

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, March 9, 2011

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

PRESENT: David Boutin (arrived at 6:45 pm), James Gorton, Vincent Lembo, James Levesque, George Longfellow, Daniel Paradis, Michael Pischetola, Nancy VanScoy, Carol Granfield (Town Administrator) and Chair Bill Gahara

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

February 9, 2011 – ***N. VanScoy moved to approve the February 9, 2011 minutes. Motion seconded by D. Paradis. Motion carried.*** Chair Gahara abstained, not present at the meeting.

February 16, 2011 – ***N. VanScoy moved to approve the February 16, 2011 minutes as amended. Motion seconded by M. Pischetola. Motion carried.*** G. Longfellow abstained, not present at the meeting.

February 16, 2011 Non-Public – ***N. VanScoy moved to approve the February 16, 2011 non-public minutes. Motion seconded by J. Gorton. Motion carried.*** G. Longfellow abstained.

AGENDA OVERVIEW

N. VanScoy requested to discuss a letter received from the Budget Committee Chair, Marc Miville under "New Business".

PUBLIC INPUT

Bill Sirak, Economic Development Committee Chair: I'd begin by thanking the Budget Committee and the Town Council for restoring a portion of our very modest budget. EDC budget is back to \$1,500. The committee is concerned about the awareness of the community about the value of having an Economic Development Committee. When you look at our budget in relationship to the Town's total annual budget of \$15.8 million, the percent the Town has invested into economic development is a very miniscule .00316%. We need to look at the income side of economic development.

B. Sirak handed out some information on cost of community services studies. It compares the amount of money you bring in and the amount of money you spend on residential properties compared to commercial, industrial and open land spaces. In Hooksett, for every \$1 the Town makes on residential properties, the Town spends \$1.16 and for every \$1 the Town makes on commercial/industrial properties, the Town spends \$0.43 and for open spaces \$0.55. It makes sense to further broaden the tax base. It's easy to lose sight off when dealing with budget. The Town needs to evaluate how it invests in economic. On Exit 10, the Town invested \$3 million in bond. It has been paid off and earning about \$900,000 for the Town. The potential income from Exit 11 is about \$3 million. He asked the Council to look at both sides of the ledger. He invited the Council to a series of group sessions with members of the EDC to talk about the committee is planning on doing, options going forward and holding economic summit meetings.

Donald Winterton, 10 Prescott Heights Road: I was at the Planning Board meeting on Monday. I'd like the Council to know that I'm excited to move to Hooksett. I'm spending a lot of money building a very nice house in Hooksett. I don't feel I've been treated fairly by the Town of Hooksett and the Planning Board. The Bielizna's subdivided their property. My property is next to theirs. There is no public water on this subdivision. On the site plan, it says, "the purpose of this plan is to subdivide tax map no. 48 into

six lots.” That’s no. 1. On no. 16, it says, “the construction shall have an approved residential sprinkler system.” By definition of Hooksett law, all lots are part of a subdivision. The Bielizna’s were able to get a Certificate of Occupancy without a sprinkler system. Their house is 400 feet from the road and mine is 75 feet from the road. My request was to be treated the same way the owners were treated. I’m requesting not to have a sprinkler system installed. The law says, “The municipality cannot prohibit a sprinkler system in a one or two-family home unless there was a previous ordinance or regulation.” In the subdivision regulation it says, “All new construction shall have a sprinkler system.” I’m just asking for the same consideration that the Bielizna’s got. The original subdivision required underground utilities. The Planning Board waived that for the Bielizna’s. They had the sprinkler system waived. Clearly, I have not been treated as fairly as other people in Hooksett. I think this board needs to know that. Time is of the essence. I’m getting ready to sheetrock.

N. VanScoy explained the Planning Board did not waive the requirement for the sprinkler system. It never came in front of the Planning Board. There was a Certificate of Occupancy signed. Because it was a construction on an existing site, the Code Enforcement Officer did not consider it part of the subdivision. Mr. Winterton’s opinion is based on how the plan reads that the subdivision does include the parent lot. There was no decision made by the Planning Board. What came before the Planning Board was a letter from the Fire Chief stating that the sprinkler system was required and that it was a safety issue. She added she can’t speak for the board but it seemed the letter meant a lot to the board. There was a lot of discussion as to why the Bielizna’s were not required to install a sprinkler system. The Bielizna’s slipped through the crack. They should have been required to have a sprinkler system.

C. Granfield added that because it was not a part of the existing lot, it was not a part of the requirement.

Chair Gahara stated the Council does not have jurisdiction over the Planning Board and cannot overturn their decision. He suggested working with the Town Administrator and Councilor VanScoy to come to a resolution.

JR Ouellette, 3 Summerfare Street: I’d like to speak to you about two issues tonight, first; I’m here as a budget committee member and also as a concerned taxpayer. I would like to ask that you reconsider your vote on warrant article U that relates to forming a special account for the revenues received from the Hooksett School District. There is a continuous tax impact related to this warrant article. I understand that you are taking the position of no tax impact but if approved, the \$87,000 will become an ongoing tax impact to the taxpayers of this community, year after year, therefore it is my opinion the voters should be made aware of the actual cost associated with this warrant article. In addition, it is also my opinion that this article should have come in front of the budget committee due to the fact that there is a continuous tax impact to the community if passed. This article is deceitful and needs to be reconsidered.

The second issue I wanted to speak to you about tonight is that now that the police commission has agreed to finally have a long overdue audit done on the police department it doesn’t make any sense for this Council to move forward with the abolishment of our current police commission. During all these past years of having major problems with the police department this Council had no interest in getting involved. Now that we have a working commission, you want to abolish the commission, this is not the time to finally get involved, allow the commission to finish what they have started with the institution of transparency, the making of the much needed changes and the ordering of the long overdue audit. It was the commission’s decision to move forward with this audit and it should be the commission that sees it through.

Public perception of this Council is not good. Decisions being made here appear to not have the best interest of the town. I’d like to remind you that you took an oath and your obligation is to the taxpayers of this community. Your decision to move forward with the abolishment of the police commission at this time needs to be reconsidered. When Councilor Boutin told this Council what the Chief told him privately that if he went forward with the Bill to increase the commission from 3 to 5 members that the Chief would hang Hooksett’s laundry out, this Council did nothing! How can you allow the highest ranking law enforcement officer in Hooksett make this seemingly threatening remark and not request an investigation to be conducted? This comment actually caused Representative Boutin to hesitate before moving forward with

this Bill so the Chief's statement certainly had an impact on Representative Boutin's decision before going forward with this Bill. The Chief completely denied making this comment to Councilor Boutin. The Chief's public denial was even more reason to request an investigation. Again, you have an obligation to this community and an investigation should have been conducted. You have Councilor Gorton who made a false accusation against this current commission for holding an illegal meeting at the police station which later was proved that Councilor Gorton's statement was false. This rumor came directly from the Chief to Councilor Gorton. You also have Councilor Lembo who claims Officer Defina is not entitled to due process based on the misguided information he received from the Chief.

I would ask that you reconsider your vote on the abolishment and for reasons as I previously stated ask that Councilor Boutin, Gorton and Lembo step down from the process based on their past involvement. It doesn't shed a good light on the three of you voting for the abolishment after being in the middle of these controversial issues.

It's my opinion that if this abolishment goes forward it will only increase our town's liability and create more probability of lawsuits coming forward and most likely start another mass exodus of the police department employees. Please reconsider as it is not wise for the town to abolish the commission at this time and the town cannot afford more litigation.

NOMINATIONS/APPOINTMENTS

Available Board Positions

Heritage Commission, Alternate, exp. 6/2012

Town Hall Preservation Committee

Conservation Commission – Council Representative (Meets at the Town Hall at 7 pm on 1st Tuesday of the month.)

SCHEDULED APPOINTMENTS

Public Hearing, re: Safety Center Renovation Bond Warrant Article

Chair Gahara opened the public hearing at 7 pm.

Bill Hickey and Jay Dougherty of Turner Group and Ann Dowd of Harvey Construction gave a presentation on the renovation project.

The Town put out an RFP for the renovation in 2009. The Turner Group was retained for the engineering design and Harvey Construction was chosen for the construction work.

The building has major issues with moisture and air intrusion. Remedies have been tried but were all unsuccessful. The building has thermal issues, moisture issues and air issues. The plan is to attack it from the outside to keep all daily operations running while the renovation is being done. The brick layer will be peeled off. Air and vapor barriers will be added on the studs, as well as insulation all across the building. Air and vapor barrier is the final layer. The brick layer will be put back on. The roof will be changed to shingle roof from a metal roof. Falling snow and ice is weakening the roof underneath. The roofline will be changed to avoid snow and ice build-up.

Each segment of the work will be put out to bid. There will be at least 3 bids for each item. If approved, construction will start in July and will be completed 7 months later.

M. Pischetola: If the bond does not go through, what should we expect to see?

B. Hickey: Moisture and air will continue to get in the building, which will deteriorate the building even more. Pipes will continuously freeze. Life expectancy of the building will be reduced. There is no sign of mold now but it is possible.

G. Longfellow: On the roof, I understand if you take the metal roof, you have to change the structure because shingle roof is heavier than metal roof.

B. Hickey: There will be no structural upgrades required. The roof is designed to handle the weight.

The public hearing was closed at 7:17 pm.

ServiceLink Aging & Disability Resource Center

Christopher Emerson, Center Manager introduced himself to the Council. He gave an overview of the Center.

The service is provided at no cost. They provide universal referral service for the elderly and disabled for whatever service they need, i.e., government, profit or non-profit. They have a staff of professionally trained listeners. They handle Medicare Part D for the elderly. Quite a number of Hooksett residents reach out to Manchester. Last year, the center handled 268 service requests from Hooksett residents. They feel that they are not serving and reaching enough of Hooksett residents. They would like to inform the community of what they are doing and how to reach out Hooksett's elderly and disabled residents.

Mr. Emerson left some information to be distributed to various Town agencies.

The Council thanked Mr. Emerson for coming in.

OLD BUSINESS

Single Stream Recycling Update

Diane Boyce, Recycling & Transfer Department Superintendent presented an update of the single stream recycling.

The program is three months into the pilot period and doing very well. Recycling is up by 27 tons at this time last year. Recycling as a whole has gone up. Disposal fees will be \$1,900 less this year. The department is getting positive feedback from the residents. For the same three month period last year they received 97 tons. This year so far they have 123.7 tons. Trash is a little less.

G. Longfellow: We are giving up \$2,000 in income by not separating it. You're losing close to \$2,000/month in income by going to single stream recycling. With 9 tons a month you're only saving \$600 in tipping fees.

D. Boyce: We actually saved \$1,900 a month in tipping fees. We are still generating revenue of \$3,000 from card board boxes. The only revenue the Town is losing is on aluminum cans. We're saving on fuel. So far, it's working out very well.

G. Longfellow: This is a trial period. Does the Council have to approve to continue? We never approved it in the first place.

C. Granfield: The Council didn't have to approve. It was an operational function within the department.

G. Longfellow: You say it was an operational function but it impacted the Town budget by \$20,000 a year.

Chair Gahara: When the Council originally has the discussion, it was considered an operation function and decided to give the department an opportunity to have a trial run.

J. Levesque moved to give the system another 3 month period. Motion seconded by V. Lembo.

N. VanScoy questioned why the Council is giving a limit on the system.

D. Paradis stated he thinks it would take at least a year to see the impact.

J. Levesque moved to amend the motion to continue for another nine months. Motion seconded by V. Lembo.

Roll Call Vote

D. Boutin	No	D. Paradis	Yes	
J. Gorton	Yes	M. Pischetola	Yes	
V. Lembo	Yes	N. VanScoy	No	
J. Levesque	Yes	Chair Gahara	Yes	6-3 <u>Motion carried.</u>
G. Longfellow	No			

Councilors Boutin and VanScoy explained they both voted “no” because they think this should be decided by the department head and not the Council.

NEW BUSINESS

Acceptance of Donation from PSNH to Town for Volunteer Recognition Dinner, per RSA 31:95-b

The Town received a donation from PSNH in the amount of \$2,500 for the Annual Volunteers Appreciation Dinner. Currently, there is \$1 on the budget for this line item.

J. Levesque moved to accept the donation per RSA 31:95-b. Motion seconded by M. Pischetola. Motion carried. Councilor Lembo recused himself as he is employed by PSNH.

Council Rules and Procedures – Order of Agenda

This is one of the items suggested by the Charter Review Committee to streamline actions for items the Town Council may not need to discuss in detail.

The Town Administrator recommended adopting a Consent Agenda. A Consent Agenda is a component of a meeting agenda that enables the Council to group routine items and resolutions under one umbrella. The Council will still receive Staff Reports and information on all items. Items in the Consent Agenda do not need any discussion before a vote. Unless a Council member feels that an item should be discussed and requests the removal of that item. The entire package is voted on at once without any additional explanations or comments.

This would require the Town Council to amend its Rules and Procedures by incorporating the Consent Agenda into Order of Agenda.

One of the items that would be included in the Consent Agenda is the approval of minutes.

Discussion on the matter ensued.

J. Gorton moved to adopt the Consent Agenda. Motion seconded by V. Lembo.

D. Boutin stated he would like to see the list of what will be on the Consent Agenda prior to voting.

N. VanScoy stated she thinks every item should be looked at so nothing gets missed.

Roll Call Vote

D. Boutin	No	D. Paradis	Yes	
J. Gorton	Yes	M. Pischetola	Yes	
V. Lembo	No	N. VanScoy	No	
J. Levesque	Yes	Chair Gahara	Yes	5-4 <u>Motion carried.</u>
G. Longfellow	No			

D. Boutin expressed concerns with amending the minutes prior to the meeting.

N. VanScoy added that changes to the minutes should not be done outside of the Council meeting.

Warrant Article Request

The Town received a request from David Pearl of 79 Main Street to consider adding the following warrant articles.

Warrant Article to Abolish Hooksett Police Commission

“To see if the Town will vote, pursuant to 1975 NH Laws 412:3-a, to abolish the Hooksett Police Commission by rescinding the action of the Town of Hooksett Special Town meeting held on September 16, 1975, and to further provide that if this article is adopted, the Hooksett Police Commission shall go out of existence on May 10, 2011.”

Explanation: If this article is approved by a majority of the voters, the Hooksett Police Commission shall cease to exist. The duties previously performed by the Police Commission will thereafter be performed by the Town Administrator subject to oversight by the Town Council.

Note: The Council would need to amend the date in the warrant from June 1, 2011 to May 11, 2011.

Warrant to Form a Police Commission under RSA 105

“To see if the Town will vote, pursuant to NH RSA 105-C:1 to establish a Police Commission, consisting of 3 commissioners, who shall have been residents of the Town for at least 3 years immediately preceding the date of their appointment.”

Note: This warrant would be contingent on the passage of the preceding warrant.

“To see if the Town will vote to elect its Police Chief by ballot to serve a three year term under the provisions of NH RSA 41:47.”

Note: This warrant would be contingent on the passage of the two preceding warrants.

David Pearl and Todd Lizotte made a presentation of the request. The Town Council is the only body that could add the warrant articles. It cannot be added through a petition.

N. VanScoy: Why does the date have to change? We have to provide enough time for recount, if necessary.

C. Granfield: A more viable date is June 1st, which is past the recount period. You have to leave the current warrant article as it is.

M. Pischetola: If all three warrant articles get on the ballot, is it possible for the Town to vote to abolish the Police Commission and vote to elect the Chief at the same time?

D. Pearl: Legislation 412 was written specifically for Hooksett, we should have adopted 105 because it offers provisions. If RSA 105 passes, the Chief cannot be elected.

C. Granfield: An elected Police Chief will require an amendment to the Town Charter. I was advised by the Town Counsel that there are similar restrictions on the Fire Chief.

Chair Gahara stated he is in favor of RSA 105-C. According to our legal counsel, we can add the warrant article but it will not mean anything unless the Charter is amended.

C. Granfield: The only way that could change is by Charter amendment and it is too late this year.

D. Pearl: We are in violation of the Charter right now because the Charter says all department heads shall be appointed by the Town Administrator and the Police Chief was not appointed by the Town Administrator. The situation now is that the Police Chief is not considered as a department head under the Town Administrator.

T. Lizotte: There's a lot a gray areas here. We haven't looked at all legal issues and sought legal opinion. Rescinding 412 will bring the Town to RSA 105 by default.

C. Granfield: We are not in violation of the Town Charter the way it is now with the Police Chief.

J. Gorton: I will not support putting these warrant articles. Our lawyer is recommending not putting these articles.

Discussion on the matter ensued.

V. Lembo moved not to add the warrant articles on the ballot. Motion seconded by D. Paradis.

Roll Call Vote

D. Boutin	Yes	D. Paradis	Yes		
J. Gorton	Yes	M. Pischetola	No		
V. Lembo	Yes	N. VanScoy	No		
J. Levesque	Yes	Chair Gahara	No	5-4	<u>Motion carried.</u>
G. Longfellow	No				

Warrant Article U

The Council received a letter from Marc Miville, Budget Committee Chair regarding an issue with Warrant Article U.

The matter was brought up as a public input. The warrant article for \$87,000 seems to be "double dipping". \$87,000 was added as a warrant article for equipment but not taken out of Public Works budget.

N. VanScoy moved to reconsider the vote on Warrant Article U. Motion seconded by M. Pischetola.

"Shall we adopt the provisions of RSA 31:95-c to restrict 100% of revenues from Hooksett School District for snow plowing & grass mowing to expenditures for the purpose of Public Works provided maintenance and equipment for the school's parking lots and grounds, including plowing, sweeping, mowing, painting of fields etc.? Such revenues and expenditures shall be accounted for in a special revenue fund known as the Parking Lots and Grounds Maintenance fund, separate from the general fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund or source of the revenue. Majority vote required."

Note: Voters need to approve spending from this fund via warrant article. Requires public hearing per RSA between March 11th and April 26th.

David Pearl, Budget Committee Member: The department needs the \$87,000 for equipment and manpower to do maintenance at the school. The problem is where does the funds go once received from the school, Public Works or the General Funds?

Discussion on the matter ensued.

Roll Call Vote (to reconsider the vote on Warrant Article U)

D. Boutin	No	D. Paradis	No		
J. Gorton	No	M. Pischetola	Yes		
V. Lembo	No	N. VanScoy	Yes		
J. Levesque	No	Chair Gahara	Yes	4-5	<u>Motion failed.</u>
G. Longfellow	Yes				

N. VanScoy requested a non-public meeting with the Town Counsel to discuss the current legal actions against the Police Chief, in particular the Defina case. She would like to hear about the due process.

The Town Administrator will contact the Legal Counsel who is handling the case.

Councilors Boutin and Paradis left the meeting at 9:30 pm.

Councilor Longfellow's Resignation

Councilor Longfellow submitted his resignation from the Council effective after May 10, 2011.

V. Lembo moved to appoint Councilor Longfellow as a fill-in Councilor until the end of fiscal year on June 30th. Motion seconded by J. Gorton. Roll call vote carried unanimously.

TOWN ADMINISTRATOR'S REPORT

C. Granfield informed the Council of the following:

1. Volunteers Appreciation Dinner will be held on Saturday, May 7, 2011 at SNHU.
2. School Election was held on Tuesday, March 8th. There were a total of 399 voters. There was a table set for informational materials for residents.
3. Municipal Records committee is working on organizing all municipal records.
4. The filing period for Town Offices is March 23rd through April 1st. There will be 4 open Councilor positions.
5. The Budget Committee voted unanimously to recommend the Safety Center renovation bond.
6. The Council will be holding a meeting at Cawley Middle School on Wednesday, April 13, 2011, 8:30 – 10:30 am.

SUB-COMMITTEE REPORTS

Planning Board

1. McDonald's was approved. They don't have a true cross easement but they will be allowed a crossing from one Merchants Motors property to the other Merchants Motor property.
2. Heritage Credit Union was approved. They also got approved without the cross easement due to security concerns. They requested a traffic study to make sure the traffic lights at the bottom of the hill is set properly.

Town Hall Preservation Committee

The meeting was cancelled. The committee is moving forward with putting together a recommendation.

Economic Development Committee

The biggest issue discussed was getting the word out about what the committee does. There are opportunities the committee could pursue that would cost some investment dollars.

Budget Committee

The Town budget was completed and adopted.

ZBA

1. Burl Logging requested a re-hearing for a variance. It was denied by the board.
2. Market Basket came in for a variance on the signs. It was continued. The sign has a lot of letters. The "M" and the "B" are taller. They would like to have a monument sign.
3. Falcon Brook off Mammoth Road, originally a 28 unit work force housing was changed to a 20-unit with 5 buildings, 4 units each.

PUBLIC INPUT

D. Pearl: I think of anything, with our presentation tonight, we showed that it is not a simple issue. I think to move forward now with a single choice is a big mistake. We should take a look at the big picture. You should vote to reconsider the warrant to abolish the Police Commission. If you're being cautious, you should be cautious across the board. Remove the warrant article and start thinking about next year. I would ask someone who voted in the affirmative to make a motion to reconsider the vote.

Richard Sullivan, Morgan Drive: I would like to congratulate the Council for not wanting to get involved with the convoluted proposition that was put in front of you. Sometimes folks, who are getting lost and perceiving things in a zealous manner, don't see the error of their own ways. If you have a Police Chief who is conducting himself in a fashion that there is cause for removal, there's nothing mysterious about that. Just cause is frequently used in labor relations. If you have a Chief who is not acting in the best interest of the community and breaks the law, you probably don't have to break the law. Thanks for your good judgment.

T. Lizotte: After the vote was taken, I anticipated that the Chief would look at this as an opportunity. I found out some e-mails were sent. I'm talking about the February 18th e-mail to the Town Council where he talks about his concerns of due process. We're dealing with litigations. There's no reason for the Chief to be engaging in propaganda. In that letter he indicated that 4 labor attorneys told him something. He's concerned about due process. He's talking about the issues. My concern is that the Chief is sending out stuff via public domain talking about the lawsuit, talking about opinions. My belief is this is propaganda to put out into public domain to try to disparage the commission. The fact of the matter is that the taxpayers will be on the hook. It looks very bad. This has got to stop. We need to take that warrant off before this gets out of control.

Nancy Comai, 21 Elmer Avenue: I just want to publicly thank George Longfellow for all the years of dedicated service to the Town.

NON-PUBLIC SESSION

N. VanScoy moved at 10:06 pm to enter into non-public session per RSA 91-A:3, II (c) "Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant." and, 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 the 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 V. Lembo. Roll call vote carried unanimously.

N. VanScoy moved at 10:41 pm to exit the non-public session. Motion seconded by J. Levesque. Roll call vote carried unanimously.

The Council made a statement that they voted to seal the minutes.

ADJOURNMENT

The meeting adjourned at 10:42 pm.

Respectfully submitted by,

Evelyn F. Horn
Administrative Assistant

Vincent F. Lembo, Jr.
Town Council Secretary