

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, April 8, 2009

WORKSHOP

The Town Council Workshop began at 6:10 pm.

ATTENDANCE

Acting Chair P. Loiselle, J. Gorton, M. Pischetola, and N. VanScoy.

Staff: C. Granfield Interim Town Administrator

Heritage Commission: D. Boutin

David Boutin made a Presentation to the Hooksett Town Council on behalf of the Hooksett Heritage Commission. As part of this presentation, a request was made for the Council to adopt a Demolition Review Ordinance which would give the Heritage Commission the opportunity to review and discuss plans for removing and demolishing historical buildings in town.

This is not a regulatory ordinance and does not include any permitting. It is a way for the developers and the town to have a dialogue in a structure fashion. This does not give any authority to the Town or the Heritage Commission to stop any demolition. This would just help to facilitate a discussion.

The review process would be triggered at site plan review or when a demolition permit is requested from the Building Department. This would only be applicable for buildings, or part of buildings greater than 500 sf and more than 50 years old. This has the support of both the Planner and the Code Enforcement Officer. There would be no additional cost to the town. It is requested that the Council establish a date for a public hearing (May 13, 2009). The Ordinance will be submitted to the Council by next week.

K. Northrup Chair of the Heritage Commission requested the Council's support.

CALL TO ORDER

Acting Chair Loiselle called the meeting to order at 6:31 pm.

ATTENDANCE

Vice Chairman P. Loiselle, B. Gahara, J. Gorton, G. Longfellow, D. Ross, N. VanScoy

M. Pischetola, and C. Granfield (Interim Town Administrator)

Excused: D. Dickson and P. Rueppel

APPROVAL OF MINUTES

March 25, 2009

G. Longfellow motioned to approve the minutes of March 25, 2009. Seconded by J. Gorton. Vote unanimously in favor. D. Ross abstained.

PUBLIC INPUT:

J. Pieroni, Budget Committee Chair: On this agenda, I notice the code of ethics complaint and if those complaints have anything to do with the Budget Committee, I submit that this Council has no authority to receive any complaints or to act in any way on those complaints. I state that even after having received the copy of a letter from Bart Mayer, I'm more convinced than ever, based upon his letter that the Council has no authority because in it he states, "in the RSA 31:39.a it authorizes the towns to adopt ordinances defining regulating conflicts of interest for local offices and employees, whether elected or appointed". While he refers to this, what 31:39 says is the legislative body of a town or city may adopt an ordinance defining and regulating conflicts of interest for local officers and employees, whether elected or appointed. The Council is a governing body not a legislative body. The folks meeting last Saturday were a legislative

body, and they have created such a policy in the Charter. So the Charter, under 31:39 is the policy. The Council needs to follow that policy and the Charter is specific and says you can hold hearings on appointed officials. The Budget Committee members are elected. This Council cannot bring before it any elected officials. That is the basis for why I am saying it would be totally illegal for the Council to hear any issues. I would also note, even your own policy states in holding a hearing you would follow the Town Charter. And the Town Charter again says appointed officials. Even your own policy states that you will refer back to the Charter for rules for holding hearings. I would consider any action brought against any Budget Committee to be essential illegal by this Council. Lastly, I think in your policy, you have to consider if frivolous complaints can be brought and can be brought before this committee, this is a discouragement to getting people to serve and fill these seats; if people can file these complaints because they simply don't like the decision that was made. We, as Budget Committee members have the right to make wrong decisions. I'm sure I've made some wrong decisions, but that's the right we have. To have a situation where someone doesn't like a decision a member or a committee makes, and then bring forward some complaint, and then have the members of the committee investigated by a town employee and then brought before this Council to answer to their integrity is an outrage. I understand the good intent of what this policy was but how do we say to someone, "join the budget committee" and if someone doesn't like a decision you make, you will be up for a hearing. That's my issue tonight. I will remind the Council that this calls for a hearing. I don't believe there was any hearing posted. I think the policy calls for a hearing.

B. Gahara: I have a question. In listening to all that has gone on around this and reading through some of the things, I guess, what are the next steps to dismiss what's going on. What action needs or needs not to be taken because obviously I'm not an lawyer and I am trying to do my job to the best of my ability as part of the Town Council and I was one of the advisors to the Budget Committee. At this point, I think what is happening is situations like this are getting in the way of doing town business and us being productive. I do agree with the Budget Committee Chairman that if, things like this are frivolous, I think that honestly if we begin to start to take a look deeper into the situation that was brought to our attention. I think there are a couple of points that need to be made. The first one is...

D. Ross: There is a Point of Order that needs to be made here; we shouldn't even be discussing this issue whatsoever.

P. Loiselle: I will allow the latitude because it's a valid concern.

D. Ross: I am going to recuse myself because I think this is a big mistake.

B. Gahara: The point I'm trying to make is to find some sort of end to this, because I don't quite understand why we continue to go down this road. What I ask is that we need to go back to the attorney and ask for a determination so we can put a bow on it and put it to bed and be done with it so we can get on with doing the business of the town.

P. Loiselle: It appears that some modification is needed in the verbiage. Apparently, I thought we had run this past legal, way back when. But apparently, with regard to elected officials, we need some clarification to do some separation. I think you are right; we need to take it to legal and have them review it to prevent this exercise from being repeated, and that's what we will pursue.

N. VanScoy: Are we still discussing Code of Ethics under Old Business?

C. Granfield: I think you need to make a decision when you get to that point in Old Business; this is just for public input.

NOMINATIONS/APPOINTMENTS

G. Longfellow nominated Jim Maloney of 18 Coaker Avenue for Park and Recreation Committee for a term to end June 30, 2009.

G. Longfellow nominated Stu Werksman for the alternate Park and Recreation Committee position for a term ending June 30, 2010.

(This cannot be acted on until July 1st)

SCHEDULED APPOINTMENTS

Heritage Commission Update – K. Northrup, Chairman

Proclamation – May as Preservation Month

Kathy read the Proclamation into the record (see file)

***D. Ross motioned to authorize the Chair to sign the proclamation as read. Seconded by J. Gorton
Vote unanimously in favor***

Kathy Northrup presented an update of the Heritage Commission (see file)

OLD BUSINESS

Code of Ethics Complaint

N. VanScoy: It is on the agenda because it was brought up at public input last meeting.

I got involved in this document toward the end of the process. I was not privy to why we needed it. I read the code of ethics numerous times, over and over again, and I wanted to give my impression of what the Code of Ethics is all about. It states it is a guide on how we expect people to behave when they are representing the town. We want people to do what is right. I do believe it was brought up a number of times that there was *no teeth* to the document. It was not meant to be something that was law. Not, "oh no now you're in trouble and we're going to get you". I saw it as a way for people to voice their concerns publicly. I don't know necessarily if while reading, I never thought of the general public making a complaint because we do have those rules in our personnel plan. But certainly it does not exclude the public from making a complaint. When I was reading it, I felt the intent was this is a way to have somebody say, "I don't think what your doing is right without having to write a letter to the Banner or post online, or put out a bunch of flyers and put them up at Shaws. So I found it as a way that they could orderly bring their concerns out. I didn't find it so much that we were asking for investigations or hearings but we were asking Human Resource Officer, Liz Dionne, that she would accept the complaints and maybe that was not correct, but that was the favor of the Board. Maybe it should be the Town Administrator. I don't know if the word "*findings*" is ever used but that she would inform the person that the complaint is about and give that person a chance to respond. Certainly, we have heard the response from the head of the Budget Committee and maybe that's his response that I don't think you have any right to ask me this question and that's a response. It did not say we would act on anything. It did not even give the implication we would. That's what I thought the intent was. I want to comment on a couple of things I heard during the discussion. One thing that really bothers me is the use of the word "frivolous". I don't think we necessarily should assume that any complaint is frivolous. I think it is disrespectful to throw that word around during this discussion. I think we should assume that all complaints are not frivolous and that they do have some kind of merit, even if it's just that someone feels something wrong was done. I don't know how much more we're going to discuss here, but those are my initial comments to the Code of Ethics.

D. Ross: My concern earlier was that it would give away as to any notion of what was being discussed. As far as the policy itself, I did speak out against it for very similar reasons that have been brought up, the enforceability of it and the definitions. However, again, it isn't meant to be any kind of punitive action, however it can be construed as such because someone receiving such a complaint or a notice that a complaint has been filed against them could be construed as that. As the Council, if any private citizens has any complaint with anyone in this town, whether it's the guy that picks up your trash barrel or whether it's the chairman of the Planning Board, it's not improper for them to bring that before the Council because like it or not, this is the final place where everything lands in this Town, legally. As far as the concern of the legality, the town attorney did look at it more than once because it went through a number of revisions. I believe that is reasonably safe to presume that we are not breaking any laws with this policy. How it gets handled, granted hasn't been worked out. This is the first complaint that we've had regarding this policy. How it was done, and how it came about, may or may not be proper. But I don't believe any of it is illegal. We're not hindered or prohibited from investigating or talking or discussing anybody that works for this town. Doing it in public session is questionable, depending on what the issue

is. In this case, we have already set that out as a promise in this policy that it would be confidential. The complaint, everyone knows there is a complaint now, should be held in that regard until all parties are happy with it being divulged. As far as enforcement, no, there is no enforcement or enforcement authority. I wouldn't say there is anything we could do other than have it be part of the minutes of a meeting that a complaint was brought up and this is what it was. Now, again, you can't even do that without something to legitimize a complaint. A person's opinion can't be considered a complaint. If someone has a specific fact that points to a violation of some ethical standard by this town, that's different. So, that's where it should stand. If we, as a Council, have received this complaint, and after having read it, find no factual basis for it, then that's where it all ends. If we find factual basis, that's when we proceed to the next step, we have a hearing, things like that. The procedures set up are cumbersome but I don't think we are breaking any laws.

P. Loiselle: The original intent was rather simple. It originated because an individual complained about how they were treated at a particular board. The individual thought they were being treated rudely and they were disrespectful, and brought it to my attention and said we need.... I said in order to have somebody to be in violation; they have to be in violation of something. It has to be a violation of a code, a code of conduct, and a code of ethics. So we have a Code of Conduct/Code of Ethics in place so that if someone did complain, they'd be in violation of. At that point, the intent was to generate a system whereby you could actually document that. You could have it on file. If the same individual, time and time again was being written up, it would indicate that there is definitely a problem, provided there is substance to the data. All that could be utilized for is the next term. The next time that person is up for re election or what have you, then that information would be made public and people could make their own judgment calls from that point. That was the intent of the Code and as the Chair of the Budget Committee stated, in his opinion, does not bind elected officials. I think we need to either modify the Code to state that elected officials are not part and parcel of the Code of Conduct/Code of Ethics for the Town of Hooksett, or we have it run by legal to see if in fact that is true. I think that would be the logical next step.

D. Ross: In that particular regard, I still disagree. It doesn't matter who you are in this town, every citizen in this town has a right to levy a complaint against any employee of this town, police, and fire, whatever. If they can't find satisfaction through the avenues that exist, I don't see anything improper with them bringing it to the attention of the Town Council. It is something that when brought to us should be held confidential and dealt with in non-public session before it is brought out if need be at all. Again, we can't exercise any punitive authority over any of these people. We can only advise or admonish, but that's all we can do.

P. Loiselle: The Chair of the Budget Committee has pointed out that he thinks there is a legality here that the elected officials do not fall under this prevue. That needs to be addressed.

M. Pischetola: There is a letter date April 2nd from town's counsel that states, in summary, that the policy does apply to all officials, though I see it more in the nature of adversarial. It applies to all, both elected and appointed. I'm not favor of the Ethics or Code of Conduct policy. It's only a tool for other people to wiggle out of things. If someone is not courteous to somebody, bring them before the board. If someone is an employee and is not courteous to someone, bring them to Human Resources. If someone breaks the law, there is a law that is in effect that will take care of that person. So why add things and spend money on attorney fees and paper and time when there are things of common sense that we have as tools to help our job. I'm with Nancy, I haven't been here the whole time this thing started, but I think this is the second review by counsel and I'm sure he gets two or three hundred dollars an hour and we are spending money and paper on this. It has no teeth.

P. Loiselle: You are suggesting to let it stand?

M. Pischetola: It is my recommendation to just do away with it. Do away with the whole thing and go with Human Resources and the Laws of the Land.

P. Loiselle: Then you don't have a platform. You have to be in violation of something.

M. Pischetola: The person that was rude, was he a town employee or an appointed person?

P. Loiselle: No, he was a member of a board.

M. Pischetola: And who appointed him to the board? Was he appointed by us?

P. Loiselle: Yes

M. Pischetola: Why can't we bring that person in and say "Look, you're being rude to people, this is the information we have, yes or no. If you keep it up we're not going to appoint you again, we're going to take you off the board." It's a simple process.

P. Loiselle: It should be brought to the attention of the Chair of that Board, and let them deal with it first.

M. Pischetola: Yes, it should go to the chair of that board first, and then it should come here, in my opinion and just end it.

B. Gahara: I think the concern I have is where do we go now. Where is the end? There is a complaint, great, so is it put in a file somewhere and that's the end of it. I think my concern is we just continue to spend time on these issues. We're opening up a door here that also, this is going to be the first one but there could be many others potentially down the road. We hope not but there could be, so then what do we do as they go along and what does the end result look like. I think where this started was out of a conduct issue. That is the concerning thing that I have more than anything else, is the conduct. The way people approach the boards, the way the boards interact with one another, and I think that's a bigger issue and something I saw as stepping-stone from this. If you are going to have something like this, and we are going to allow complaints, you have to have statement on it; it's in the file, and we have to say that's it and move on. To have it on the agenda every time and taking up a lot of time, I think is just going to end up going down a road we don't want to go down.

M. Pischetola: When Mr. Miville made a complaint about the meeting of the Police Commissioner, we'd bring the Police Chair in, Commission Chair in, discuss it in private, find out what happened, make a ruling and see you later. And I believe we have the authority to do that.

D. Ross: We should be talking about the policy itself. If this is an employee, it should go through Human Resources, for appointed or elected officials, it should go to the board chair and then to us. This must be held in complete confidence. We can't talk about anything out in public on such matters because it's not our place to do that. The reason for having this policy is legitimate; we need to have something to point to. The policy we have, I don't like.

J. Gorton; I would like to read Article 8 Section A.1 of the Town Charter, Citizen Concerns: "Individual Citizen concerns shall be directed to the Town Administrator to be relayed to the appropriate departments or individuals for consideration. Acknowledgement of the concerns may be made to the citizen directly or in writing." To me, citizens do have the right to come to Council and speak at public input. They can raise concerns, but, in my opinion, the Council should sit here, and if it is a point of ethics or conduct, it should be immediately referred to the Town Administrator. It should be looked into following all the other town procedures that are already in existence to find out if it has any meat to it. In my mind, anything else that we do is in violation of our own Charter. If an individual has a concern over ethic, conduct or the color of the paint used on a building, they take it to the Administrator, not to the Council. The Charter is clear. My personal opinion is eliminating the adopted Code of Ethics/Code of Conduct policy.

D. Ross: Article 8.A says "citizens individual concerns shall be directed to the Administrator to be related to the appropriate departments or individuals for consideration. Acknowledgement for the concerns may be made to the citizen directly or in writing. B. Any citizen wishing to appear before a regularly scheduled Council meeting may request to be placed on the agenda of a regular Council meeting." Not public hearing, input. They can be on the agenda and be in non-public as well. "The citizen shall be notified of the date, time and place of the meeting in which he/she shall be heard. Otherwise the

Administrator shall notify the citizen if the Council is not empowered to act on his/her request.” So it is up to the Administrator and us as to whether we are or are not empowered. Any citizen can bring any concern about any public employee to this Council. This is where it belongs, if they can't get satisfaction elsewhere. We need a guide. It's an improper guide but not an illegal guide.

G. Longfellow: I thought we got rid of this last year. It's been dragging for about 3 years now. Finally, Nancy and David agreed on something. This Charter has been in existence for 20 years and this is the first time we have had a problem and it is the first time we had this ethics policy. I agree with Jim and Michael, we don't need it.

P. Loiselle: Every town has a Code of Conduct/Code of Ethics.

G. Longfellow: It is in the Charter.

P. Loiselle: It doesn't spell out the exact code. It just gives general direction.

G. Longfellow: I understand a lot of boards and committees refused to sign this thing, and there's no punishment.

J. Gorton: I believe that every Councilor, after being elected, takes an oath to uphold the Laws of the State of New Hampshire and the United States of America. And I know for a fact, in the mountains of RSAs that exist in the State of New Hampshire, there are codes of ethics. If I as a Councilor have held my hand up and sworn to uphold the Laws of the State of NH, I don't see a need for every town to come up with another new code of conduct when, if you are an elected official, you are already sworn to upholding the one that exists in the State of New Hampshire. I think it's redundant.

J. Gorton motioned to rescind the Code of Ethics/Code of Conduct Policy amended November 19, 2008. Seconded by M. Pischetola.

D. Ross: I don't think you voted in favor so you might want to amend it in it's entirety but you can't rescind it since you voted against it.

J. Gorton withdrew his motion.

M. Pischetola motioned to rescind the Code of Conduct policy in its entirety dated Nov. 19, 2008. Seconded by G. Longfellow.

N. VanScoy: I was one of the two that did vote against it when it was adopted but I do not think I will be voting to rescind it because I do see a reason for it. I read this as a way for board members to respond to other board members. Also, I don't think we've considered it enough. If this was considered for 3 years before it was adopted, I don't think we should make a decision in 20 minutes. We should probably go back and look at it again. I would like to address Council Ross and say anything that has been discussed, or I heard discussed about the individual complaint tonight were things that the individual had brought out into the open through public input at the last meeting or this meeting. So, I do think we are talking about things that should not be because it was the individual who brought it to our attention during public input at the last meeting. I do have a concern with immediately rescinding this. I'm not saying that at the next meeting, after looking it over again, my opinion may not change. I did not vote for it and the reason I did not vote for it was it has *no teeth* and therefore is a worthless piece of paper. I can certainly see there are so many towns out there have adopted a code of conduct and the reason they are doing it is because they are not finding satisfaction with the State and Federal Laws

D. Ross: I encourage everyone to defeat this motion and come next meeting prepared with an amendment to this policy.

B. Gahara: I agree, we don't want to be hasty. We should take a long look at this and maybe there are other ideas and I do think there are some situations where we want something of record to help people on how to conduct themselves.

M. Pischetola withdrew his motion and J. Gorton withdrew his second.

P. Loiselle stated it will be placed on the next agenda and we may need a small sub committee to review this.

NEW BUSINESS

Silver Banner Day Proclamation – read by P. Loiselle (see file)

G. Longfellow motion to adopt the proclamation. Seconded by J. Gorton.

Vote unanimously in favor

D. Ross motioned to offer a proclamation of gratitude to Sally Humphries made on March 25, 2008. Seconded by G. Longfellow.

Vote unanimously in favor

Charge For Town Facility Advisory Committee

C. Granfield: This is a draft provided for discussion, which can be set under a new agenda for Old Business. The Council wanted information for establishing a Town Facility Advisor Committee. I have provided a draft charge which includes the intent of such a committee which basically would have the group review all the town facilities to look at what the capacity is, ranging from space, looking at the department's needs at the various facilities, and conduct a comprehensive evaluation of the needs and uses and make some recommendations. The charge that is drafted has three (3) areas of scope of the committee including all town departments and those within the Town Council's prevue or those that would be agreed to by commissions. (If a commission wanted a facility looked at and were agreeable, they could be included as well.) Inventory of existing conditions which would include spaces available to departments, some may be down the road to expand and utilize the number of spaces for the number of people that are there. Identifying any deficiency in terms of functionality, it may not make sense the way it is as well as the building structures. Project future space needs and facility utilization. This would identify existing space with projection of any future space that would be need for both short terms in the area of 5 years and longer term of 20 years so you could plan for the future and analyzing various alternatives, prioritizing to reflect consistency with the Master Plan as well as fiscal responsibility. I listed a variety of considerations that this would be an advisory committee and would be subject to Right To Know and would be a committee with minutes and would be public. There is proposed Town Council liaison with 9 to 11 members with pertinent backgrounds. There may be site visits required. The department heads would be available as a resource but not part of the committee. The Committee would keep the Council and the CIP informed of the progress because some of what they may find would need to go forth at some of those, anticipating it could take 12 to 18 months to complete. They should consider energy efficiency, ADA issues for example and parking. When the committee had finished all it's work would have a report presented to the Council and then that would conclude their work so it wouldn't be a forever committee. If you have any comments or suggestions or go forth and discuss, we can place it on a future agenda.

P. Loiselle: Thank you and this was very well done. The charge is to find the right staff.

D. Ross: This is a large charge for a volunteer committee but it needs to be done.

C. Granfield: There may be folks that have expertise that are retired and this is the perfect opportunity to utilize all those skills that they have and contribute something to the community. They might not be interested in being on a Planning Board but they may be available during the day and can put a lot of effort into it.

D. Ross: You can consider the employees that work in these buildings as well as committee members. If we adopt this, the first thing to do is to send a copy of this to all employees in town.

C. Granfield: You generally don't have employees as part of a committee like this. They are a resource and clearly they will have involvement throughout, but they're not generally part of the committee who are then making recommendations but their input is heavily involved.

P. Loiselle: I like the idea of addressing the issue of the 13 facilities, writes a report, and then they are done.

B. Gahara: I think the amount of people on the committee is a little on the aggressive side. I noted from 5 to 9 on the committee. I think that's a lot of people to move in one direction.

J. Gorton: I think getting the right people to volunteer for a period of time for a very large task, I think it would be easier to convince people to get on board if there was an actual drop dead date to be completed rather than 12 to 18 months or longer.

G. Longfellow: I think 7 would be a good number on a committee.

P. Loiselle: I could bring this to the EDC because they seem to have a talent for finding good people that fit the need.

This will be on the next agenda

Hooksett Ground Water and Development

C. Granfield: The purpose is to raise the issues under new business and we can place this on the next agenda under old business for any action needed.

N. VanScoy: We've had a lot of conversation about ground water and storm water and surface drains and I wanted to make sure things are not forgotten and there is more to be addressed. I have faith that the groundwater study will be done. We have a couple of things that I want to be sure are understood. The surface water and recommendation for improvement took into account development that is in the works. One is Harmony Place and he has joined in to help. We have another development further north and that is where we have more problems and we have not addressed. That is my district and I don't want this forgotten and I hope Carol spoke to Dale about the damming.

C. Granfield: He has that scheduled.

N. VanScoy: I want to make sure the ground water study is moving forward. There is discussion on the State level about ground water. This isn't just my district; it will affect your district as well as the whole town.

P. Loiselle: My concern with the Beauchesne development, I hope we find a good result, but there is a line between the town's responsibility and the homeowner's responsibility. I don't think we have a clear definition of that line. Problems of that magnitude are significant dollars and we could establish precedence. Other areas in town can come forward and say I too have a sump pump. If it is a problem that can be resolved by improving the drainage in the roads and they hook up at their expense, fine.

N. VanScoy: My concern is making the pipes that are rotted 40 inches. That is the work I'm looking to and that is our town's responsibility to maintain our sewer and town storm drains. This can only help and can't hurt. There is a lot of development in the town and a lot of water and it needs to be monitored.

D. Ross: It might be time to consider drainage systems as fees for future development. They are supposed to control the drainage but we all know the reality of that.

Heritage Commission Hearing

***N. VanScoy motioned to schedule a public hearing for the Heritage Commission on May 13, 2009.
Seconded by M. Pischetola.***

Vote unanimously in favor

TOWN ADMINISTRATOR'S REPORT

C. Granfield:

- April 18th – Open House at the Highway and Transfer Station from 8:00 am to 1:00 pm
- Memorial Day Parade is scheduled for May 24th at Noon held by the American Legion
- The Website – After meeting with the company, we are now moving forward. They have the site in the final stage before going live. We will have it at the next meeting as a scheduled appointment. It is more user friendly. It will now allow us the capability of updating.
- Food Pantry - We are working with Kiwanis and the Food Pantry to explore locations in our building to house this service.
- Comcast - I have spoken to Comcast regarding the senior discount requested by two residents. The town's franchise agreement ends in 2012. At that time, the town can negotiate a discount for 12% for limited service in the new contract. Those people have been informed.
- Financial update - At the next meeting we have scheduled quarterly financial updates to inform the Council and the public of the status as well as a snapshot of where we are financially.
- Assessing - as of April 1st, based on some large commercial structures, we are adding 6.3 million dollars.
- DRA Assessment - The DRA came today and reported our ratio is 93.9%. You can be plus or minus 10% so we are in a very good position.
- Deliberative Session - The ballot has gone forward following the Deliberative Session where 92 voters were present. The Charter amendment cannot be on the ballot because it had to be presented at the Deliberative Session. It will be presented next year.

SUB-COMMITTEE REPORTS

N. VanScoy – Planning Board: A new Supermarket is looking to go in at Exit 10. It looks like the applicant claims to have permission to have a private road hook up to a State road. The Planning Board is monitoring this. This is not generally done. My concern is how you get into it from the Highway. It is in the initial stages.

Manchester Sand & Gravel spoke of the Heads Pond project and the Town Common being donated to the town and the lighting. I have a concern with the donation of the land to the school. The school wants MS&G to give the title to them. I think the title should go to the town and not the school.

We have developers looking at the Performance Zone and the hotels along Route 3. There is concern with making a Mixed Use in the Performance Zone because they are looking for residential. I think, as a Council, we should encourage improvement in that area. We want to maintain the intent of the Performance Zone but improvement of the property is more important.

D. Ross - The Conservation Commission: Webster Woods received conditional approval and must come back to the commission with more details

G. Longfellow – Transfer and Recycling: They are going to celebrate Earth Day on April 18th.

P. Loiselle- Economic Development: The committee met today and discussed the Water Treatment Plant at Wal-Mart and are looking at alternative solutions. They are looking at running a pipe across the river instead. This might capture not only Wal-Mart but also the boxes at the Exit 10. Sid Baines spoke at length about Article 3 and I'd like to see a statement from Council that they speak in favor of this Article. It

is set up that 1/3 of the town is on sewer. There is no doubt in my mind that we should support this so we can get the infrastructure.

PUBLIC INPUT

H. Murray informed the Council that Al Dionne has gone back into the hospital and is in fair condition.

M. Sorel, 54 Cross Road: In the last three weeks, I have asked 4 experts in municipal government the same question; "who interprets our Town Charter"? The answer was it is a legal document and the interpretation is under the authority of the town attorney. There was a presentation by the Budget Committee, which offered a different opinion on the town's legal opinion, but it was not supported by a legal opinion. It is my opinion, if you have a difference of opinion with a legal opinion, you get another legal opinion.

J. Pieroni: I don't disagree. I sent Carol a letter to be sent to Bart for him to consider. Carol will forward on a letter with my facts for his further opinion. I want to thank the Council for reconsidering the policy. I think there is a conflict of interest in the Charter. You have in the Charter the authority to bring forward all of the appointed committee members. You don't need another policy.

V. Lembo: Can I ask Mr. Gorton, you said the Code of Conduct was amended, where was the old one?

J. Gorton: It was being worked on; most of it was grammar and definitions. It was adopted on August 11th.

V. Lembo: Is it a working document. The one that is on file now is the one we go by?

N. VanScoy: It was adopted August 13th and amended in November.

V. Lembo: The person who filed the complaint went by the guidelines of the Council's policy. Is there a problem with that? Mr. Gahara said it was frivolous. What does he consider frivolous? Was the complaint filed wrong?

P. Loiselle: No, but the point of the Budget Committee is that it doesn't pertain to the elected members.

V. Lembo: The two individuals were appointed.

N. VanScoy: I think at this point, not knowing where we are going, it should be handled by the Town Administrator and if she feels it should be discussed by the Council in non-public, we can proceed. There is a question of process and the Charter directs the complaint to the Administrator.

V. Lembo: The policy says put it in writing to the Human Resource officer.

P. Loiselle: You are in compliance with the policy. The Council has issues with the policy going forward.

M. Miville: Any amendment made to the Charter would render the previous document moot. The complaint is relative to the current document. I want to praise and support the Council's effort to adhere to the rules of the Council. They examined the process and I praise them for that. I want to address Mr. Pischetola's comment of the Police Commission. I want to formally request a resolution of what happened that night at the Police Commission meeting.

M. Pischetola: We need to address that with the Police Commission. You have put your complaint in writing. At some point, there will be a resolution to that complaint.

M. Miville: I would like to hear their response and have an opportunity to respond to their response.

P. Loiselle was there as well. To get all the facts and make a proper determination, all parties should be present.

NON-PUBLIC SESSION

Conservation Commission - Per 91-A:3 II (d) "*Consideration of the acquisition, sale or lease of real or personal property which, is discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*"

B. Gahara motioned to go into non-public session under Per 91-A:3 II (d) at 9:20 pm. Seconded by D. Ross.

Roll call vote unanimously in favor.

B. Gahara motioned to exit non-public session at 9:40 pm. Seconded by D. Ross.

Roll call vote unanimously in favor

J. Gorton motioned to appoint L. Courtemanche Town Treasurer upon meeting all personnel requirements. Seconded by D. Ross.

Vote unanimously in favor.

ADJOURNMENT

B. Gahara motioned to adjourn at 9:50 pm. Seconded by M. Pischetola.

Vote unanimously in favor

Respectfully submitted,

Lee Ann Moynihan

Nancy VanScoy
Town Council Secretary