

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, November 9, 2011

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

PRESENT: Nancy Comai, Michael Downer, Vincent Lembo, James Levesque, Todd Lizotte, Susan Lovas Orr, James Sullivan, Nancy VanScoy, Dean E. Shankle, Jr. (Town Administrator) and Chairman William Sirak.

PLEDGE OF ALLEGIANCE

Joseph Mariano and James Hoone of Troop 292 lead the group.

APPROVAL OF MINUTES

October 26, 2011 – ***T. Lizotte moved to approve the October 26, 2011 minutes. Motion seconded by J. Levesque. Motion carried.*** M. Downer abstained, not present at the meeting.

October 26, 2011 Non-Public Minutes – ***J. Levesque moved to approve the October 26, 2011 non-public minutes. Motion seconded by T. Lizotte. Motion carried.*** M. Downer abstained, not present at the meeting.

AGENDA OVERVIEW

Town Administrator's Report was moved up after "Consent Agenda".

CONSENT AGENDA

Bond Releases

1. McDonald's Surety Release for \$166,476.24
2. Mega X Surety (Partial) Release for \$52,856.24

J. Levesque moved to remove the items from consent agenda to be discussed. Motion seconded by V. Lembo. Motion carried unanimously.

J. Levesque commented on the large amount of the surety.

N. VanScoy explained the amount is set at 30% of the total cost to complete the project.

D. Shankle clarified it is 30% of the total site plan.

J. Levesque also commented on the amount of oversight costs. The money was paid to Stantec not to the Town.

D. Shankle stated that issue is being addressed. Development Regulations states that the Town Engineer is in charge of oversight. The Town Planner and Public Works Director are currently looking into amending the regulations to give the Town the option to do the oversight. Planning Board will have to approve the proposed amendment. Until this is done, the Town cannot assign its staff to do the oversight.

J. Levesque moved to approve the bond releases. Motion seconded by N. VanScoy. Motion carried unanimously.

TOWN ADMINISTRATOR REPORT

D. Shankle informed the Council of the following:

1. The Town was just informed the current holder of the Boston Post cane, Blanche Latouche passed away on September 2, 2011.
2. The Public Employees Labor Relations Board will be voting on the proposed Public Works/Recycling & Transfer Labor Union on November 18, 2011.
3. At the last meeting, the Council gave permission to allow Emery & Garrett Groundwater, Inc. (retained by Village Water Precinct) to conduct an exploratory drilling on a Town property. They will start the test within the next two weeks. A Certificate of Insurance has been submitted.
4. There were some potential contamination issues at the Highway garage. The Town Administrator met with DES. Additional soil tests will be done.
5. The tax bills were mailed out on Tuesday, November 8, 2011. Taxes are due on December 8, 2011.
6. The Town received a complaint about the lighting at the Dog Park. The light bulbs were replaced.
7. Public Works started working on some of the building issues at the Safety Center.
8. The Town is in the process of purchasing the Peterbrook property to be used for recreational purposes. There are some concerns the area is polluted. There was an old chemical lagoon used by GE. A report is available through DES. Remediation has been on-going for a number of years and the condition is getting better every year. No additional pollution is getting into the groundwater but there are still traces of contaminants underground. There is an agreement that holds GE as the responsible party for all remediation. The sale will still go through.

NOMINATIONS AND APPOINTMENTS

The Economic Development Committee has recommended that Mr. Jesse Marchand of 40 Martins Ferry Road be appointed to the board.

Jesse Marchand introduced himself to the Council. He was born in Los Angeles, CA and moved to New Hampshire in 1987. He works for DSI Systems, Inc., a national consumer electronics distributor as a Business Development Representative. He is looking forward to working and reaching out to local business owners.

N. Comai nominated Jesse Marchand to the Economic Development Committee.

Chair Sirak announced that starting in January the Economic Development Committee meeting time will be moved from 12 noon to 4 pm.

PUBLIC INPUT

David Pearl, 79 Main Street: I'd like to take a moment to thank Fire Chief Williams, Harold Murray and Todd Lizotte for setting up the Red Cross shelter and all the volunteers that came. It was a very professional set up. They were able to accommodate the citizens who needed help.

Chair Sirak commended Councilor Lizotte for coordinating the schedule. He also commended all Town staff and emergency personnel for all their work.

Jodi Pinard, 11 Morningside Drive: I wanted to come before you tonight on behalf of the Public Works Departments to thank Town Administrator Dean Shankle and the Town Council for allowing us to hold the 2nd Annual Haunted Walk. This year we partnered with the Public Library who brought to life a Story Walk where children could read or be read to. The Haunted Walk was comprised with 2 other trails, as well. One that's not for the light at heart and another one for a maze built for children who do not like to be scared but yet enjoyed Halloween. This event was held on October 28th at the Donati Field. We are proud to announce that we had 570 people go through the scary trail, 200 go through the maze and 70 participated in the Library Story Walk. Once again, we put a donation bucket out and this year we received donations in the amount of \$167 that will be given to HERC to be used for the Adopt-A-Family program. This year we also asked for non-perishable items for the Food Pantry and we received 50 pounds of food that was given to the Food Pantry earlier this week. This event was put on by the employees and volunteers from Public Works and Recycling & Transfer Departments and the Library. It is not only the employees who volunteered their time but family members, as well. We would like to thank

all of those who volunteered and those who donated. Without everyone involved, this event will not be as successful as it was. I have listed the names of the volunteers below:

DPW Employees – Leo Lessard, Douglas Urquhart, Phil Arnone, Jodi Pinard, Mario Desaulniers, Rob Hebert, Ryan Pelissier, Tom Bartula, Scott Brown, Scott Marshall, Dale Cutter, Darrell Bradley, Tony Saggau, Scott Elliott

Recycling & Transfer Employees – Diane Boyce, Richard Blake

Library Employees – Vickie Desharnais, Ellen Tweedy

Family Members – Kevin Pinard, Billie Hebert, Adam Hebert, Penny Desaulniers, Michael Desaulniers, Sarah Desaulniers, Kerri Marshall, Jordan Gonzalez, Krista Pelissier, Christine Cutter, Julie LaFlamme

Thank you so much for letting us do it. The guys at DPW built it in one day. It was so much fun. Then the next day, the guys were out plowing for 17 hours. I'd like to say thank you on behalf of the staff and we look forward to doing it again next year.

SCHEDULED APPOINTMENTS

Tax Department Update

Kim Blichmann, Tax Collector stated the tax bills went out on Tuesday, November 8th and will be due December 8th. The tax rate is same as last year's at \$21.68. The department has a total of 5 staff, the Tax Collector, Deputy Tax Collector, Deputy Town Clerk, Clerk and the Town Clerk. The department is responsible for car registrations, property taxes, dog licensing, vital records and elections. 96.2% of the tax bills that went out in July has been collected. The Town offers basic plates, vanity plates, state park plates (come with a free admission on all state parks for one year). Starting in the Spring, the department will be able to accept credit card payments. A card machine and a credit card receipt printer will be purchased out of this year's budget. Customers will be paying 2.95% interest. Customers will be informed of the fee upfront.

The State is now requiring ID's for the protection of the registrant.

N. VanScoy recommended putting up permanent signs with regards to requiring ID's.

Diane Boyce, Recycling & Transfer Department Superintendent re: Collection Truck Purchase Freight Fees

On October 12, 2011, the Council voted to accept the bid from Hews Equipment for the purchase of (2) New Wave automated collection bodies in the amount \$103,370.00 each or \$206,740.00 for both. It has just come to everyone's attention that the delivery price was not included in the original bid. The delivery price, including fuel is \$2,450. This brings the new price for both collection bodies to \$209,190.

D. Boyce requested for the Council to approve the new purchase price of \$209,190.00. This amount is still the lower than other bids received.

J. Sullivan moved to approve the new purchase price for the (2) automated collection bodies in the amount of \$209,190. Motion seconded by M. Downer. Motion carried unanimously.

Jacob's Square Veterans' Memorial

Kathie Northrup, Heritage Commission Chair and Tony Burdo, Merrill-Follansbee American Legion Post Commander presented a proposal to refurbish the memorial. Fundraising activities will start over the winter. About \$5,000 will be needed for the project. They hope to get the work done by next Spring. The Public Works Department approved the work to be done.

Tony Burdo stated the Town has obligations to the veterans and their families. It's time to do the necessary renovations.

The American Legion donated \$300 towards the project. K. Northrup requested for the Council to accept the donation.

J. Sullivan moved to accept the donation of \$300 per RSA 674:44-b, I. (h). Motion seconded by J. Levesque. Motion carried unanimously.

OLD BUSINESS

Code Enforcement Officer/Building Inspector

D. Shankle stated he intends to propose an amendment to the Administrative Code at the next meeting that would allow making the Code Enforcement a division of Public Works Department. He considered other possibilities but will recommend making the Code Enforcement Officer/Building Inspector a division of Public Works Department. The position will be advertised. Currently, a part-time employee, Robert Flanders comes in twice a week. He requested for a motion to appoint Robert Flanders as Code Enforcement Officer.

J. Sullivan moved to appoint Robert Flanders as Code Enforcement Officer. Motion seconded by T. Lizotte. Motion carried unanimously.

Complaint Procedure

At the last meeting, the Town Administrator presented a proposed Complaint Procedure for the Council to consider.

N. VanScoy cautioned the Council to proceed with the bigger picture in mind and think about what the Council can and cannot do, what is and is not appropriate.

J. Sullivan stated there is provision on the Charter that addresses this matter. Section 3.2 states that *the Council is the sole judge of qualification for office*. He does not want the procedure to supersede the authority given to the Council by the Charter. The procedure is vague as to when a motion needs to be made.

N. Comai questioned the goal of this document.

V. Lembo added the document does not have teeth. There is a process already in place either file a complaint with the Superior Court or election recall. One citizen making a complaint against a particular Councilor shouldn't draw any merit on the Council.

T. Lizotte stated Councilors took an oath, in that oath they are held to certain accountability. We have to deliberate and vote as a council, if a complaint comes before the Council. As far as removal, that's all outlined on the Charter.

M. Downer stated the Charter provides ample opportunities for citizen concerns, initiative petition, referendum and ultimately, recall. Reinventing the wheel does not seem prudent. The Council needs to come back to the Charter and rely on the Charter and RSA.

N. Comai asked what brought about the need for this process.

D. Shankle explained he received a complaint from a resident and found there was no procedure in place. The process sets up a committee that will gather information to be presented to the Council. The Council can also choose to address the complaint as a whole.

S. Orr stated the Council is supposed to act as one body. She is concerned with taking part of that body out and the idea of the Council judging itself. The Charter Review Committee should review this section of the Charter and look at it more closely.

J. Levesque asked how to determine a level on complaints, at what point does it go to Superior Court. Someone who is unbiased should be involved.

T. Lizotte recommended coming up with a simple procedure where the complainant comes forward, makes his/her case, the defendant makes his case, questions are asked, the Council deliberates then votes. The Council has an obligation to be impartial.

No motion was made.

Self-Evaluation Process

Council consensus was to conduct self-evaluation in the spring before the new Council takes over.

NEW BUSINESS

Acceptance of Councilor Nancy VanScoy's Resignation

Councilor Nancy VanScoy submitted her resignation letter on October 26, 2011 effective December 1, 2011. She is moving to Salem and changing her residence.

The Council accepted Councilor VanScoy's resignation.

D. Shankle explained if a replacement is not appointed within 30 days of the official resignation date of December 1, 2011, a special election will have to be scheduled.

The position will be advertised and nominations will be made at the Council's next meeting on November 30, 2011.

Citizen Complaints

The Town Administrator received complaints from David Pearl, 79 Main Street against Council Chair Sirak.

Chair Sirak recused himself. Vice Chair VanScoy took over as Chair.

Vice Chair VanScoy read the 1st formal complaint for the record (see attachment).

Vice Chair VanScoy opened the floor for discussion.

J. Sullivan stated the lack of communication from people beyond the Council's control has put certain burden on the Chairman. The need for a spokesperson was addressed by creating the Media Relations Policy.

T. Lizotte stated the complaint as face value is not too big of a deal. He described the incidents that happened at the last meeting where Mr. Pearl was gavelled down. The Chair was dishonest.

M. Downer commented that he disagreed with the path Mr. Pearl was going down. Ultimately, the Council voted to allow him to speak and the citizen gave his public input.

V. Lembo added that it was wrong for the Council to override the authority of the Chair and vote to allow Mr. Pearl to speak.

T. Lizotte stated Mr. Pearl provided all Councilors with a copy of his comments in advance. Knowing in advance, the Council should have known how to act.

J. Levesque stated everything happened at the heat of the moment. The Chair apologized for it.

Vice Chair VanScoy stated it bothered her that the Council was given a warning. This suggests the possibility that there were discussions between Councilors.

Vice Chair VanScoy read the second complaint for the record (see attachment).

N. Comai stated she does not think the Chair knew his role at the time of the incident. She added the Chair should be allowed to speak to defend himself.

J. Sullivan stated if no one is willing to make a motion to remove the Chair then further discussion is pointless.

V. Lembo expressed his support for Chair Sirak. He has worked hard to bring boards together and has demonstrated great leadership.

J. Levesque moved to show continued support for the Council Chair. Motion seconded by V. Lembo.

T. Lizotte referred to his request to memorialize the facts behind the e-mail sent to all Councilors regarding the Police Chief being placed on Administrative leave. The e-mail left the fact that the information came from the Police Chief through Chair Sirak.

M. Downer stated it is important to look at the circumstances of the events that morning. There were no official communications from anyone. The Police Commission took action under 91A. Thinking about the events that morning he looks at intent. In his opinion, there was no malicious intent on the part of Chair Sirak. He was trying to do the right things by citizens. In retrospect could be handled better.

N. VanScoy requested for discussions to go back to the motion on the table.

N. VanScoy stated the motion does not speak to the complaint.

She clarified the motion is to show continues support for the Chair, therefore, the Council will not consider removing the Chair.

V. Lembo stated the motion speaks to the complaint. Mr. Pearl is asking for the Chair to be removed and the motion is to support the Chair and not remove him.

S. Orr added she'd like to assume positive intent. He was trying to do the right thing. To his credit, he did come back and made a statement for the record to correct it. The Chair realized and admitted he made a mistake. The Council had a discussion on this and realized the mistake, move forward, learn from this mistake and do what is right for the Town.

J. Levesque brought up the fact that Mr. Pearl was the one who disclosed what happened through e-mails and blogs.

Further discussion ensued.

Chair Sirak stated this is very difficult for him. Councilor Lizotte has called him dishonest. He explained the morning WMUR called after seeing Mr. Pearl's blog, he felt obligated as Chair to respond. He attempted to contact Police Commission Chair McHugh. He was embarrassed for the Town of Hooksett the way the whole situation was handled. In terms of apology to the Police Commission, he thinks the apology needs to come the other way around. He should have said he cannot divulge the name of his source when asked by Mr. Pearl. He had the best interest of the Town of Hooksett in mind. Given the chance, he said he would do it except he'd tell Mr. Pearl, in a stronger language that he cannot divulge his sources. It was a decision made in the heat of the battle. Right now, this is a political issue. It belongs to the Police Commission and not the Town Council. He encouraged the Council to make a decision and added that he would respect any decision.

D. Pearl stated he's never spoken to the intent and don't doubt his intent. He spoke about his actions. He did not demand an answer from him. Based on the content of the e-mail, he made the deduction that the information came from the Police Chief. He asked him 3 times and confirmed his answer 3 times. He repeated the story to the Council and Chair Sirak never said "no". All he's hearing from this Council is not

to dispute the facts but its acceptance of them. He is not willing to accept that based on all the good things the Chair has done to this Town. If the Council is willing to accept these facts, he asked that the Council review its records (minutes).

T. Lizotte commented on his statement that the Chair has been dishonest. He said he didn't do anything. He was simply stating the facts the minutes indicated. Either the board supports him and state that the end justifies the means or the board goes by good ethics and code. He added for him getting the memo memorialized in order to protect the Town Administrator and the taxpayers, he's allowed the lesser of the documents to be added to the minutes.

V. Lembo stated the Media Relations policy that was adopted would resolve this issue. He added Chair Sirak has demonstrated the highest standard of ethics in the short time he's known him.

S. Orr added the Chair said one thing that concerned her and that is he would do it again. She hopes the Chair realizes that it was not his role to release the information to the press. Proper procedures were not followed.

J. Levesque stated had the Town had the Media Relations policy in place, this wouldn't have been a problem. He thinks the Chair had learned from that mistake. The fact that he said he would do it again, he meant for the principle of it. He also expressed support for the Chair.

M. Downer added in the end the Council has to look at what it can learn and take away from this event. (1) The Town now has a Media Relations policy, (2) The Police Commission now notifies him, as the Council Rep, when they are going to hold non-public sessions. The Police Commission did not realize how quickly the matter would get out in public. At the end of the day, the Council is better. The Council has improved its relationship with the Police Commission. There is now a more open channel of communications with the Police Commission and that counts for something.

Roll Call

N. Comai	Yes		
M. Downer	Yes		
V. Lembo	Yes		
J. Levesque	Yes		
T. Lizotte	No		
S. Lovas Orr	Yes		
J. Sullivan	Yes		
N. VanScoy	No	6-2	<u>Motion carried.</u>

Chair Sirak took over as Chair.

Snow Storm Emergency Update

T. Lizotte has prepared an action report will be posted on the website.

SUB-COMMITTEE REPORTS

Sewer Commission – T. Lizotte

Mr. Kotowski is now on the Sewer Commission.

Budget Committee – T. Lizotte

Discussion with regards to the School's fund balance spending. T. Lizotte brought up that any fund balance spending should be approved by the voters.

BOA – J. Levesque

Two members (N. Comai and V. Lembo) were unable to attend the meeting due to Fire Union Negotiation meeting. An item was tabled.

Fire Union Negotiation – V. Lembo

Things are moving forward.

Police Commission – M. Downer

A non-public meeting was held. Nothing to report.

Economic Development Committee – Chair Sirak

- The board recommended appointing Jesse Marchand to the board.
- Discussion on changing the meeting time.
- Discussion on possible involvement of the Town on expanding the State Liquor Stores. The board will meet with State officials to explore possible options.

Planning Board – N. VanScoy

- Manchester Sand & Gravel is donating a piece of land to the Town for the School as well as land for the Village Park. These should be coming to the Council for acceptance in the near future.
- The board approved the sidewalks, gazebos and light fixtures for the Village Park. N. VanScoy reminded the Council to consider the future financial impact on maintenance.
- Austin Woods finished Phase 1. There are some issues with the line of houses sitting on a ravine. The hill is washing away. DES approval is required to do improvements. The vesting rights were extended for a year.
- Some concerns with a couple of new subdivisions with regards to water bordering the wetlands. The board is monitoring the situation to see whether infrastructures are needed in order to avoid the same issues Beauchesne Development is having. Test pits are now installed at Beauchesne Development to monitor water levels.

CIP – N. VanScoy

DPW brought up the drainage upgrade project for the Beauchesne Development.

Town Hall Preservation – S. Orr

Efforts are underway to reactivate the committee. An announcement was included in the newsletter sent with the tax bills. Former members of the committee will be contacted.

Heritage Commission – J. Sullivan

The History Week the board co-sponsored was a success.

PUBLIC INPUT

D. Pearl: I find myself rather disappointed with the decision you've made. No one has disputed the facts. To say that we're going to move ahead and everything will be peachy is irresponsible. Your minutes should at least have been discussed. To me, that sets us up for future problems. Your own records show it yet you choose to move in another direction. Please do not blame me for bringing this up and causing trouble. I just brought up your actions. You've chosen not to look at them. That's your problem.

NON-PUBLIC SESSION

N. VanScoy moved at 9:20 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."

Motion seconded by S. Orr. Roll call vote carried unanimously.

N. VanScoy moved at 9:32 pm to exit the non-public session. Motion seconded by S. Orr. Roll call vote carried unanimously.

The Council made a statement that they voted to seal the minutes of the non-public session.

ADJOURNMENT

The meeting adjourned at 9:33 pm.

Respectfully submitted by,

Evelyn F. Horn
Administrative Assistant

Nancy Comai
Town Council Secretary