

Enfield Board of Selectmen

Enfield NH

Minutes of August 15, 2005

The Chairman called a regularly scheduled business meeting of the Board of Selectmen to order at 5:00 PM posted time in the Ilene Reed Training Room located at the Public Works facility on Lockehaven Road, Enfield. It was noted by the Chairman that priorities should be given to Agenda items in light of Mrs. Scovner's required presence at a Recreation Committee meeting scheduled for 6:30 PM at Whitney Hall.

Present: Dominic Albanese, Chairman; Nancy Scovner, Selectman; Curtis Payne, Selectman; April Whittaker, Town Manager

Also Present: Joe Cote, Reporter; Kristin Fountain, Reporter; Dan Kiley; Police Chief Crate

APPROVAL OF MINUTES

The board reviewed and approved the following minutes in the following manner. Mrs. Whittaker advised that the March 7, 2005 minutes had inadvertently been omitted in the past for the approval process.

March 7, 2005:

Motion Scovner, second Albanese to approve the public Minutes as written, vote 2 – 0; Payne abstaining. Motion Albanese, second Scovner, to approve the non-public minutes as written, vote 2 – 0, Payne abstaining.

August 1, 2005:

Motion Scovner, second Payne, to approve the public Minutes as written, vote 3 – 0.

CITIZEN'S FORUM

Mrs. Scovner advised her fellow Selectmen of her conversation with Howard Schaffer requesting taxation status should the Lutheran Church parsonage be rented out to private individuals not directly employed and occupied by the church. Mrs. Whittaker will provide copies of RSA 72:23 regarding the lawful criteria as to what circumstances enable a parsonage to qualify for tax exemption.

Retired Police Chief Giese asked the Selectmen to participate in a "Get Well" card to 1Lt Thomas St. George who had been critically injured in a helicopter crash in Afghanistan. During his ROTC years, Cadet St. George would travel from his home in Canaan to participate in

Enfield's Memorial Day activities, and for three years running he was the leader of the color guard composed of members of the American Legion Post 55 in Canaan. The Board of Selectmen duly signed the card in support of 1Lt Thomas St. George.

On a second issue, Mr. Giese asked the board for consideration of a second bridge naming to honor Donald Albert Crate, namely the Main Street Bridge spanning the Mascoma River abutting the so-called Copeland Block. Mr. Giese provided a 5 page document outlining Mr. Crate's achievements and dedication to the safety and well-being to the citizens of Enfield for justification of the honor he hopes will be bestowed ~ see document attached to Minutes as to content.

Following his presentation to the Board, they determined to take the matter under advisement.

Mr. Giese also raised his hopes to see a historical marker at the Shaker Village site. He provided the historical perspective of the application process to the State and asked that the Selectmen assist politically to seek out the disposition of the marker. Mrs. Whittaker advised that the money had been encumbered for the sign for the past three years, but that the town still had not heard from the State of NH despite acknowledgement of the application.

Mr. Giese thanked the board for listening and thanked them for his retirement party.

OLD BUSINESS

Franchise Cable Fees:

Mrs. Whittaker requested the board to review documentation as received from Attorney Robert Ciandella regarding the transfer of franchise from Adelphia to Comcast concerning the board's decision to reinstate the contract option of Franchise fees. Said fees being in essence, a rent for use of the town's right of ways.

Mrs. Whittaker advised that it was important to discuss the provision for the implementation of franchise fees due to the fact that the Attorney needed to respond by August 19, 2005 back to the cable company. She presented a table denoting percentiles of 1 – 5%, also showing the amount of revenue and cost to the consumer per the percentiles dependent upon which percentage was used ~ see following table.

Franchise Fee %	Annual Franchise Fees	Subscriber Pass per month
1%	\$7,920	\$0.55
1.5%	\$11,880	\$0.83
2%	\$15,840	\$1.10
2.5%	\$19,800	\$1.38
3%	\$23,760	\$1.65

Franchise Fee %	Annual Franchise Fees	Subscriber Pass per month
3.5%	\$27,720	\$1.93
4%	\$31,680	\$2.20
4.5%	\$35,640	\$2.48
5%	\$39,600	\$2.75

Mr. Albanese expressed his thoughts regarding what he felt was another tax burden. Mrs. Scovner rebutted that the incoming revenue would in all probability cause a drop in the tax rate more than sufficient to offset the slight increase in cable payments. Mrs. Whittaker also pointed out the option of dedicating the revenue into a special fund for future access community channel development when the cable contract was up for renewal in 2009. This action to dedicate funds to a specific purpose would require a warrant article at Town Meeting. Mr. Payne and Mrs. Scovner felt this to be a good idea given the expected increase in population, and the opportunity for good community wide communication through the use of a community channel. Mr. Payne opined support for a 3% application, and was supported by Mrs. Scovner. There being no further discussion, the chairman called for a vote. Mrs. Scovner moved the following motion:

Motion: "I move that the Board rescind the prior action of the Board of Selectmen to decline payment of franchise fees by Adelphia, the cable operator in Enfield, as evidenced by a letter from the Board of Selectmen dated February 21, 1999, returning the proffered franchise fee checks. The cable television Franchise Agreement now in effect with Adelphia, dated March 8, 1999, provides at Section 4.1 (A) that Adelphia shall pay a franchise fee to the own of up to 5% of Adelphia's Gross Annual Revenues (as that term is defined in the Franchise Agreement) received from operation of the cable system in Enfield.

The board shall rescind the prior action to forego the receipt of franchise fees from Adelphia, because it is appropriate and authorized by federal and state law, as well as the franchise agreement, for Adelphia to pay such fees for the use of the public right of way for its cable system and for the right to provide cable service in the Town. Based on rough calculations for the average amount of customer's bills in Enfield, the amount of franchise fees paid to the Town annually could range from about \$8,000 per year for a 1% franchise fee to about \$40,000 per year for a 5% franchise fee.

The Board shall have Adelphia resume payment of franchise fees in the amount of 3% of Gross Annual Revenue, as that term is defined in the Franchise Agreement, for the final quarter of the 2005 calendar year. This should give Adelphia time to implement the payment process. Pursuant to the terms of that Franchise Agreement, payments are due on a semi-annual basis, with the first payment due within 45 days of the end of the six-month period ending December 31, 2005. The checks should be made payable to the Town of Enfield, PO Box 373 Enfield, NH 03748.

I understand and the board should know, that Adelpia would note on Enfield subscribers' bills that this franchise fee would now be paid to the Town, pursuant to the terms of the Franchise Agreement. Adelpia is also authorized by law to pass this payment through to its subscribers in Enfield, and the company has told the Town it intends to do so. Nevertheless, this is an important payment to the Town for the use of the public right of way.

Finally the board should direct its legal counsel to notify counsel for Adelpia of this action and to seek by exchange of correspondence to confirm the procedure so stated in this motion."

Mr. Payne seconded the motion, vote 3 – 0.

Sewer Contract ~ Proposed Draft New Municipal Agreement:

Mr. Daniels presented and explained the nuances of the proposed new municipal sewer contract, and the impacts and effects for Enfield and Lebanon to the board for clarity purposes.

Mrs. Whittaker advised that the Interim City Manager, namely Mike Farrell, had indicated his intentions to discuss the new draft with the City Council at their meeting of September 14th, 2005. In the interim, Mrs. Whittaker advised the board to take the matter under advisement in order to provide additional time for their personal review and / or additional questions. The Chairman felt this to be a good posture to adopt and requested that the decision to approve or not be concluded for the first business meeting of September.

Prior to Mrs. Scovner's departure from the board's business meeting, she advised her concerns regarding the perceived tone and tenor of a letter sent to Jan Zimmer from the Town Manager. Mrs. Whittaker advised that Mrs. Zimmer was very upset at the alleged personal treatment and comments allegedly purported to her by certain members of the Zoning Board of Adjustment during her variance hearing, and that the letter was meant in a tone of appeasement, not criticism of the ZBA and in fact, endorsed their final decision. Mr. Albanese advised that the letter was addressed to the Board of Selectmen. Mrs. Whittaker advised that she had always answered all such letters in the past on behalf of the board, but would cease henceforth.

At this juncture, Mrs. Scovner departed the board's business meeting in order to attend the Recreation Committee meeting at 6:30 PM.

NEW BUSINESS

Noise Ordinance Proposal:

Mrs. Whittaker advised that the subject of noise, in particular the noise emitted by motor bikes, was again becoming a concern for some of the town's residents, who had advised the same personally in the office. She continued that she had requested Chief Crate to provide a copy of such an ordinance as adopted by the City of Manchester for the Board to consider. Chief Crate also advised that his office had had similar concerns placed before them, and he had staff working on the same, hence the opportunity for a joint discussion. A copy of the City of

Manchester's noise ordinance was provided to the board for example purposes. Chief Crate further advised that although there is currently law applicable to noise levels, any enforcement would require use of a decibel reader, (cost \$2000), which the department does not have, and would require 2 officers to operate the same.

Mr. Payne asked for specificity of the noise concerns, and Mrs. Whittaker recanted that last year had seen noise related concerns regarding motorbikes and large trucks brought to the board, and in 2005 the noise issues had focused on loud motorbikes especially early morning usage along Route 4 and 4A. Mr. Payne advised that he would be a willing participant with the police to actually experience the noise issues as described, and felt this would be something he would need to do before he could endorse what he felt could be a "big brother is watching" type of issue, if an ordinance in the magnitude of Manchester's was eventually endorsed. Mr. Albanese concurred. Following further discussion, motion Payne, second Albanese to not endorse legislating noise restrictions, vote 2 – 0.

Use of Pagers:

Mrs. Whittaker advised that there had been clarity requested by the Public Works Director with the wearing of pagers when employees were not on duty for emergency contact purposes. The Director had suggested strengthening language in the current personnel policy. Mrs. Whittaker advised that she felt the Personnel Policy required a very thorough updating in any event and that all the updates should be done at the same time so that employees are not further confused. She advised that she supported the Director's intent and premise for the proposed change, and had undertaken a long discussion with Mr. Daniels as to why it would be better to do all the changes in one. Mr. Daniels indicated to the Board that he supported the Town Manager's opinion and therefore was supportive to wait for the rewrite of the policy as a whole. The Selectmen concurred.

US Route 4 Corridor Study ~ Representatives to the UVLSRPC's Committee:

Mrs. Whittaker advised that Ken Daniels and Jim Taylor were both willing to serve to represent Enfield's interests in the above study committee. Following discussion, motion Payne, second Albanese to appoint Mr. Daniels and Mr. Taylor to the aforementioned committee, vote 2 – 0.

ANY OTHER BUSINESS

Removal of Tax Deeded Mobile Home:

Mrs. Whittaker advised that the tax deeded, derelict mobile home had been removed from the Daniel's Acres Park, thus ceasing rental due to the park owners, and that for the interim, the derelict home had been placed in the pit area of the town-owned Bicknell Brook area. Following discussion as to the next steps, motion Albanese, second Payne to approve "firing" of the home as a training exercise with clean up to ensue, vote 2 – 0.

Winter Sand Bid:

Mr. Daniels provided to the board a written statement as to the procedures undertaken and the rationale for the second bid offering for the winter sand bid. He further advised that Conkey Sand and Gravel was the lowest responsible bidder at a guaranteed price of \$6.45 per cubic yard and no fuel surcharges.

Budget Preparation 2006:

Mr. Albanese requested that a date be set for departmental budget discussions and interviews prior to the first presentation to the budget committee set for late October. It was determined to set the date of **Friday, September 30, 2005** from 8:30 am to 5:00 PM for budget preparation hearings, place of meeting still to be determined. Mrs. Whittaker will set up an itinerary and inform departments as appropriate for presentation purposes. She will again also request departmental goals for 2006 and a synopsis of departmental accomplishments for 2005. Mr. Albanese opined to the department heads present at the meeting that he personally felt that the focus of the budgets should be on operations and maintenance issues, and would prefer not to see any new initiatives given the transition time, he felt, that would be needed for the new manager and board.

Flood Insurance Claim:

Mrs. Whittaker informed the board that the Bailey's flood insurance claim against the Town had been denied by the Town's insurers; counsel for the Baileys' being so informed.

Informational Items:

- Community Development Director's Monthly report for July 2005.
- Final Legislative Bulletin 2005

ADMINISTRATIVE

- 2004 Property Tax Refunds: Antrainig & Gilberte Boghosian Map 22 Lots 2 & 3; Mascoma Heights Assn: Map 25 Lots 4 & 15; John & Eileen Esler: Map 46 Lot 6; Adam & Wendy Jewell: Map 8 Lot 2-2
- 2004 Abatement Application: Maryellen Konier ~ DENIED ~ Map 46 Lot 26
- Land Use Change Tax: Neal & Kathleen Meagher; Jason Bail; Steven & Joanne Landry; Christine Fabian & Amy Letourneau; Wayne & Kathleen Findholt
- Timber Yield Tax: John Carr Map 5 Lot 26; Ironman Development: Map 14 Lot 47 & 48 (now known as 14A /1); Grace & Roger Furman Map 16 Lot 35-1; Jean Harvey Map 11 Lot 16

ADJOURNMENT

There being no further business, motion Payne, second Albanese to adjourn, vote 2 – 0. The Meeting adjourned at 6:40 PM.

Respectfully submitted
April Whittaker