

Official

**TOWN COUNCIL MINUTES
Regular Meeting
Wednesday, July 26, 2006**

CALL TO ORDER: Chairman G. Longfellow called the meeting to order at 6:30 pm.

PRESENT: Michael DiBitetto, James Gorton, Jason Hyde, Mike Jolin, Paul Loiselle, David Ross, Patricia Rueppel, Stuart Werksman, Chairman George Longfellow, David Jodoin (Town Administrator)

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

July 12, 2006 – P. Loiselle moved to approve the July 12, 2006 minutes as amended. Motion seconded by S. Werksman. **Motion carried.** J. Hyde abstained, not present at the meeting.

PUBLIC INPUT:

Vincent Lembo, Jr., 56 Main Street inquired if there was a taxicab permitting process in place.

Evelyn Horn, Administrative Assistant stated there is an ordinance and a process in place but no application has been received.

Philip Fitanides, 1407 Hooksett Road stated that Queen City Taxicab operates in Town.

The Town Administrator would look into the matter.

Michael Sorel, 54 Cross Road commented on the need for an Economic Development Committee. He mentioned that Pembroke, Bow and Goffstown have one. Merrimack is in the process of forming one. He urged the Council not to hire an employee but to form a committee.

NOMINATIONS/APPOINTMENTS:

M. DiBitetto nominated David Boutin to be moved from an alternate position to a full member of the ZBA, exp. 6/2009.

P. Loiselle nominated James Levesque as an alternate member of the ZBA, 6/2008.

S. Werksman nominated Yervant Nahikian as an alternate member of the Planning Board, exp. 6/2007.

P. Rueppel motioned to waive the rules for waiting period between nominations and appointments for all three nominations. Motion seconded by M. DiBitetto.

M. Jolin stated that he does not see any urgency for all three nominees to be appointed on the same night.

Roll Call:

M. DiBitetto	No	D. Ross	No		
J. Gorton	No	P. Rueppel	Yes		
J. Hyde	No	S. Werksman	Yes		
M. Jolin	No	Chairman G. Longfellow	No	2-7	<u>Motion failed.</u>
P. Loiselle	No				

M. DiBitetto moved to close the nominations. Motion seconded by M. Jolin.

D. Ross raised the issue of M. DiBitetto asking another applicant to the Planning Board to withdraw her nomination in favor of Mr. Nahikian. He stated that it is completely out of order and that M. DiBitetto has tampered with the Council's authority to make an appointment.

M. DiBitetto explained that he has a good relationship with the other applicant, Ms. Denise Pichette-Volk. He had called her to advise her that Mr. Nahikian had expressed interest in the position. The Planning Board would benefit with Mr. Nahikian becoming a part of the board as he is also a member and Chairman of the Aesthetics & Beautification Committee. He added that he did not suggest anything.

M. DiBitetto withdrew his motion to close nomination.

M. DiBitetto nominated Denise Pichette-Volk as an alternate member of the Planning Board, exp. 6/2007.

J. Hyde nominated Gerald Hyde for the same position.

NEW BUSINESS:

Acceptance of Donation (\$500) from Wal-mart to the Heritage Commission per RSA 674:44-b. Kathie Northrup, Heritage Commission Chair informed the Council that the commission requested for a grant from Wal-mart and was approved for the amount of \$500.00. The money will be used for the Head's Chapel project.

P. Loiselle moved to accept \$500.00 donation from Wal-mart to the Heritage Commission per RSA 674:44-b. Motion seconded by J. Gorton. **Roll call vote carried unanimously.**

Proposed Litter Ordinance

D. Jodoin presented the proposed Litter Ordinance for the Council's consideration. The Town's Legal Counsel has reviewed the ordinance. This will enable the Police Department to enforce "No Littering" in areas like the Chester Turnpike.

J. Hyde commented that the fine of \$1,000.00 might be too high. The State's fine is at \$250.00.

D. Jodoin explained this came about after the Town inspected the Chester Turnpike area and found a substantial amount of trash from burnt pressure treated lumber to a torched car. The fine was reviewed by the Town's Legal Counsel.

M. Jolin moved to schedule a public hearing to adopt the littering ordinance. Motion seconded by P. Loiselle.

D. Ross suggested breaking the fines into two categories by volume of litter.

D. Jodoin stated that having two different fine categories might create a problem for the Police Department as far as enforcement.

Roll Call:

M. DiBitetto	Yes	D. Ross	Yes		
J. Gorton	Yes	P. Rueppel	Yes		
J. Hyde	No	S. Werksman	Yes		
M. Jolin	Yes	Chairman G. Longfellow	Yes	8-1	<u>Motion carried.</u>
P. Loiselle	Yes				

Webster Woods Bond Reduction

L. C. Engineering Company, LLC has inspected the Webster Woods housing project. They are recommending that the bond be reduced from \$260,000.00 to \$110,000.00.

M. Jolin moved to reduce the bond from \$260,000.00 to \$110,000.00. Motion seconded by P. Loiselle.

Roll Call:

M. DiBitetto	Yes	D. Ross	Yes		
J. Gorton	Yes	P. Rueppel	No		
J. Hyde	Yes	S. Werksman	Yes		
M. Jolin	Yes	Chairman G. Longfellow	Yes	8-1	<u>Motion carried.</u>
P. Loiselle	Yes				

OLD BUSINESS:

Village School Update

D. Jodoin informed the Council that the Town is currently working with the Fire Department to assess the fire alarm systems. Fire Alarm Companies would be doing a walk-through starting next week to submit bids. The bathrooms will also be evaluated. The report from a few years ago will be reviewed including the asbestos testing. The floor plan created last year will be considered to a certain extent. Department Heads did a walk through to figure out the best functional plan for the building.

P. Loiselle asked if the Town Administrator has considered moving the Family Services Department with the Police Department for safety reasons.

D. Jodoin explained that with the new floor plan, the Family Services Department will be in a high traffic and visible area.

Complaints re: Councilor Rueppel

M. Jolin moved to remove the matter from the table. Motion seconded by P. Loiselle. **Roll call vote carried unanimously.**

M. Jolin explained that the matter was tabled until the recusal issue was resolved.

Chairman G. Longfellow stated that the Town Counsel has advised that Councilors Rueppel and DiBitetto should recuse themselves from voting on the matter.

M. DiBitetto stated that he has some evidence that a recusal in his part is not necessary.

P. Rueppel requested to read the letter from the Legal Counsel. She stated that this is one counsel's opinion. Another counsel's opinion may differ.

M. DiBitetto suggested for Councilor Rueppel to engage her own Legal Counsel to make the determination. Recusal matter is a voluntary action. Failure to do so can be appealed to the Superior Court. He cited case laws on the issue:

“Rollins v. Conner (1908) ...a judge must be free from all bias and partiality. He cannot be judge and party, arbiter and advocate, in the same cause.”

“Quinn v. City of Concord (1967) ...the charter prescribes a tribunal whose members in every case will be acquainted with the parties and have some knowledge of the facts...aldermen are not disqualified from voting on charges because they served on the committee that formulated the charges...”

Chairman G. Longfellow stated that the Town's Legal Counsel has advised the Council on how to proceed. The Legal Counsel's advice should be followed.

M. Jolin moved to recess for 15 minutes to make copies of the Legal Counsel's letter and for the Council to review the letter. Motion seconded by P. Loiselle.

Roll Call:

M. DiBitetto	Abstained	D. Ross	Yes
J. Gorton	Yes	P. Rueppel	Yes
J. Hyde	Abstained	S. Werksman	Yes
M. Jolin	Yes	Chairman G. Longfellow	Yes
P. Loiselle	Yes	7-0-2	<u>Motion carried.</u>

Chairman G. Longfellow explained that that Councilors involved can vote on whether to proceed with the investigation.

P. Loiselle motioned to move forward with the investigation. Motion seconded by M. Jolin.

Roll Call:

M. DiBitetto	Yes	D. Ross	No
J. Gorton	Yes	P. Rueppel	No
J. Hyde	Abstained	S. Werksman	Yes
M. Jolin	Yes	Chairman G. Longfellow	Abstained
P. Loiselle	Yes	5-2-2	<u>Motion carried.</u>

An investigation sub-committee was formed by Chairman G. Longfellow consisting of P. Loiselle and J. Gorton.

Chairman G. Longfellow stated that the sub-committee should report to the Council on August 9th, 2006.

Discussion on how the sub-committee would proceed ensued.

The sub-committee made up of three Councilors will perform its investigation, collect documents and conduct interviews, if necessary. The committee will then submit its report in writing to the Council whether charges should be pursued, and what specific charges are to be presented. The Council will then determine whether to proceed. Should the Council decide to proceed, it must (1) prescribe the specific charges, in writing; (2) schedule date(s) for the hearing, and: (3) arrange for serving the Councilor with the written charges and hearing date.

M. Jolin moved to establish correspondence from the Legal Counsel dated July 21st, 2006 to be a public document. Motion seconded by S. Werksman.

Roll Call:

M. DiBitetto	Yes	D. Ross	Yes
J. Gorton	Yes	P. Rueppel	Yes
J. Hyde	Yes	S. Werksman	Yes
M. Jolin	Yes	Chairman G. Longfellow	Abstained
P. Loiselle	Yes	8-0-1	<u>Motion carried.</u>

J. Hyde once again reiterated that the reason he is abstaining from voting on just about everything relating to the case is because someone, without his permission made one of his private communications public. Charges were made against him in the Hooksett Banner Editorial. This is to avoid the appearance of impropriety that he has somehow influenced the outcome of the vote.

The Town Administrator would consult with the Town Counsel and set up a date for the sub-committee to meet. The meeting will be posted and open to the public.

TOWN ADMINISTRATOR'S REPORT:

D. Jodoin reported on the following:

1. A conference call was held between the Town Administrator, Ed Eckman (Cabela's), Stu Arnett (State Department of Resources Economic Development), Jim Moore (Department of Transportation) and TFMoran to go over and review the process with Cabela's. Ed Eckmann is currently getting accurate appraisals for the sites. The Town is also working with TFMoran on revising the master plan from what was originally presented. The bond counsel has not been contacted. He again suggested hiring a professional consultant to negotiate the details of the agreement.
2. With regards to the investigation on Councilor Rueppel, he read a prepared statement into the record:

"I have sat for the last few days contemplating whether I would write this letter or not. After careful consideration, I feel that it is necessary.

I have read with interest the letter to the editor, the editorials, the e-mails and wanted to get a few things straight. The only real facts that I have seen so far is that yes, the Council did have a non-public session in September, and yes, a select few people were invited. This is what a non-public session is. Legal Counsel advised that in fact the Town Council could hold a meeting under RSA 91-A.

For months, the Council Chair and I had been kicking ideas around as to how the presentation could be made so that the voters would understand. When Cabela's became public, we finalized an idea to move forward with an advisory group with local well respected citizens. In part, I felt that with the conversations of developing an economic development committee, this would be a good start. It was mentioned this was a Council task force. It was not, it was my suggestion and committee. I asked the Council Chair if he would contact people like Mike Sorel and Tom Barrett.

The comment that I wanted to share was this. Yes, there have been meetings with various different people, not to broker any type of deal, but to gain knowledge from them as to the steps to take to get the best deal for the residents. I have always believed that there is nothing wrong with learning from people's success or failures.

David M. Jodoin, Town Administrator"

SUB-COMMITTEE REPORTS:

Board of Assessors

There is an issue with the \$1.4 million current use tax credit on Mt. St. Mary's Apartments (formerly known as the North Campus of New Hampshire College). Due to the projected 400 additional units to be built behind the building, accounting procedures would have to be addressed showing the \$1.4 million tax credit overlay.

D. Jodoin explained that when a property comes out of current use, abatement would have to be filed with the Board of Assessors. The Board of Assessors will have to review and approve if they feel it is valid. The tax credit is up to \$1.4 million. He does not believe all of \$1.4 million could come out of one year. The \$1.4 million will show up on both revenue and abatement accounts, which balances each other out.

Planning Board

Wal-mart & Lowe's withdrew their application at the last minute to address the traffic situation. The Town engineer pointed out some problems. The Goonan Road alignment is one of the main concerns. They are moving forward with the project as soon as the problem is resolved.

SNHPC

The annual meeting is scheduled on Friday, Sept 8th. They are requesting for pictures from the last 40 years to be presented for their 40th Anniversary. Round tables were held on affordable housing and traffic situation.

PUBLIC INPUT:

V. Lembo commented that when the article in the Hooksett Banner came out, he gave Mr. Hyde the opportunity to address the issue. Mr. Hyde's explanation was heard and accepted. Why was Councilor Rueppel not given the same courtesy?

M. DiBitetto explained that the Council has a different obligation than a regular citizen. The charge is clear. He did not see any complaints on Mr. Hyde.

M. Lembo asked if D. Jodoin would be the administrator for Exit 11 TIF District.

Chairman G. Longfellow explained that the law requires that a sub-committee be formed to oversee the TIF District. It has not come to that point yet.

Regarding the Planning Board nominations, Denise Pichette-Volk, explained that after submitting her letter of interest, she became aware of Mr. Nahikian's interest in the same position. Mr. Nahikian has supported the Planning Board's efforts in the past. It was her decision to step aside and let the Council decide to nominate Mr. Nahikian.

ADJOURNMENT:

M. Jolin moved to adjourn at 8:28 pm. Motion seconded by M. DiBitetto. **Motion carried unanimously.**

Respectfully submitted,

Evelyn F. Horn
Administrative Assistant

Jason M. Hyde
Town Council Secretary