

## Official

### **TOWN COUNCIL MINUTES Regular Meeting Wednesday, November 3, 2010**

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

**PRESENT:** David Boutin, James Gorton, Vincent Lembo, Jr., James Levesque, George Longfellow, Daniel Paradis, Michael Pischetola, Nancy VanScoy, Chairman William Gahara and Carol Granfield (Town Administrator)

#### **PLEDGE OF ALLEGIANCE**

#### **APPROVAL OF MINUTES**

October 27, 2010 – ***N. VanScoy moved to approve the October 27, 2010 minutes as amended. Motion seconded by D. Paradis. Motion carried.*** J. Levesque abstained, not present at the meeting.

October 27, 2010 Non-Public – ***N. VanScoy moved to approve the October 27, 2010 non-public minutes as presented. Motion seconded by D. Paradis. Motion carried.*** J. Levesque abstained, not present at the meeting.

#### **PUBLIC INPUT**

Joanne McHugh, Police Commissioner: I'd like to get some clarification with regards to the minutes that was just approved. Under the Police Commission sub-committee report, there are some comments I don't quite understand. If I am conducting a meeting and shouldn't have, I would certainly like to know. I'd like some clarification, if you would?

J. Gorton: I heard you make comments on numerous occasions at various meetings regarding telephone polls and how when you were at the School Board, you used to conduct telephone polls. You were proposing to do the same thing on the Police Commission. My understanding of RSA 91 A that is illegal. So I raised the concern to make the Council aware of it before they're blindsided if something was to come forth of that.

J. McHugh: I'd be truthful with you, when I was on the School Board, we did that. Since then, they've clarified that you can't do that. We did it on an emergency, then went to the meeting and certified our vote.

J. Gorton: As far as the two illegal meetings, I was informed by the Chief (and Commissioner Henry Roy) that on two occasions last week, you and another commissioner appeared at the Police Station. Two form a quorum when it's a three-men board, which constitutes a meeting.

J. McHugh I was already at the station looking over some information the Chief had for me. The other commissioner appeared there. If he says that constitutes a meeting, then I would ask the Council to get that clarified with LGC.

Chair Gahara asked the Town Administrator to get an opinion from LGC to be presented at the next Council meeting on November 17<sup>th</sup>.

D. Boutin: Did you and the other commissioner speak to each other and planned to meet at the station and were you discussing a business item?

J. McHugh: No. I was already there to review the agenda items. I often go down there to review an agenda or sign a letter.

Clark Karolian, Police Commission read the October 27<sup>th</sup> minutes (Police Commission subcommittee report portion).

C. Karolian: If another commissioner is there at the station, I'm not going to turn around and leave. I was there on specific business. (Directed to J. Gorton) You as public official publicly making accusations that we broke a state law. I think you really need to do your homework on that. I promised to have transparency if I was appointed a Police Commissioner. That's what I'm doing. A lot of people that don't like it and there's a lot of people that do like it. My job is to remain neutral and try to find out the facts. I suggest other people to do the same before accusations are made.

N. VanScoy: It says on RSA 91 A what is and not a meeting. Not a meeting says, "*Chance or social meetings neither planned nor intended for the purpose of discussing matters related to official business at which no deliberations are conducted and no decisions are made are specifically exempt from the open meeting requirement*".

The Town Administrator will confirm with LGC.

David Pearl, 79 Main Street: A Councilor in his official capacity as Town Councilor and rep to the Police Commission accused two Police commissioners of breaking the law and this is a very serious allegation. A Councilor has brought it to the attention of the entire Town Council at a Town Council meeting. It's now been recorded and approved in your minutes. At this point, I think it is incumbent upon the Council to take action on this matter. Mr. Gorton should provide the Council with facts to back up his claim. The Council should provide those who are accused to defend themselves if they choose. If you find that Mr. Gorton's facts are credible and it is established there has been a violation of the law, you should forward it to the Attorney General's office. If not and the allegations are proven not credible, then Mr. Gorton should apologize to the two Police commissioners. I talked to the LGC this afternoon and they in fact confirmed that it is not a meeting unless they are discussing or taking action. They pointed out if you run into someone even if you form a quorum, you can actually discuss business and it is not a violation. He suggested not to do that. Even if they plan to go and look at something, it is not a meeting. I think it is irresponsible for a Councilor to be throwing around allegations of illegality in a Town meeting. I ask the Council to take action.

Marc Miville, 42 Main Street: I'd like to make the Council aware that Councilor Gorton doesn't usually stay for the entire meetings. He frequently leaves the meeting at around 8 pm. The meetings last much longer than 8 pm. I only bring this to your attention because it appears the Council's subcommittee report about the meetings is less than full and inaccurate. In my opinion, based on my attendance to these meetings until the end, his reports are his own personal commentary rather than a recitation of the facts and statements of the meetings that should have relayed to you all. I am dismayed to always need to stay until the end of your meetings to correct misinformation and lack of proper report. He spoke of the commission's micromanaging. The chief constantly uses the terms, "*he's looking for directives*" from the commission. The commission gave the draft budget back to the chief and said, "*we're not going to look at this line by line to reduce your budget by \$1 million*". He responded, "*what is your direction?*". The commissioners responded, "*you're the manager, you work it out.*" The chief asks for directions for every minute detail. When you forget about \$30,000 in a retainer fund and do not disclose that to the commissioners, it might be time for the commissioners to limit his access for approval. That's not called micromanaging, that's called overseeing the department.

## **NOMINATIONS/APPOINTMENTS**

### Available Board Positions

Heritage Commission – Alternate Member, exp. 6/2012

Town Hall Preservation Committee

Economic Development Committee

### Charter Review Committee

***D. Boutin nominated Jim Sullivan to the Charter Review Committee.***

***D. Boutin moved to waive the rules of waiting period between nomination and appointment. Motion seconded by N. VanScoy. Motion carried unanimously.***

***D. Boutin moved to appoint Jim Sullivan to the Charter Review Committee. Motion seconded by N. VanScoy. Motion carried unanimously.***

Conservation Commission Council Representative

There is a conflict with Councilor VanScoy being the rep for both Planning Board and Conservation Commission. N. VanScoy preferred to stay with the Planning Board. The Council will have to appoint a representative to the Conservation Commission.

In addition to Planning Board, Councilors serving as representatives to Zoning Board and Budget Committee cannot serve on the Conservation Commission.

**SCHEDULED APPOINTMENTS**

Town Hall Preservation Committee

David Ross, Committee Chair informed the Council the committee gathered quite a bit of suggestions from the public with regards to future use of the old Town Hall. Town Intern, Barbara Stadtmiller offered to help with conducting a survey. The committee came up with plans for the building. These plans will have to be reviewed and certified by an engineer before they could present them to the Fire Department. The committee does not have a budget. DRA offered their assistance to draft a warrant article to create a trust fund and add it to the ballot in the spring. D. Ross asked for the Town Engineer's assistance in reviewing the plans.

The Town Administrator will coordinate a meeting with Stantec.

Planning Board

The Charter states that the Planning Board/CIP and Town Council should meet at least once a year.

Robert Duhaime and Jack Mudge of the Planning Board introduced themselves to the Council.

N. VanScoy gave an overview of CIP's functions in the budget process. She read a portion of the CIP handbook, "*The CIP links local infrastructure investments with Master Plan goals, land use ordinances and economic development efforts. One of the major benefits of having a CIP for the community is the preservation of public health, safety and welfare.*" She added CIP is money that is put away for future needs.

R. Duhaime stated CIP is usually for growth. Planning Board does not usually look at the numbers, they are concerned with making sure it is a good plan. With a good plan, hopefully the request would be less and less every year.

G. Longfellow stated the Town will have to develop a priority list or the Town is looking at \$1 million on CIP alone.

D. Boutin thanked CIP members for their efforts but asked them not to be frustrated if the Council cannot approve all CIP request. The Council has to consider actual revenues before crafting a budget.

Chair Gahara suggested for CIP to develop a priority list for the Council to review and consider.

**OLD BUSINESS**

Sidewalk Policy

The sidewalk issue has been a topic of discussion between the Planning Board and the Council. It was determined that the Town is responsible for maintaining all sidewalks for safety.

Dale Hemeon, Public Works Director presented a proposed policy for maintaining sidewalks. The policy lists sidewalks in priority order.

***V. Lembo moved to adopt the proposed sidewalk policy. Motion seconded by D. Boutin. Motion carried unanimously.***

**NEW BUSINESS**

Technology Services Contract Award

An RFP was issued for Technology Services and the Town received six proposals from the following:

Cocci Computers Services  
Mainstay Technologies  
PC Masters Technology  
RKB Consultants  
Rockport Technology  
Spaulding Hill Networks

An evaluation panel of four individuals consisting of the Town Administrator, Finance Director, Fire Chief and the Town of Derry IT Manager reviewed all proposals and agreed on the top three firms (Cocci Computers Services, Mainstay Technologies and Spaulding Hill Networks) to be interviewed. The panel unanimously selected Mainstay Technologies.

***D. Boutin moved to award the Technology Services contract to Mainstay Technologies in the amount of \$37,725. Motion seconded by D. Paradis. Roll call vote carried unanimously.***

#### Mount St Mary's Way – Readdressing

The Town, with the help of UNH Fellow, Barbara Stadtmiller is currently working with NH E-911 to accurately map the Town for safety purposes. The Bureau of Emergency Communications' Addressing Standards recommends that 1701 Hooksett Road and 1328 Hooksett Road be named and assigned address ranges. Public hearing is not necessary at this point.

***D. Boutin moved to start and authorize the readdressing process for 1701 and 1328 Hooksett Road by approaching residents to get voluntary change agreements. Motion seconded by N. VanScoy. Motion carried unanimously.***

G. Longfellow suggested conducting a public hearing.

#### New Street Name and Readdressing

The Building department recommended a new street name, "Retail Drive" for renumbering of the Hooksett Village Shops (Shaw's Plaza) currently 1328 Hooksett Road.

***D. Boutin moved to approve the new street name, "Retail Drive". Motion seconded by N. VanScoy. Motion carried unanimously.***

The Town Administrator informed the Council that the Town is starting a new process and will have a list of 10-12 E-911 street names already approved. This will streamline the process of assigning new street names.

#### Defina Legal Issue

M. Pischetola requested for a monthly update on the Defina legal issue.

#### School Plowing

A letter from Public Works Director, Dale Hemeon was sent to the school department informing them that due to budget constraints, Public Works Department will no longer be able to plow the schools. G. Longfellow commented the Town Council should decide whether to do school plowing or not. He said this matter should have been brought to the Council's attention. The school does a lot for the Town including elections. The school can pay their share.

C. Granfield explained that it is a budgetary item. While taxpayers pay for the same taxes, the municipal side has continually reduced its budget. The latest is the 1% reduction. In doing so, all departments are looking for ways to cut their budgets. The Town is looking into adding the item as a warrant article.

#### Town Election

The Town Moderator indicated two Councilors should always be present at the voting polls during elections.

### Town Revenue

As requested at the last meeting, the Finance Director provided some information on the Town's revenue over the last five years.

D. Boutin commented that the \$0.52 increase in taxes is mainly due to revenue shortfall. He suggested being excruciatingly conservative with revenue projections. Currently, the Town has \$6.1 million projected revenue for 2010.

### Delinquent Taxes

The Tax Collector is working on putting together a list of delinquent taxes. A new lien process will be adopted that was not done in the past. The Council will be advised of all delinquent taxes prior to placing a lien.

### Sewer Bills

N. VanScoy commented on the significant increase in sewer bills.

Council consensus was to invite the sewer commission to come in and give the Council an update.

### Salvation Army Holiday Bell-ringing

D. Boutin reminded everyone of the annual bell-ringing program has started and to contact Mary Farwell if interested in bell-ringing.

## **TOWN ADMINISTRATOR'S REPORT**

C. Granfield informed the Council of the following:

1. The Town Administrator commended the Parks & Recreation and Highway Divisions of Public Works staff for putting together an outstanding "Haunted Trail" free event. A total of 591 people went through the trail and donated a total of \$144 to benefit the Adopt-A-family program for the holidays. They are already planning for next year's event.
2. Starting after Thanksgiving, there will be a Christmas decorating contest at all Town departments and facilities. There will be judges to evaluate and an award will be given to the best decorated office/department.
3. The Town Administrator attended the Fire Safety Challenge at Cawley Middle School for 8<sup>th</sup> graders.
4. Election Day went well. There was a large turnout of 4,766 voters. The code red system was utilized to remind people of Election Day.

D. Boutin commended the Police Department for doing a great job controlling and setting up the traffic flow.

M. Pischetola also commended and thanked Officer Defina for escorting the Town Clerk to her car after the election and making sure she was safe.

5. The tax bills went out along with the newsletter. The Town has started receiving payments.
6. An individual responded to an announcement on the newsletter regarding the *Beautify Hooksett* program to take care of the Lambert's Park area.
7. The single stream recycling pilot program will start December 8<sup>th</sup>. Education materials will be sent out.
8. The Town offices will be closed on Thursday, November 11<sup>th</sup> for Veteran's Day.
9. All department budgets have been submitted and the Town Administrator has started reviewing them with department heads.

## **SUB-COMMITTEE REPORTS**

### Planning Board

1. They will have public hearing on Monday for the proposed updates to the Development Regulations.
2. Webster Woods was granted a one-year extension on their vesting rights. A temporary fix was agreed upon for the erosion problems at Phase 1 to take place immediately. A permanent fix is currently being reviewed by the developer and DES and will be done in the Spring.
3. Crown Communication tower at Whitehall Road was approved.
4. McDonald's Restaurant presented a conceptual plan to tear down the existing building and build a new one next Spring.

5. SNHPC came in to discuss the 10-year road plan, which includes changes in I-93.
6. N. VanScoy provided the site plan review cost comparison to the Council. Most increases are with the impact fees.

#### Perambulation

The Town Administrator spoke with Chair Denise Pichette-Volk. The Chair encountered some issues. She will update the Council.

#### Police Commission

Chair Gahara informed everyone that he is working with the Police Commission to set up a date for a workshop.

#### Budget Committee

The last meeting did not have a quorum but heard presentations from Administration, Village and Central Water Districts and Sewer. There was a lot of discussion about the Budget Committee Secretary. The Town Administrator explained that a few full time employees take minutes for various boards. These employees should be paid a "blended" overtime rate in order to comply with regulations. This is currently not being done. The Town is looking into some options, including paying the employees a "blended" overtime rate and possibly hiring some part-time employees to take minutes at a lower rate. The Council will be advised.

#### PUBLIC INPUT

Harold Murray, Deputy Emergency Management Director stated the Election Day reminder probably did not go through all registered numbers due to the number of political calls being placed on same night.

Mike Horne, Parks & Recreation Advisory Board: I was not able to attend the meeting on sidewalks. For the record, I was disappointed with the Council's position on connecting the sidewalks. We need to work with the state to have safe passage between our neighborhoods. I'd like to thank you for all the time you put in doing what you do. I don't think you get thanked quite enough.

D. Pearl: On multiple times I've come before the Council and I've talked to individual Councilors about dealing with the issues we have at the Police Department. I'm continually told that this Council has no power over the Police Commission. I am well aware of that. I just want to point out, I have no power over you and yet I am able to sit here and provide you some information and provide you with my opinion and you hopefully, listen to me. Likewise, you have a relationship with the Police Commission. You have a rep that goes to the meetings. I think you should formulate your opinions and send those opinions to the Police Commission because you are the governing body of this Town. Although you have no power over them, you share power. I'm glad a workshop is in the works because we have a lot of issues that need to be settled.

M. Miville: I want to finish up on the 2<sup>nd</sup> part of the comments made by Councilor Gorton, in which he stated that Officer Defina was not entitled to a pre-termination hearing as stated in the minutes. He was questioning the documentation for that. I'm no lawyer and I'm not a Police Commissioner but it did state that "Cleveland Board of Education v. Loudermill" is the standard law that governs these pre-termination hearings. That's what they used to determine that. I can't speak to any CBA rulings or procedure they have but they did speak to "Loudermill". Atty. Bailey for the Police Department made every effort possible to get "Loudermill" discussed but they were denied. They thought it was important, the other lawyers thought it was important. "Loudermill Rights" refers to employee rights deriving from a 1985 US Supreme Court decision, "*most public (but not private) employees have a property right in their jobs. An employee cannot be dismissed without due process involving pre-termination hearing that gives them the opportunity to present their side of the story.*" Officer Defina did not get a pre-termination hearing. He was entitled to a pre-termination hearing based on "Loudermill Rights". It is a civil rights to due process and no CBA clause can deny it. The Police Commission did make the right decision.

#### NON-PUBLIC SESSION

***D. Boutin moved at 8:30 pm to enter into a non-public session per RSA 91-A:3, II. (d),***

***"Consideration of the acquisition, sale, or lease of real or personal property, which if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community."***

**Motion seconded by J. Levesque. Roll call vote carried unanimously.**

**D. Boutin moved at 8:40 pm to exit the non-public session. Motion seconded by N. VanScoy. Roll call vote carried unanimously.**

**V. Lembo moved to approve the Warranty Deed Conveying a Restricted Fee Interest and Executory Interest to be submitted to the seller to convey the property of pinnacle to the Town of Hooksett and to schedule a public hearing. Motion seconded by N. VanScoy. Roll call vote carried unanimously.**

The public hearing will be scheduled.

***N. VanScoy moved at 8:45 pm to enter into non-public session under RSA 91-A:3, II. (e), "Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until such claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph."***

**Motion seconded by D. Boutin. Roll call vote carried unanimously.**

**J. Levesque moved at 8:52 pm to exit the non-public session. Motion seconded by N. VanScoy. Roll call vote carried unanimously.**

The Council made a statement that they voted not to divulge the minutes of the non-public session.

#### **ADJOURNMENT**

The meeting adjourned at 8:53 pm.

Respectfully submitted by,

Evelyn F. Horn  
Administrative Assistant

Vincent Lembo, Jr.  
Town Council Secretary