential legal matter relative to an ongoing Worker's Compensation issue. No decisions were made.

The Board, Mr. Sullivan and Ms. Devlin were in attendance in the second session. Mr. McLeod advised the Board of a potential issue related to the duties of committee members. No decisions were made.

The Board discussed a reputations matter relative to a member of the staff. No decisions were made, and Mr. Sullivan will follow up on this issue.

Mr. LoChiatto recused himself from the remainder of the meeting; citing a potential conflict of interest relating to his business activities as a contractor. Mrs. DiFruscia assumed the Chairmanship.

The Board, Mr. Sullivan, Building Inspector Mike McGuire, union representatives Charlotte Misuraca and Joe Macaroon, and Ms. Devlin were in attendance in the next session.

The Board heard testimony regarding a grievance matter filed by Mr. McGuire relative to denial of time off; with Mr. McGuire fielding several questions from the Board members.

The Board, Mr. Sullivan, Community Development Director Laura Scott, and Ms. Devlin were in attendance in the next session.

The Board heard from Ms. Scott relative to Mr. McGuire's grievance; and the former answered several questions posed by the Board.

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

The members deliberated at length on the testimony heard from Mr. McGuire and Ms. Scott before reaching a consensus amongst themselves.

Mrs. DiFruscia called the public session back to order. Mr. Hohenberger moved and Mr. McLeod seconded to deny the grievance based upon the failure to establish past practice. Motion passed 3-1, with Mr. McLeod opposed. Brief discussion ensued regarding Mr. McLeod's vote, which he indicated was related to the lack of clear evidence as to whether or not the Department could function for a short period with only two staff members.

Mr. Hohenberger moved and Mr. McLeod seconded to adjourn. Passed 4-0.

Meeting adjourned at 10:30 PM.

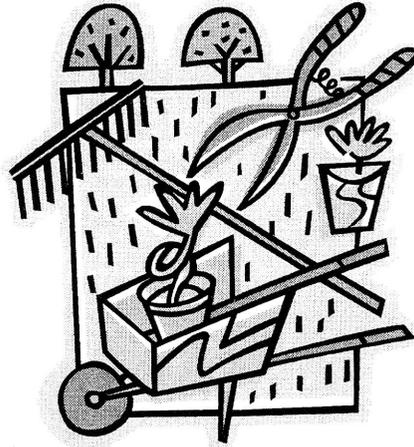
Respectfully submitted,

Wendi Devlin, Administrative Assistant

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

THANK YOU

ADOPT-A-SPOT PARTICIPANTS



36 Creative

B&C Landscaping

Greater Derry/Londonderry Chamber of Commerce

Windham Garden Club

The Guttman Family

The Logsdon Family

Windham Rail Trail Alliance

Salem Animal Rescue League

Sophisticakes

Windham Democratic Committee

Windham Woman's Club

Rockingham Emergency Veterinary Hospital

Crossing Life Church and Windham Crossing Learning Center

WHS Senior Safe Night - Last Night Committee

Anakalia SUP

Cyr Lumber & Home Center

Greater Salem Chamber of Commerce

Girl Scout Troup 10281

Lab Corp

OBGYN Associates

Woof Woof Doggy Day Care

Shaw's Supermarket

The Dubai Group, Inc.

Windham Endowment

Wisteria Floral Shoppe

Derry Medical Center