

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, August 9, 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 18, 2006 - P. Loiselle moved to approve the July 18, 2006 minutes as presented. Motion seconded by S. Werksman.

Correction: pg. 1 - Chairman G. Longfellow announced that the meeting is being held *in public session* at the request of Councilor Rueppel.

Correction: pg 2 – M. DiBitetto moved to adjourn. Motion seconded by P. Loiselle.
Vote 7:1 Motion carried (D. Ross was opposed)

Vote unanimously carried as amended.

July 26, 2006 Regular Meeting - M. Jolin moved to approve the July 26, 2006 minutes as presented. Motion seconded by P. Loiselle.

Corrections: Pg 4 - An investigation sub-committee was formed *by* Chairman G. Longfellow *consisting of* P. Loiselle and J. Gorton.

Vote unanimously carried as amended.

July 26, 2006 Special Meeting - P. Loiselle moved to approve the July 26, 2006 minutes as presented. Motion seconded by J. Gorton. Motion carried. M. Jolin and J. Hyde abstained.

PUBLIC INPUT:

None.

NOMINATIONS/APPOINTMENTS:

J. Gorton was appointed to Heritage Commission as well as the ZBA, which meet at the same time. J. Gorton would prefer to remain on the ZBA.

P. Loiselle will be the Council representative to the Heritage Committee.

S. Werksman has a conflict with the Police Commission and the Park and Recreation Committee, which meet on the same evening. S. Werksman would like to remain on the Police Commission. M. Jolin will be the Council representative to the Park and Recreation Committee.

P. Loiselle questioned the process of the appointment made on the ZBA and Planning Board with regard to alternates moving up to full positions and new members taking full positions.

M. DiBitetto stated that the Planning Board, ZBA and Budget Committee should attend all training made available to them and further should be mandated. M. DiBitetto recommended a letter be sent by the Council to all board chairs strongly urging that they avail themselves of this training.

Planning Board Appointment

Gerald Hyde, Yervant Nahikian, and Denise Pichette Volk were nominated as alternate members of the Planning Board on July 26, 2006

M. DiBitetto moved that a vote be taken on the nominated candidates. Seconded by S. Werksman.

Roll Call Vote

M. DiBitetto	Y. Nahikian	D. Ross	G. Hyde
J. Gorton	G. Hyde	P. Rueppel	Y. Nahikian
J. Hyde	G. Hyde	S. Werksman	Y. Nahikian
M. Jolin	Y. Nahikian	Chairman G. Longfellow	Y. Nahikian
P. Loiselle	Y. Nahikian		

Y. Nahikian is appointed by a vote of 6:3.

Zoning Board of Adjustment

M. DiBitetto moved to appoint David Boutin to a full member of the ZBA. Seconded by P. Loiselle.

Vote unanimously in favor. Motion carried.

M. DiBitetto motioned to appoint Mr. James Levesque to an alternate member of the ZBA. P. Loiselle seconded.

Vote unanimously in favor. Motion carried.

SCHEDULED APPOINTMENTS:

Public Hearing, Acceptance of \$2,000.00 Donation from Shaw's to the Parks & Recreational Department per RSA 31:95(b).

G. Longfellow read public hearing notice into the record.

Open public session at 7:04 pm.

V. Lembo asked if the money was donated for a particular purpose.

D. Jodoin stated that it will be used to purchase playground equipment specifically for younger children.

M. Farwell commended the Park and Recreation Department for partnering with local businesses in town.

Close Public Hearing at 7:08 pm.

P. Loiselle motioned to accept the donation. Seconded by D. Ross.

Roll Call carried unanimously

Littering Ordinance

G. Longfellow read the public hearing notice into the record.

G. Longfellow read proposed Ordinance (see file).

Open public session at 7:10 pm.

P. Fitanides asked that a copy of the Ordinance be made available to the public.

Copies were distributed.

Sandy Oliver, 1465 Hooksett Road, asked if this has been reviewed by the Hooksett Police Department and the Town's attorney and if it was enforceable at that amount.

D. Jodoin stated that it had been reviewed by both counsel and the police chief. There are two different codes, RSA 265 which is under the motor vehicle violations and this one which refers to illegal dumping on personal property, which comes under RSA 163-B. It is enforceable with the maximum amount of \$1000.

Robert Ehlers, 14 Ardon Drive: "How will this information be posted?"

D. Jodoin stated that signs will be purchased and the ordinance posted in certain areas of the town.

Robert Ehlers: "Have the posting areas been designated?"

D. Jodoin stated not yet.

Vincent Lembo, 56 Main Street: "Will the town be able to enforce this with the manpower they currently have?"

G. Longfellow stated that if this is passed, the Police Department is required to enforce it.

V. Lembo: "They told me a couple of years ago that they couldn't enforce the taxi cabs because they didn't have the manpower."

G. Longfellow stated that they work for the town and if the Council passes ordinances, they are suppose to enforce them.

P. Loiselle suggested there be fine of up to \$1000. This would allow the judge to determine the amount of the fine based on the infraction.

Harold Murray, 311 Hackett Hill Road: "There were similar problems with contractors burning construction waste. What happened was they could get caught five (5) times with a low fine before it equaled the cost of a dumpster. This was brought up to be greater than the cost of the dumpster, and to their benefit to then adhere to the law. If you people go back to the pictures that were brought to you on Chester Turnpike, I think everyone has seen them on the Council. The only way that you can eliminate that was to bar the area off from the public, which has been done. It is ridiculous to have to bar something off because of what other people are doing. Unless you keep that cost where it is, it's cheaper for them to get caught than it is to take a Saturday morning off and bring it over to the dump."

Mary Farwell: "Is there some mid point between the \$1000 for the first thing you toss out of a car and what Harold was saying, maybe \$100 for the first time and the second time, \$1000. Almost like a warning. I'm a little concerned that the police department might be reluctant if they see something going out of a car to stop the car if they know it's going to cost somebody \$1000. I don't know if there's some kind of a mid point where you can get to the end that you want to get to.

P. Loiselle suggested changing the wording to give the judge discretion between a cup being tossed from a car and someone dumping a car in the woods.

G. Longfellow read the following change to the ordinance into the record:

Any person(s) violating any provision of this ordinance shall be guilty of a violation and shall be subject to a fine not to exceed \$250 for the first offense and \$1000 for subsequent offenses for each day that such violation is found to continue. A separate offense shall be deemed committed upon each day, or part thereof, during or in which a violation occurs or continues.

Close public at 7:18

P. Loiselle motioned to amend to: *Any person(s) violating any provision of this ordinance, shall be guilty of a violation and shall be subject to a fine not to exceed \$250 for the first offense and \$1000 for subsequent offenses for each day that such violation is found to continue. A separate offense shall be deemed committed upon each day, or part thereof, during or in which a violation occurs or continues.* Seconded by S. Werksman.

M. Jolin stated that it now reads not to exceed \$250. It is now going the other way and the fine could be as little as \$10.00. It should read a minimum of \$250 and not to exceed \$1000.

M. Jolin motioned to amend "Shall be subject to a minimum fine of \$250 for the first offense and not to exceed \$1000 for subsequent offenses. S. Werksman seconded.

M. DiBitetto clarified that this would go into the district court as a misdemeanor violation and imposes the obligation on them to retain counsel. It involves a potential misdemeanor, which is under the criminal statutes.

Roll Call (Amendment)

P. Loiselle	Yes	J. Gorton	Yes
D. Ross	Yes	J. Hyde	No
P. Rueppel	Yes	M. Jolin	Yes
S. Werksman	Yes	Chairman G. Longfellow	Yes
M. DiBitetto	Yes		

Amendment carried.

Roll Call (Amended motion)

P. Loiselle	Yes	J. Gorton	Yes
D. Ross	Yes	J. Hyde	No
P. Rueppel	Yes	M. Jolin	Yes
S. Werksman	Yes	Chairman G. Longfellow	Yes
M. DiBitetto	Yes		

Motion carried.

M. Jolin motioned to move the ordinance to public hearing at 7 pm on August 23rd as revised. P. Loiselle seconded.

Roll Call unanimously favor.

OLD BUSINESS:

Complaints, re: Councilor Rueppel

J. Gorton motioned to reconsider the vote by which a motion made by Councilor P. Loiselle created a committee to investigate charges filed by Councilor M. DiBitetto against Councilor P. Rueppel on July 25, 2006 was voted. (J. Gorton voted in the majority).

Point of order by M. DiBitetto: the motion cannot be heard under Robert Rules. A motion cannot be reconsidered when it has been partially executed. A board has been created to hold these investigations and has already moved forward. A vote that has been formally executed cannot be reconsidered.

J. Gorton stated that special committees do have the right to reconsider.

Chairman G. Longfellow believes this is a legal motion to reconsider.

M. DiBitetto stated that once that motion has been put in motion, it is no longer possible. Had you not constituted this investigator committee, this would be in order. Only a motion to rescind could be in order.

M. Jolin stated that it must be done on the day of the meeting or the following calendar day.

J. Gorton stated that was true if the Council meets on a daily basis, but since we meet bi-weekly, it would be allowed.

M. Jolin stated it could be done before the meeting is closed. This motion is out of order.

J. Hyde motioned to rescind the action of Council on a previous action regarding Councilor Reuppel. M. DiBitetto seconded.
(This vote requires a 2/3 vote because this motion was not previously noticed)

Roll Call

P. Loiselle	No	J. Gorton	Yes
D. Ross	Yes	J. Hyde	Yes
P. Rueppel	Yes	M. Jolin	No
S. Werksman	No	Chairman G. Longfellow	Abstained
M. DiBitetto	No		

Motion fails 4:4:1.

NEW BUSINESS:

Proposed changes to Council Rules

M. DiBitetto stated that the rules committee met and concurred on the following wording: (see packet)

J. Hyde felt the public's right to speak was being restricted too drastically with regard to the 5 minute limitation imposed on the public when speaking on an issue. The consensus of the Council was anyone requiring more than 5 minutes to address an issue should request an appointment and be placed on the agenda.

M. DiBitetto explained the change for clarification on procedural vs. roll call votes in the affirmative. (See packet)

The committee recommends changing the word "question" to "impugn".

A new section to be added as 12, responsibilities for non-public meetings.

G. Longfellow added that another committee worked on some revisions that were not adopted and it should be added at this time. This was prepared by M. Ruel and never voted on.

P. Loiselle requested a copy of the updated Council rules be prepared prior to the vote.

M. DiBitetto stated that this must be formally adopted.

P. Loiselle suggested not taking this action tonight because it must be gone through paragraph by paragraph.

G. Longfellow stated that they are only open for discussion this evening and they will be reviewed again at the next meeting as well.

M. DiBitetto suggested that the committee reconvene and discuss the amendments and changes being suggested.

J. Hyde stated that Section 7b: rules of debate that a Council can speak 2 times only....
"I fear we are limiting the debate on a particular subject."

G. Longfellow stated that the Council typically doesn't hold to that rule but that limits are needed.

M. Jolin stated that this is an effort to eliminate repetitive discussion.

J. Hyde asked the committee to respectfully consider changing section 7b so that discussion is not limited.

G. Longfellow stated a special meeting could be held to cover any subject that requires a more lengthy discussion.

M. Jolin stated that there is a provision by 2/3 votes to suspend a rule, which will address Mr. Hyde's concerns.

The committee will reconvene at a time and date to be determined.

Proposed Resolution

M. DiBietto moved that the Council hereby authorize the Administrator to act on its behalf in all matters that would normally require the Council to meet in Non-Public Session. The sole exception is in matters that would require the Council to act as an appellate board to a decision of the Administrator. Seconded by S. Werksman.

M. DiBietto stated that the Council has certain authority and the ability to delegate said authority. The Council needs to hand over that authority to the administrator. The rules on non-public are clear and cannot be divulged and until issues of conduct are resolved, the Council cannot be conducting these meetings.

G. Longfellow believes there are decisions that the Council should know about.

M. DiBietto stated that if those sessions are not held in confidence, they cannot go forward.

J. Hyde stated that the Administrator is not the governing body of the town and he is not comfortable seceding this authority to him.

D. Ross stated that this is the Council's responsibility and to hand those over is a dereliction of duty. He also stated it is a prejudgment by Councilor DiBietto.

M. DiBietto explained that no decisions are made in non-public, therefore no decision making power is surrendered.

Roll call

P. Loiselle	No	J. Gorton	No
D. Ross	No	J. Hyde	No
P. Rueppel	No	M. Jolin	No
S. Werksman	Yes	Chairman G. Longfellow	No
M. DiBietto	Yes		

Motion failed 7:2.

TOWN ADMINISTRATOR'S REPORT:

Ambulance

One month ago the Council requested a special town meeting for the Ambulance.

A letter went out to State recently from the Town's Legal Counsel questioning why the purchase of the ambulance could not be done through impact fees. We will await the response from this letter before proceeding to the courts for the special meeting.

Quimby Mountain

Planning Board meeting discussed Quimby Mountain and the possible purchase of one of the lots because it is the highest point in Town. A developer offered this for \$250,000. This would give the town access to the highest peak. There is also an issue on the table to sell for \$75,000 just the peak.

Conservation Current Use Fund

Conservation Current Use Fund has approximately \$500,000. The Planning Board's rep. to the Conservation Commission will bring it back to the Conservation Commission via a special meeting to see what avenue they wanted to precede with.

Steve Couture came in a while back to the Council to discuss the *memorandum of understanding*, which was adopted in 2003 but was never finalized by the Council. The document needs substantial work with regard to terminology. There's a Conservation Commission fund which allows them to allocate unspent money from their budget to be set aside. Conservation Current Use Fund is money received from the 10% penalty charged to property owners who take their land out of current use.

M. DiBitetto stated that the developer has offered the parcel to the Town until November 15.

P. Loiselle suggested that in the deed that this peak be placed in perpetuity for the future.

J. Hyde stated that the memorandum conflicts with RSA.

D. Jodoin stated that the memorandum needed some work and this would be reviewed by legal counsel once completed.

M. DiBitetto asked if the Town Council needs to hold a public hearing for the acquisition of the conservation land.

D. Jodoin stated after discussion with the Finance Director that the Council would have to hold a meeting for distribution of Conservation Current Use funds.

Cabela's

There was a conference call on August 8th with Ed Eckman (Cabelas), Stuart Arnett and Mike Bergeron (Department of Resources and Economic Development), Bill Janelle, Mike Moore, Bill Oldenberg (State Department of Transportation), David Jodoin, Charles Watson, the engineers from TF Moran representing Cabelas, and Jeff Larabee, Realtor. Several topics discussed regarding the site including the traffic study, and the master plan. The State of NH has a willingness to put some of the properties for sale. The timeline is unknown. The process would be to market through a realtor when they decide to sell. Cabela's was concerned that if they kept doing appraisals for the other parcels, would they take that cost out of the purchase price. The State did not have a problem with that. They will check on it further. Eckman will write another letter to Carol Murray to discuss that issue in more detail. A new master plan is being done for that area. One of their engineers is working on the traffic study this week and they anticipate scheduling a scoping meeting with the State for the first week in Sept. Another conference call is scheduled for August 21st.

Investigation on Councilor Rueppel

The three members must decide on a date to meet with the attorney to discuss procedures and to set a future date to discuss the complaints. Attorney Paul Fitzgerald in Laconia is the attorney. J. Gorton, G. Longfellow, and P. Loiselle agreed on Wednesday at 4 pm August 16th.

This attorney will cost about \$200 per hour plus travel time.

Local Government Conference

M. Jolin motioned to support recommendation (1-15) of NHMA Committee on Government Affairs General Government, Revenue & Intergovernmental Relations Legislative Policy Committee recommendations by the LGC. M. DiBietto seconded.

D. Ross stated it was improper to blankly approve. The issue of solid waste collection (#4, part 2) is an issue he has spoken on in the past and paying separately for trash collection.

M. DiBietto stated that this gives municipalities the power to impose only.

J. Hyde stated that with regard to #2, a statewide franchise agreement is not what a town would want to have happen. When the State takes control, it is only a matter of time until we have no control.

P. Loiselle amended the motion to not support the recommendation of the LGC on item 2 (Cable franchise) Seconded by D. Ross.

Vote unanimously in favor.

**Vote on amended motion to support all but #2
7:2 motion carries (J. Hyde, P. Rueppel)**

D. Jodoin will attend on behalf of the Council

M. Jolin motioned to reconsider the motion on the support of 1-15. Seconded by D. Ross.

Vote unanimously in favor

It was decided that this matter would be placed on the next Council agenda.

SUB-COMMITTEE REPORTS:

Planning Board

M. DiBietto stated that CVS was approved. Cinemagic was accepted as a complete plan.

Conservation Commission

The board discussed the need for better communication between the boards.

A suggestion was that a rep from each ZBA, PB and CC would rotate to meetings.

There was an issue on voting rights. The question was if the "Charter" disallows voting of a member on a board.

MSG project was presented. A draft document was presented and it appears they are getting all their ducks in a row.

Merchants and K-Mart are working on mitigation plans.

PUBLIC INPUT:

Michael Dubisz, 14 Morse Drive: "I've never been to a Council meeting and know no one personally and have a suggestion that would save money on the investigation. Whether something improper was done or not doesn't matter to me, but it is embarrassing and is childish to me. My suggestion is, that if I was a Council member, whether something improper was done or not, why not recuse yourself or withdraw or just for the sake of Hooksett, I will abstain from anything that has to do with this type of vote. Just because of the perception. I don't know her, I don't know any of you, but just because of the perception of improprieties is what's important. It would save the town money. One less vote won't change anything. You can still be in the discussion and be involved. That is my suggestion, to voluntarily abstain and save the town a lot of money from the investigation, the time and the childishness that has gone on.

Robert Ehlers, 14 Ardon Drive: "I'm concerned with what this will cost. We've already heard about one meeting, how many more meetings are projected to be out there? I'm not asking for an actual dollar figure, but is it going to cost \$1000, \$2000? Where are we going to go with this?"

D. Jodoin stated that no bills have been received and the cost will depend on how quickly the process is expedited by the committee.

R. Ehlers: "I deal with many regulations, could the board consider an informal investigation prior to a formal investigation?"

Sandy Oliver, 1465 Hooksett Rd.: "You're working on a default budget, I'm not taking sides but I don't like what I heard happened, I think Mike has a right to bring accusations, however, my concern is you're working off a default budget. This money you have could be used to build roads and help with other things. This is a waste of time and an embarrassment to the town and I don't like it. I think it's terrible."

Vince Lembo: "At the last meeting, Mr. Jodoin was going to look into the Taxi Cab ordinance. Has anything been done with that yet? That was omitted from the Special Meeting minutes."

D. Jodoin stated he called Queen City Cab Company and requested that they register their vehicles as taxicabs with the Town, which was done, and we received \$250 for the permits. He has not had time to go through this in detail. Queen City currently has a permit. Queen City claims they have a permit, which was issued 5 years ago. They were told a permit is needed each year from the Town of Hooksett. There was a conversation with the police chief regarding enforcement. According to the chief, he didn't remember the ordinance being adopted. He had comments and concerns. At this point, background checks have not been done. There is still some work to be done to address this issue.

Mike Sorel, 54 Cross Road: "The political attacks, that have recently been made both at this Council level and to the letters to editor are injurious to the Town of Hooksett and they are injurious to this Council. It's politics one, Hooksett zero. That's the score so far. Pat Rueppel is an outspoken individual. Some people say Pat Rueppel has a big mouth. She won't deny that. I don't see how you can deny her the right to free speech, however. And I'm concerned about it. Last week's Hooksett Banner was terrible. That's not the way to run a Railroad George. And I say this to everyone who is on the Council. The attack "letters to editor", in last week's Banner are not proper in my opinion. The town does not benefit. We are better than that as a town and as a Town Council."

ADJOURNMENT:

M. DiBitetto motioned to adjourn. Seconded by S. Werksman. **Vote unanimously in favor.**

Respectfully submitted,

LeeAnn B. Moynihan

Jason Hyde
Town Council Secretary