

Official

TOWN COUNCIL MEETING MINUTES Wednesday, August 5, 2009

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

PRESENT: Chairman B. Gahara, David Boutin, David Dickson, James Gorton, Paul Loiselle, George Longfellow, Michael Pischetola, David Ross and Nancy VanScoy. Carol Granfield (Town Administrator)

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

July 22, 2009 – *G. Longfellow moved to approve the July 8, 2009 minutes as amended. Motion seconded by P. Loiselle. Motion carried.*

PUBLIC INPUT:

M. Sorel, 54 Cross Road: Yervant Nahikian and Robert Duhaime are on the Aesthetics Committee, which is a subcommittee of the Planning Board. Yervant is an architect and Robert is a landscaping. When Walmart came to the Planning Board, the islands contained no landscaping. Walmart's engineer said they would put no plantings because they had a problem with this in Amherst. Mr. Duhaime, on his own time, went to Amherst and viewed the problem and at the next meeting he brought this up and now the new Walmart has beautiful islands with plantings and the façade is beautiful due to the efforts of Mr. Nahikian who himself is an architect. I wanted this Council to know what these two individuals contribute over and above the meetings. These two individuals go above and beyond. The town benefits from that and I would hope that you, as a Council would recognize this. I hope this Council would give recognition, credit and a thank you for that. I think it is important. Mr. Kelly has a new tenant and the landscaping is now being planted and Mr. Duhaime was intimately involved in that project. I wanted you to know that.

M. Miville, 42 Main Street: I agree with Mr. Sorel, but I have a different perspective. My full time job is servicing Walmarts. I had eleven states and now I just have New England. To put this in perspective, they have 4000 stores worldwide and are in the process of renovating all their stores. I don't want to diminish what Mr. Duhaime and Mr. Nahikian did but Walmart does this anyway. They have 10 new openings per month. That is my perspective from overseeing Walmarts in New England.

I have been pursuing this for a month. On May 27, 2008, I asked the Council and the Police Department what was to be done with the old sign, which was designed by Brian Cate as an Eagle Scout project. It was a project done with enthusiasm and vigor. The old sign was funded by local businesses and residents. The Council then reduced it to insignificance. On May 29, I was told that the old sign would be saved and repurposed for another location. In the mean time, I have had other discussions with a Councilor, P. Loiselle who worked with me to repurpose the sign and all very professionally done. It has now been over a year and I asked what would be done with the sign. Then it was winter. I took over 5 pictures and we decide that the sign would go across the street from Legends Drive to be visible to north bound drivers. The Town will now handle the placement of the sign. On May 4th, P Loiselle said it would be in place on the northbound side of Route 3. When will the old sign be installed?

C. Granfield: Jutras, who is storing the sign, has agreed to install the sign. Once the Council selects a site, it will be done.

D. Ross: This should be run by Dale Hemeon since this is a State Road.

P. Loiselle: Dale has already checked and has a green light on the location across from Legends Drive. We left it up to Dale and I thought this was the most ideal location.

***P. Loiselle motioned to have Dale Hemeon locate the sign across from Legends Drive on the northbound side of Route 3. Seconded by D. Ross.
Vote unanimously in favor***

NOMINATIONS/APPOINTMENTS

Available Board Positions

Conservation Commission, Alternate Member, exp. 6/2012

Heritage Commission, Alternate Member, exp. 6/2012

Planning Board, Alternate Member, exp. 6/2011

Zoning Board of Adjustment, Alternate Member, exp. 6/2011

Don Pare and Jack Mudge are both interested in the position.

G. Longfellow motioned to nominate J. Mudge.

D. Ross motioned to nominate D. Pare

J. Mudge addressed the Council. He has been in and around the real estate business for 25 years. He is part owner of Mudge Appraisals. Mr. Mudge owned a real estate company with residential and commercial divisions and has done real estate lending for 10 years. He has a great deal of knowledge of the town and has been involved in many projects.

J. Mudge indicated he would be interested in a position on either the Zoning Board or the Planning Board.

D. Ross nominated J. Mudge for alternate to the Planning Board.

Nominations

Southern NH Regional Economic Development Steering Committee

They have requested two (2) community members and one (1) alternate to be appointed to the committee. (1 economic development related, one elected official and one staff position)

There will be a kick off meeting on August 28th at noon.

D. Ross nominated D. Boutin, Council Rep, Keith Moon, EDC, and C. Granfield as an alternate.

J. Gorton motioned to waive the rules. D. Ross seconded.

Vote unanimously in favor.

D. Ross motioned to appoint D. Boutin, Council Rep. Seconded by N. VanScoy

N. VanScoy motioned to appoint Keith Moon. Seconded by M. Pischetola

J. Gorton motioned to appoint C. Granfield. Seconded by P. Loiselle.

SCHEDULED APPOINTMENTS

7:00 pm –Kevin McDonald & Lisa Michaud, American Red Cross Greater Manchester Chapter,
re: Disaster Preparedness

Interim EMT – Dan Pike was introduced

Lynn Bernard (volunteer)

K. MacDonald gave a brief presentation on the services offered by the Red Cross which includes Disaster Relief, shelter, food, counseling, training, and blood drives. The Red Cross utilizes the help of many agencies as well as volunteers in the community. Informational packets were distributed to the Council.

OLD BUSINESS

Inventory Forms

C. Granfield met with the Superintendent regarding the resource the inventory forms provide to the schools. The overall thrust was that while the school impact study utilizes the information, this information is available through other offices. The Town Clerks office verifies residency. There is a negative impact from the public on these forms and on the staff.

D. Ross motioned to discontinue the use of the inventory forms by the Town. Seconded by J. Gorton.

G. Longfellow asked if they had checked with the supervisors of the checklist?

C. Granfield: I have not but after speaking with the Tax Clerk, they did not indicate a need.

G. Longfellow: We need to change the Charter because it states you use population to set up districts every 10 years. You would have to reword the Charter.

C. Akstin: There must be other sources of population. Other towns use other resources. Many towns said they went to the State for their population.

G. Longfellow: The Charter says you count heads.

C. Granfield: The State does count heads by a population study.

D. Ross: The concept is the Charter doesn't say you must use that form. It is a problem and a burden on the town's people and the staff.

D. Boutin: The assessor's bureau is down to enumeration district which is more accurate for determining where lines need to be drawn for redistricting.

Roll Call:

| | | | |
|---------------|-----|---------------|-----|
| P. Loiselle | Yes | G. Longfellow | No |
| J. Gorton | Yes | D. Ross | Yes |
| D. Dickson | Yes | D. Boutin | Yes |
| W. Gahara | Yes | N. VanScoy | Yes |
| M. Pischetola | Yes | | |

Vote 8:1 Motion carries

Impact Fees

Tabled last meeting.

Impact fees for Accessory Apartments

J. Duffy: Currently, the Town does not collect impact fees for Accessory Apartments. The Town has no restriction for "in-law" apartments. Upon the advise from the Town's attorney, it is recommended that the units be assessed similar to a two-family unit.

D. Dickson: How many units are we talking?

P. Rowell: Probably 3 a year.

D. Boutin: What is the definition of an Accessory Apartment in our Zoning Ordinance.

J. Duffy: It is limited in size and it must be accessible through the primary structure.

D. Boutin: Isn't there some reference to elderly and in-laws?

J. Duffy: Some towns do but we do not.

P. Rowell: It must be owner occupied and maintain the look of a single-family structure.

D. Boutin stated that as an example, in the case of an elder parent that needed to be cared for, you would charge \$3800.00 for him to move in.

D. Ross: If I want to rent a room in my house, I can do that. I fear you will have people do it illegally. We have impact fee on other things. It is not really a second unit. I would have difficulty supporting this.

J. Gorton: I will support Mr. Boutin and his feelings on this. If it's my family and I have room, I shouldn't have to pay \$3700 to have them move in. I will not support this impact fee.

M. Pischetola asked if you can make an exception for family members.

J. Duffy: I don't know if that would be discriminatory and I don't know how you would prove that. I also am here to present the traffic impact fee increase. The change is made for residential and non-residential uses. If you adopt this, it would go into effect tonight but would not effect any application that is found complete by the Planning Board.

M. Pischetola motioned to excluding accessory apartments and accept the 2008 traffic impact fees. Seconded by D. Boutin.

J. Duffy: The roadway impact fee justification is that we review this every few years based on the index review and the increase of cost. There has not been any increase since 2005.

Roll Call:

| | | | |
|---------------|-----|---------------|-----|
| P. Loiselle | No | G. Longfellow | No |
| J. Gorton | Yes | D. Ross | Yes |
| D. Dickson | Yes | D. Boutin | Yes |
| W. Gahara | Yes | N. VanScoy | Yes |
| M. Pischetola | Yes | | |

Vote 7:2 motion carries

Cinemagic Bond Release

Tabled at the last meeting

C. Granfield: This was tabled. There was going to be a site review of the area for the landscaping and Hydro seed bonds.

P. Rowell: Councilor Ross, D. Tatem, D. Hemeon and myself all met at the site and concluded there was some erosion as a result of the recent heavy rains. They should be attended to. There were also maintenance items that need attention. My recommendation is to hold the hydro seed bond and release the landscaping bond.

D. Ross: I consider the conditions to be related to landscaping and I don't feel comfortable releasing the landscaping bond until they are addressed. My issue is not with the hydro seeding but rather with the landscaping and the erosion, which is significant.

D. Boutin: The erosion is not uncommon on any site around town due to the weather. What do you estimate it would cost to fix those areas?

P. Rowell: They need stone and loam, probably around \$3000 and a day's work.

We feel we need to hold something to get those channels fixed and the \$5000 is adequate to get that done. I've worked with them for the past couple months.

D. Boutin motioned to release the landscaping bond for Benchmark. Seconded by D. Dickson.

D. Ross: The issues are not new. I consider the erosion to be the most significant problem. I am not comfortable that \$5000 will assure compliance. I don't have a problem with the hydro seed and the lawn that has taken root. We have no right to keep this surety. Considering the size of this project, \$74,000 is needed.

J. Hood, Counsel for ZyaCorp: Our CEO, Mark Adams could' t be here. We manage many sites around New England and we take great pride in our facilities. Hooksett worked hard to plan this facility, which was overbuilt at the town's request, and we take pride in maintaining this. I understand there is a 2- year bond in the name of Benchmark for landscaping. HPB has the hydro seed bond. We have had a difficult year weather wise. Trees were replaced. We are talking about a small amount of erosion due to the weather. The owner wants it to look good and wants it repaired. You heard the Code Enforcement Officer said the landscaping bond is to be returned. The Code Enforcement Officer stated that \$5000 is sufficient to cover the erosion. We are talking about a relatively minor situation. I urge the Council to stand behind what was in place and use the bond that is appropriate to fix this erosion. While there was a site walk this morning, no one told the owner or us. This is my client's property and he will maintain it proudly.

P. Loiselle: From a time standpoint, the erosion isn't that dramatic. If it can be handled in a day or two, your client could get a crew in there in the next few weeks and we would be in a better position to release the bond.

J. Hood: That money should go to the client. That money should go to do that work.

D. Ross: Retaining walls are landscaping. On the left, the fence is acting like a retaining wall. There is a little riverbed on the backside that is not a result of the recent rains. Retaining walls are a landscaping element. Possibly there should be a retaining wall there.

J. Hood: The construction that occurred at that site was carefully looked at by the Town and us. The landscaping bond is to cover the landscaping that was done and the Code Enforcement Officer recommends release and the Consulting Engineer is of the same mind. Let's get this released.

D. Ross: I contest the declaration that Stantec recommended releasing this bond. I believe he stated we would hold the landscaping bond and release the hydro seed.

Roll Call:

| | | | |
|---------------|-----|---------------|-----|
| P. Loiselle | No | G. Longfellow | No |
| J. Gorton | No | D. Ross | No |
| D. Dickson | Yes | D. Boutin | Yes |
| W. Gahara | Yes | N. VanScoy | Yes |
| M. Pischetola | No | | |

Vote 4:5 Motion fails

***D. Ross motioned to release the hydro seed bond. Seconded by J. Gorton
Roll call vote unanimously in favor.***

J. Gorton asked that all 4 members that attended the site walk today at Cinemagic come before the Council at the next meeting and that the client and his representatives be properly noticed.

B. Gahara stated that a letter stating why the bond for the landscaping will not be released will be sent and all parties will be copied.

J. Hood: This bond is in place for Benchmark and it covers the scope of the landscaping items.

Code of Conduct

C. Granfield presented a draft of the Code of Conduct, which should replace the Code of Ethics, which was eliminated by the Council.

J. Gorton requested that the last item be moved to first.

N. VanScoy: I think trying to put together sentences at a round table is difficult and confusing. I think the written word is the best way to do that. Before I am comfortable with approving this document, I would like the document read into the motion. Neither the Code of Conduct nor the Code of Ethics has any teeth.

J. Gorton: As a Code of Conduct, it doesn't need teeth. It is not punitive. I hope we can act as gentleman and ladies.

M. Pischetola: If we all act accordingly, do we need it in writing to act civilized.

G. Longfellow: Whom does this apply to? Who is a town official, all elected officials?

B. Gahara: It applies to the public and the board members; that can be clarified.

G. Longfellow motioned to adopt the Code of Conduct with two amendments; strike the fourth bullet and the last bullet to make it the first item and "be professional and do not engage in personal attacks in public". Seconded by J. Gorton.

This will be sent to all boards as a guide.

Roll Call:

| | | | |
|---------------|-----|---------------|-----|
| P. Loiselle | Yes | G. Longfellow | Yes |
| J. Gorton | Yes | D. Ross | Yes |
| D. Dickson | Yes | D. Boutin | Yes |
| W. Gahara | Yes | N. VanScoy | Yes |
| M. Pischetola | No | | |

Vote: 8:1 Motion carries

D. Dickson left the meeting.

NEW BUSINESS

Acceptance of Donations from Walmart per RSA 31:95(b).

Walmart will be making donations of two defibrillators, one at the town hall and one at the transfer station.

Walmart is further providing the Fire Department with \$2,500, which will be utilized for fire station upgrades, possibly for the floor replacement project or a new refrigerator for the Central Station. Walmart will be presenting these at their ribbon cutting on August 19th.

D. Boutin motioned to accept the donation of money/equipment with a total value of \$4300.00 under RSA 31:95-b. Seconded by N. VanScoy.

Roll call vote unanimously in favor.

Proposed Article 28-A Lawsuit Against the State via LGC

C. Granfield: The Local Government Center (LGC) has requested assistance from communities in order to pursue a 28-A Lawsuit against the State. The impact to the Town for FY 2009-2010 is estimated to be an additional \$43,311. To date, LGC has received a total of \$193,000 from 72% (143 of the 199 towns) of the participating communities. They've request \$2,266.32 to be paid for legal assistance.

D. Boutin motioned to authorize the Town Administrator to respond that the Town desires to be a part of the litigation against additional retirement costs and to further submit the retirement contribution for July under protest. Seconded by N. VanScoy.

D. Ross stated he believe this should be in two motions.

Article 28-A was read into the record.

Roll call vote unanimously in favor

Disability Insurance for Employees

C. Granfield requested this be tabled due to a modification, which is being made as a result of an analysis conducted by Davis & Towle.

***N. VanScoy motioned to table. Seconded by D. Boutin
Vote unanimously in favor***

P. Loiselle stated that the Hooksett Garden Club and Agway were the major participants for dressing up the entrance of Hooksett. It took a few weeks to complete the job. Agway and the Garden Club were sent letters of thanks.

N. VanScoy requested the issue raised earlier regarding the contribution of two Planning Board members as well as the American Red Cross should be placed on a future agenda.

TOWN ADMINISTRATOR'S REPORT

- The construction management bids for the Safety Center were open today. Six (6) have been received. We will be conducting interviews.
- A forum for Hooksett Ideas was held in July. Approximately 40 people attended which generated 46 ideas. These will be posted on the website.
- PSNH has notified us that the rates will be changing. Some will increase and some will decrease. We will explore the option of wholesale electricity. The Sewer Department has signed an agreement. We are also discussing with PSNH the possibility of utilizing stimulus money for the Safety Center.
- Facility Advisor Committee held their first meeting. Mike Reed was appointed Chair and Russ Pelletier is Vice chair. Space requirements are being sent to the department.
- Beaulchesne drainage: No update from Mr. Sells.
- A Letter will be sent to all boards and commissions indicating a training session on September 30 with an attorney from the LGC on "Right to Know". If there is space available, we will invite other communities.
- A Financial report will be given at the next Council meeting

SUB-COMMITTEE REPORTS

N. VanScoy: Planning Board – The board has voted to deny the application for Ravenwood. A list of Planning items will be prepared and submitted for the next Council meeting.

J. Gorton: Zoning Board - A site walk was done at 210 Whitehall Road for a proposed Cell Tower for Crown Communication.

J. Gorton clarified the issue of attendance by the Zoning Board stating that the majority of the members attend on a consistent basis.

D. Ross: Conservation Commission meeting was cancelled. Next meeting scheduled is undetermined.

The Town Hall Preservation Committee will hold its first meeting on August 19th at the old town hall at 7:00 pm.

G. Longfellow: Recycling Committee - Held procedure discussions only.
Board of Assessors – 30 more abatements to do of the original 140

P. Loiselle: EDC has a subcommittee called “Ambassador” headed by Fred Bishop. Everyone must meet with companies in town and ask the same questions. The results will be completed by October November.

D. Boutin: Sewer Commission – Nothing to report.

Conservation Commission met with DES and the one outstanding issue is an easement approval.

C. Granfield will work with Dale and possibly do a telephone poll to get the vote completed.

Public Input

M. Miville thanked C. Granfield for the forum, which he felt was a major success.

M. Miville: I had heard N. VanScoy asking for a reading of the Code of Ethics but we never heard it and we don't know what you voted for. I don't know why you need this Code again. I don't know what is in the Code of Ethics and why is it needed if it is in the Town Charter so this is a redundant document. The Code of Ethics is subject to personal interpretations and that is the danger of this. In the past, a citizen filed a frivolous complaint.

B. Gahara: This is a Code of Conduct, not a Code of Ethics.

M. Miville: Without the need for teeth, are you subjecting yourself to complaints. Also J. Gorton apologies that any misstatement regarding the ZBA and that is the danger. The comment he made tonight about personal attacks, any time I address people; they are not personal attacks. So to characterize as personal attacks is inaccurate. I state that any comment regarding the Police Commission meeting are behaving inappropriately are out of order. Why citizens are addressing issues to the Council and the Commission because there are serious issues in town. All these issues have an impact on the taxpayer. So if the Chief behaves in a certain way, those management decisions reflect how his budget is run. His legal line is \$152,000 at the end of the year and budgeted for \$82,000. Without sending any personal attack, what is wrong with this? Two officers left in the past two weeks, which cause more hiring and more cost. But as Councilors, you can't hide your head in the sand, and this affects the tax rate. Citizens are entitled to their opinions. Open your eyes.

D. Boutin: To clear the record, I can't speak for discussions prior to me being on the Board, with regard to Code of Conduct, I don't believe the word Police Commission came up.

J. Gorton: I didn't make any comment about the Commission. Citizens that I approached were regarding the Zoning or Planning Boards.

NON-PUBLIC SESSION

Per RSA 91-A:3 II (c) & (d)

D. Ross motioned to enter into non-public session at 9:28 pm. Seconded by J. Gorton. Roll Call vote unanimously in favor.

N. VanScoy motioned to exit non-public at 9:48 pm. Seconded by D. Ross.

***N. VanScoy motioned to divulge the minutes of non-public. Seconded by P. Loiselle.
Motion failed.***

ADJOURNMENT

The chair adjourned the meeting at 9:50 pm

The next scheduled Council meeting is August 26, 2009 at 7:00 PM.

Respectfully submitted,

Lee Ann Moynihan

Nancy VanScoy
Town Council Secretary