

**Enfield Board of Selectmen
Enfield, New Hampshire**

MINUTES of September 6, 2005

Board of Selectmen: Dominic Albanese, Chairman; Nancy Scovner; Curtis Payne

Administrative Staff: Alisa D. Bonnette, Secretary

Others: Greg Baker, Clifton Below, Police Chief Richard Crate, Wendy Huntley, Dan Kiley, Joe Cote – Connecticut Valley Spectator

CALL TO ORDER

Mr. Albanese called the meeting to order at 5:00 pm.

APPROVAL OF MINUTES

August 15, 2005:

Mrs. Scovner moved to accept the minutes of August 15, 2005 as printed; Mr. Albanese seconded. Mr. Albanese asked for an amendment on page 2, paragraph 3, to insert a period following the word “advisement” and to delete the remainder of the sentence. The Board voted to approve the minutes as amended, vote unanimous.

ADMINISTRATIVE

September 30 Budget Work Session:

Mr. Albanese requested confirmation that the capital budget would be ready for the Selectmen’s budget meeting on September 30th; the availability of the capital budget was unexpected.

NH Dept. of Safety MAAP Project:

Mrs. Scovner moved to authorize April Whittaker, Town Manager, to sign the Authorizing Resolution of Information Technology Technical Agreement with the State of New Hampshire regarding the MAAP Project; Mr. Albanese seconded, vote unanimous.

Resignation from Recreation Commission:

Mr. Albanese moved to accept Gene Talsky’s resignation from the Recreation Commission with regrets; Mrs. Scovner seconded, vote unanimous.

Land Use Change Tax:

The Board reviewed and approved a Land Use Change Tax as submitted.

Revenue & Tax Rate Setting:

The Board received and reviewed a memo from Town Manager April Whittaker regarding revenues and tax rate setting. Mrs. Whittaker submitted this memo to provide clarity to the draft minutes of September 5, 2005 regarding her role in composing revenue predictions for the MS-4, Revised Estimated Revenues (copy attached).

The Selectmen contend that the minutes from Monday, September 5th are correct as worded. The Board did not ask for the revenue forecast in July, but asked in July that the revenue budget be reviewed with them prior to the tax rate being set and the revenue budget being submitted to the NH Department of Revenue Administration (DRA).

While it is true that the deadline for submission of the MS-4 is September 1, last year the town submitted in mid October. An extension could have been requested in 2005 as well. Further, the Board feels if the MS-4 was due on September 1, it should have been ready for the Board's review at the previous Selectboard meeting.

In July the full Board endorsed Mr. Albanese's agreement with the Budget Committee that the revenue budget and tax rate would be shared with them before it was submitted to DRA. Lee Carrier told the Budget Committee at their last meeting that he had spoken with DRA and the Budget Committee has a right to be consulted on the revenue budget. Hence, the Selectmen's agreement that we would share this information before it was submitted. This step did not happen and the Board is now in the unfortunate situation of having to explain why to the Budget Committee. Mrs. Whittaker was noticed of all this information and she agreed to do as asked in July.

PUBLIC APPOINTMENTS**Smith Pond Dam:**

Clifton Below and Greg Baker came before the Board to update the Selectmen on the status of Smith pond and to discuss the Town's possible future interest in the pond and dam, which included a proposal for the repair, maintenance and ownership of the Smith Pond Dam.

In the early 1800's by the Shakers built the dam and channeled the water to the Shaker Village. The pond and land surrounding it belongs to NH Fish & Game, Paul Cavicchi and Greg Baker. A map of the pond illustrates ownership; the pond itself has property lines running through the middle of it.

Greg Baker contacted Clifton Below about repair of the dam and preservation of the pond. There is a valve stuck open, presumably from years of neglect. Mr. Below proposed legislation that would allow Fish & Game to take over the dam if several conditions were met. This is considered an orphaned dam because it does not have clear title of ownership.

In about 1838 the right to impound and create the pond, and the flowage rights, were conveyed to the Shakers. The pond is actually a number of smaller ponds combined by the construction of dikes and the dam to create the larger pond. These rights were later conveyed to LaSalette and then to Enfield Shaker Limited Partnership. Enfield Shaker Limited Partnership quitclaimed its interest, has since gone bankrupt and the partnership was dissolved.

The State of NH wrote to Paul Cavicchi telling him he is the owner since he owned the land where the dam is located. Mr. Cavicchi disagrees and feels he has a strong legal case.

Smith Pond Dam is classified as a Class II dam; some risk to property and minimal risk to life if the dam were to be breached in its entirety.

The drainage area includes two wetlands. The water flows first through the smaller wetland, into the larger wetland and then to the brook. The flood buffer of these areas has not been studied.

There is one dike on Greg Baker's land, one or two on Paul Cavicchi's land and two or three on Fish & Game land. There are two leaks on the Fish & Game property. There is a boil "the size of your arm" in one location. Near the boil is another dike, which may be a secondary emergency dike. Using this secondary dike the State of New Hampshire lowered the pond level, which eased the pressure on the boil.

Mr. Cavicchi does not want ownership of the dam. If the State seeks to rest title in him, he will fight against it.

Greg Baker is concerned about the ducks and loons on the pond.

Mr. Below put together legislation that almost passed. The concept was that Fish & Game could take ownership of the dam if the certain conditions were met: repair of the dam, granting the right of public access by foot to the pond by Greg Baker and Paul Cavicchi, establishment of a conservation easement for the entire surface of the pond, authority for Fish & Game to do forestry, and to allow people with disabilities, with advance permission, to have access to the pond by vehicle.

Mr. Payne asked who was going to do the repairs. Mr. Below replied that Greg Baker and Paul Cavicchi would pay for repairs, but that it is also hoped that groups like Nature Conservancy, Ducks Unlimited, and the like, might help with funding, particularly if there is some kind of conservation easement. Fundraising would also be pursued. Mr. Payne asked if the State would contribute any funding. Mr. Below replied that no, the State has no funding. Mr. Below went on to say there were plans to establish an endowment fund for future maintenance. While Greg Baker and Paul Cavicchi can fix it, someone needs to take ownership of it.

The Conservation Commission is very supportive.

Mr. Baker put in a parking lot at the end of Smith Pond Road and there's de facto, though not deeded, access to the public; access by foot only. People have been calling him, people that have visited the pond for 25 or 30 years. He's not opposed to people coming in to enjoy the pond.

Greg Baker would like a path all the way around the pond, with public access.

Mr. Below stated that the town could end up owning the dam through an arrangement similar to the one proposed to the State. The town might own the dam and possibly some land around it, with right of public access to the pond and a conservation easement. Would the Selectmen be open to exploration of this possibility?

The Board considered the pros and cons of taking on ownership of the dam, including the liability that would be incurred, but the right of public access to the pond and preservation of this historic site. The town has a capital reserve fund for the acquisition of land, though it is not known at this meeting if those funds could be used. The Board was reminded that it is hoped the town would not have to lay out any funds at first, but only to take on future maintenance, with this maintenance offset by the endowment fund. Repairs are estimated at about \$400,000.

Ken Daniels is interested in exploring the area for another municipal water source. This could be a win-win situation.

The Selectmen expressed their willingness to look at a proposal and gave the go-ahead to pursue the concept with the intention that if a reasonable proposal is submitted it can then be presented to the voters.

Mr. Albanese noted that local Boy Scouts are always looking for projects. While they won't be able to repair the dam, they might be able to help with clearing the dam of brush.

CITIZENS FORUM

Police Chief Crate ~ Accreditation:

Police Chief Crate informed the Board of the State and National accreditation and recognition programs which he would like to pursue. It used to be that part-time officers needed to meet the same levels as full-time officers, but with the new recognition program this has changed. Department policies and procedures must meet state and national standards, something that was started under former Police Chief Giese's tenure, and that Chief Crate will continue. The town's insurance company is a big proponent of this and will provide some funding to accomplish it. It is hoped that some insurance savings will be realized. The Enfield Police Department is the first in the Upper Valley to be striving for this standard.

Police Chief Crate ~ Emergency Management Plan:

Chief Crate feels that a natural disaster is the most likely type of disaster the Town of Enfield would have to face. As has been seen down south in the aftermath of hurricane Katrina, it's the less fortunate people that are most affected. Evelyn Palmer and Ilene Reed are working on compiling a list of seniors that will need the most helping getting out.

Mr. Albanese asked if it makes sense to get together to talk about emergency services. Something will be arranged after the first of the year.

Police Chief Crate ~ Budget Issues:

Mr. Albanese expressed support for the investigation into a new file system. Chief Crate can present quotes at the second meeting in October.

Chief Crate explained overages in the Police Department budget, including contracted services, which is due to an increased cost for the prosecutor and dues. Dispatch billing will be done in two parts in 2006. Building maintenance was over due to the installation of the alarm system (\$4,000) that the department forgot to budget for.

Dan Kiley ~ Fuel Oil:

Does the town have a locked in price for fuel oil? Ken Daniels will be asked to report to the Selectmen.

Joe Cote ~ Sewer Agreement:

Do the Selectmen have any specifics on savings anticipated with the approval of the sewer agreement with Lebanon? Mr. Albanese replied that the next step is to have both boards (Enfield & Lebanon) agree.

BUSINESS**Laying out Rights-of-Way for Removal of Timber:**

The Board received a request from the owners of a woodlot off Smith Pond Road that is landlocked. The owners would like to log the property but has been unable to get permission to cross the abutting property to gain access to their lot. They requested the Board to designate a right-of-way as stipulated in NH RSA 231:40-42. Mrs. Scovner does not think that one person should benefit by taking the land away from someone else. This item has been referred to the Town's attorney and requires no action from the Board at this time.

Religious Exemptions:

The Board received a memo of clarification from Julie Huntley regarding religious exemptions, specifically as it pertains to proposed use of the parsonage for the Lutheran Church. The Board thanked Mrs. Huntley for the clarification and would like to address this again in the spring.

Lebanon Sewer Contract:

Mr. Albanese stated that the Town Manager endorses the agreement as currently written, as does the Director of Public Works and the Town's attorney. The Board is grateful for the work April Whittaker and Ken Daniels have put into this project with their counterparts in Lebanon.

Mrs. Scovner moved to accept the sewer agreement with the City of Lebanon as it now reads; Mr. Payne seconded, vote unanimous.

Non-Public Session:

Wendy Huntley requested a non-public under RSA 91-A:3 II (a).

Mr. Albanese moved to enter non-public session at 6:08 PM, RSA 91-A:3 II (a) and (b); Mr. Payne seconded. Roll call vote: Mr. Albanese – aye, Mr. Payne – aye, Mrs. Scovner – aye, motion carried.

Mrs. Scovner moved to come out of non-public session at 6:30 PM; Mr. Payne seconded, vote unanimous.

INFORMATIONAL ITEMS

- * Building Inspector Report, August 2005
- * Standard Dredge & Fill Application ~ State of New Hampshire ~ NH Route 4A stabilization of slope, reconstruction of roadway, ditch line and cross pipe, along with guardrail replacement.

- * Letter on congratulations
- * Notice of Mascoma Heights Association Meeting, September 14, 2005
- * Police Department Report, July 2005
- * Tax Collector's Trial Balance Report, August 2005
- * Letter of complaint re: cable franchise fees
- * Town Clerk Report, August 2005

ADJOURNMENT

The meeting was adjourned at 6:30 PM.

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MEMORANDUM

September 6, 2005

TO: Board of Selectmen
FROM: April Whittaker
RE: **Revenues and Tax Rate Setting**

This memorandum will serve to provide clarity to your draft minutes of September 5, 2005 (section 4) regarding my role in composing revenue predictions for the MS-4, which must be sent to the DRA with the MS-1 Statement of Valuation by September 1, 2005. This is a requirement of statute and carries a penalty.

I thought that clarity had been made at the February 24, 2005 meeting with Lee Carrier, Nancy Scovner, Wendy Huntley and myself regarding revenues and how they are formatted for tax rate setting. Chair Oppeneer was very specific to the Town Manager's role in revenue predictions and provided verbal history how the then board had worked very hard under Pat MacQueen's tenure to (i) increase the undesignated fund balance to the recommended 10% level, and (ii) secure faith in the town manager's judgment with respect to revenues as it is their signatures on the document.

Revenue prediction is a fluid process and the MS-4 acts as a catalyst for changes at the actual tax rate setting date. The numbers on the MS-4 are not carved in gold but rather are a very best judgment call against the numbers that are collated in Mrs. Huntley's revenue report ~ copies of which you were provided to you for comparison purposes. You have all the opportunity in the world to alter these numbers at your actual date of rate setting and before as part of your discussions. In fact, the DRA composes a list of changes as part of the rate-setting package that comes with the confirmation of rate. This way my signature is not implicated in any changes that may have a deleterious effect on future fund balance through decisions beyond my control. Once again, the MS-4, as submitted, is simply a starting point, not ending point. In fact we will not know the State revenues until the rate date ~ they are provided at this time.

I apologize for not providing revenue predictions for the end of July ~ I either simply forgot or was not aware that this was an expectation from the Board. Nonetheless I still would have been uncomfortable providing predictions one month earlier, it is hard enough predicting in August.

You have been provided with a very comprehensive package of information in which the board can rationalize where they would like the rate to fall and the ability to predict your own revenues when the time is right at the actual rate setting.