

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, October 24, 2012

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

PRESENT: Leslie Boswak, Nancy Comai, John Danforth, Michael Downer, Vincent Lembo, James Levesque, Todd Lizotte, Susan Lovas Orr, Chairman James Sullivan and Dr. Dean E. Shankle, Jr. (Town Administrator)

PLEDGE OF ALLEGIANCE

October 10, 2012 –Councilor Lizotte moved to accept the Town Council regular meeting minutes of October 10, 2012. Motion seconded by Councilor Orr

Chairman Sullivan – Any changes or amendments?

Councilor Comai – Yes on page 16 in the middle of the page I believe that Councilor Orr is listed as stating “that’s what I am saying you thought you were following the guidelines you interpreted incorrectly” I believe that was me that said that. I think Councilor Orr concurs with that that can be a change.

Councilor Lizotte – On page 11, in my commentary as you go down the page it says “we don’t get to the hard core decisions, let me throw this out. It says “I like there sarcastic method. I’d like to change sarcastic to Socratic.

Councilor Orr - On page 12 the bottom, I somehow like to make it clear I was addressing my comment directly to Dr. Shankle. It sounds like I am using the royal you and it was a direct question to Dr. Shankle

Councilor Danforth – On page 11, next to my name it says inaudible. I do believe I was using the microphone. I believe we were talking about supporting Dr. Shankle in his initiative to explore the positions and reorganizing the town departments and the administration here at town hall. It was to that effect I don’t remember exactly. If need by I think I could write something up and mail it in because it does say inaudible.

Chairman Sullivan – Ok, if you could forward that information to Dr. Shankle and we could add that to the official minutes. Does anyone have concern with Councilor Danforth’s approach? None, ok thank you. Seeing no other changes all those in favor of approving the minutes as amended and subject to additional information.

Councilor Levesque and Councilor Downer abstained. Motion carried.

CONSENT AGENDA

1. Acceptance of Donation to the Police Department per RSA 31:95-b - \$185
2. Acceptance of Grant Fund Reimbursement for Fire Department - \$3,094.24

Councilor Lembo moved to accept the Consent Agenda. Motion seconded by Councilor Lizotte. Motion carried.

TOWN ADMINISTRATOR’S REPORT

Dr. Shankle updated the council on the following:

1. I spoke with the Fire Chief and the department very successful table top exercise it was on the potential for an earthquake.

2. We try to work with other town and we are working with Bow. Matt Labonte is doing inspections for Bow while there inspector is on vacation. The Bow inspector will then cover Hooksett while our Code Enforcement Officer is on vacation.
3. GE is interested in a traffic light and we are starting that process with Southern New Hampshire Planning and they are willing to do a single warrant study to see if a light is warranted at that location
4. PSNH ribbon cutting the building is quite impressive with state of the art training center and they will be using this for the entire area/
5. Fire Chief asked I mention to the council the annual Fire Fighters challenge in on Friday Oct 26, 2012 at 11:00am at Cawley Middle School. Students really get in it. They have invited the councilors.
6. The Merrimack Riverfront Project – The Conservation Commission is planning purchase 122 acres of scenic land along the Merrimack River. On Tuesday, Oct 30 at 7:00pm at the Hooksett Public Library there will be a presentation on this project.
7. You may remember a resident came in to talk about some concerns they had about the apartments on Mallard Lane. I have heard from her and there has been some back and forth with both the management company and the tenants. I have been trying to set up a time for our Health Inspector to go out there with the tenants. I have not been able to set that up. Some people are saying it has been taken care of and it's not a problem anymore. Others we are just not having any luck getting too. The property management company did write a letter saying there were some problems and they are working on them. They are willing to come in if the council really wants to meet with them. I did not invite them or put them on the agenda at this point because I would like to get in there and see what the issues are first hand so that I can take a look at it and get an idea of what is happening over there. At this point as far as I can tell any issues that anyone had have been taken care of. If not they need to call me and let me know so that we can go out there.
8. Both the Old Town Hall and the Prescott Building can be used now. Bathrooms and heat are now working.
9. I am sure you all saw Banner Story on the Pinnacle Park I got a little feedback from Steve Couture he said the trails looked good and there were four cars in the parking lot. Seems like the trail is getting used.
10. The issue on Hale Ave with regards to the drainage. We told Leo have an engineer look at it. We believe we have a plan we are just waiting on the property owner to get back to us. If the property owner gets back to us soon enough we believe we can fix this in a way that everyone is happy with.
11. The moderator Mr. Riley sent letters to the DPW employees thanking them for their assistance before and after the primary election cycle. He also sent one commending the efforts of Acting Town Clerk Billie Hebert and Leeann Moynihan for all of their assistance as well
12. We have a lot of employees attending training and I try to keep you updated on that. Jo Ann Duffy Leadership Institute Program. This is a two part certification program through the Local Government Center. DPW Employees have been attending trainings as well.
13. CIP process has begun. There will be a meeting every Tuesday for the next few weeks
14. Budget is in the beginning stages. I will be giving an overview of the budget to the Budget Committee tomorrow night.
15. As you will see later we are still talking with Preservation Alliance. This is an agenda item later on tonight
16. I was involved in an exit interview with a DWP employee. He really enjoyed working at the DPW and the atmosphere there is really good
17. We are in the process with Kiwanis to sign a new 2-year agreement for the food pantry and the kid closet space
18. I met with the new manager of the Police Department and he has been tasked with working through the process of finding a new police chief. He expects to have the field narrowed down and bring potential candidates to the commission sometime during this calendar year.

Chairman Sullivan – Any questions for Dr. Shankle?

Councilor Levesque –What is the traffic light location you were talking about?

Dr. Shankle – Industrial Park Drive and Route 3.

Councilor Levesque – Thank you.

Chairman Sullivan – Are there any other questions? Thank you Dr. Shankle you look like you are busy as well as all the staff and that looks great from my point of view.

PUBLIC INPUT

None

NOMINATIONS AND APPOINTMENTS

None

SCHEDULED APPOINTMENTS

Public Hearing, re: Acceptance of Conservation License Plate Grant in the Amount of \$9,528 per RSA 31:95-b.

Chairman Sullivan – The Public Hearing Notice was legally posted and we have confirmation of that and I am just going to read that. The Town of Hooksett Public Hearing Notice. The Hooksett Town Council will hold a Public Hearing on Wednesday October 24, 2012, at the Hooksett Town Council Chambers, at 35 Main Street. The purpose of this public hearing is to accept a Conservation License Plate Grant in the amount of \$9,528. The grant will be used to conserve town owned inventories from 1825-1865.

Chairman Sullivan opened the public hearing at 6:50pm.

Chairman Sullivan – Would anyone like to speak to this? Would any councilors like to speak?

Kim Blichmann – Good Evening, I applied for the grant in the spring of this year and was just given notification that we were awarded the grant. The \$9,528 sounds like a lot of money but it's actually going to be 6 bound volumes will encompass the 1825-1865 involved in that will be 3 micro films and 1 digital file. The 3 microfilms, 1 will be housed here in the Town of Hooksett vault, 1 will be held at the state library, and 1 will be held at the New Hampshire Archives and it is through the grant program that I have to follow those specifications as where all of the microfilms will be housed. The preservation work will be complete by Cofile Preservation formally Brown's River which has done work for us in the past.

Councilor Orr – Will the Library be getting a copy of this as well?

Kim Blichmann - They can have a copy of the digital file, but the books themselves will be housed in the vault.

Chairman Sullivan – Adhering to process we will keep this public hearing open until after the second public input session and at that point we will close it. Then at our next meeting we will vote on the acceptance of the grant as a result of the hearing.

The public hearing was closed at 10:30pm.

Karin Cataldo, 18 Highland Street, re: 16 Highland Street

Dr. Shankle – Matt Labonte is the one who put this together and he is here if you have any questions. The property was originally a mobile home located on the site in the 1960s. It was further built upon and used as a residence and as a church sanctuary and it was finally added with an adjacent parking lot. The church was discontinued in 2005. The building has been on the Hooksett Hazardous Building list for some time and recently included on a list consolidated and given to the fire department on 2/24/12. The purpose of the list is to track buildings that vacant and in disrepair too alert the fire department for code enforcement to track. The building remains to this day unsecured and very unsafe inside all wiring and metal piping has been striped. The building is starting to show signs of collapsing internally. The Fire Department, DPW and Code Enforcement have all inspected the building. They all concur that it poses a public safety hazard in its current state. Code Enforcement issued a notice to raise the structure on

7/16/12, to the owners of record. The notice did provide for a possibility of saving the sanctuary section of the building if satisfactory measures were implemented to safely allow for it to remain a free standing structure. Both owners responded that they do not have the financial means to pay for the demolition to remove the structure. The DPW said that it could demo and remove the building at substantially lower cost than the \$30,000 estimate that has been mentioned by others. There may be title issues with the owners and the configuration of the lot. The current owners of record currently claim the land was deed to them by their father with out there knowledge or consent. One of them is attempting to deed his interest back to his father and the other has filed Chapter 13 Bankruptcy. The configuration of the lot is such that there have been some attempts by the people involved in this to say the building is not actually on the lot where we have always had it. Approximately \$100,000 in unpaid taxes and interest accruing on the property and no property taxes have been paid since 2007 and there is a tax lien in place. Currently the land only values at \$93,000. Somebody has actually approached the town and the owners thinking they may want to purchase the property with the intention of bringing the property back to the use as a church. This is pretty much where we are at this point. Ms. Cataldo is the abutter.

Karin Cataldo – Dr. Shankle has pretty much covered everything. Living next door to this property as you can see by the pictures this is a health hazard, safety hazard. It is right on top of my property. Two weeks ago I went out to my car late at night to retrieve something and I stood there and the marijuana smell was just coming over. People and animals are in and out of there. Feces build up must be terrible. The mold in the back I have had to stop mowing my lawn. I had one person at my home ask me if that was Waco if you get my drift. Something needs to be done. This property needs to come down. I have had my home on the market for three years and every realtor has said that will not be able to sell my property because of this building. No one wants to live next door to this. Especially people with children, I am sure they are afraid they will wonder over and get hurt. In every aspect in health and safety, it's an eye sore. It not only effects the value of my property which has been greatly lowered it effects everyone in the neighborhood. There are other people in the neighborhood here in support. Something needs to be done. It needs to come down.

Chairman Sullivan – Dr. Shankle provided the information to you as well as to the audience, from my understanding we are willing and able to do things to rectify the situation but we need to settle who owns the property and once that is settled we will be able to pursue a resolution.

Dr. Shankle – Yes that is certainly one of the issues. Matt is here tonight and I am not sure if he would like to come up if he has any update on this. Basically at the last minute an adjacent property owner is saying that building might be on their property and not ours. That certainly puts into question the whole tax issue whether we have been sending the tax bill to the wrong person. There are a lot of legal issues that we need to sort out before we start tearing down buildings.

Matt Labonte– As of today we have been engaging the services of Duval Surveying to first get a proposal from them and start doing some preliminary research. It is as complicated as we thought. There are a lot of areas in previous deeds he is going through. He thinks once he gets through those errors he will be able to narrow this down. He did speak to a previous surveyor who had made an attempt to come up with an agreeable solution to the survey which no one else accepted. Part of our challenge is what Dr. Shankle had said is identifying who owns the property. If we take it by taxes we'll own it and we control the demolition. For me to go through the process of raising the building I would have to issue an order and then come back to you to ask that further move that order into the court system and get them to agree. The next step would be figuring out how to pay for it. I did speak with Leo this afternoon and he threw out a number between \$12,000-\$20,000 if the DPW was to do it themselves. This includes disposal and bringing the site back to an acceptable situation. This is so we could get a decent number for it is we were to auction it off or sell.

Chairman Sullivan – Ok, Thank you. Any questions from the council?

Councilor Boswak – If we took it by tax deed would that solve the legalities of who owns it, would we just own it and we could start there at square one?

Dr. Shankle – Well it would be nice if the surveyor that surveys it says that the building is actually on the property that we have always had it on. Otherwise like we said we have been sending the tax bill to the wrong person and then there is no taxes owned on it. If the person has not been getting a tax bill then there are no taxes owed. That is the first thing and then there is the monkey wrench of someone getting a survey that no one accepted that showed it was on someone else's property. That whole little area down there basically, there are a few wheat they would call slips in surveying in places that just don't make sense and don't seem to match up when you put deeds together. I am just trying to be cautious because I do not want to put a lien on someone's property that doesn't owe money. We want to move ahead. We understand the neighbors concerns and it probably not just the neighbors down there. But we just need to make sure we don't get the town into a liability situation.

Councilor Lizotte – Redirect to Dr. Shankle would you like us to authorize some funding to do a preliminary search?

Matt Labonte– The initial proposal I got today was \$1,500 to start the title search and perform the survey.

Dr. Shankle – I think we are ok with that. I don't think if that is all it is then we can just do that. If that survey says what I think he will and that's on our land then we will come back here to move quickly to take the property. We thought that is where we were headed but all of a sudden out of nowhere this other issue arose.

Councilor Lizotte – We have on abutter here. How many other abutters are there to the property?

Ms. Cataldo – They all family to the property owners. Myself and the people on the other side are some family members to the property owners.

Matt Labonte - I believe there is an additional 2 abutters. Is that correct?

Karin Cataldo – There is someone on one side and then I'm on the other. So many people own this property then you have the property behind it that is owned by another relative.

Dr. Shankle – Part of the question with the abutters is which survey is right.

Chairman Sullivan – The approach that Councilor Lizotte asked once that is resolved, then we could precede accordingly to if need be take the property and raise the building. Which if the town needs to raise the building the town can appoint Matt to come back to the administration to request authorization to expend.

Matt Labonte –Yes that is correct, we would raise the building as the owner at town expense to make it a marketable property.

Councilor Downer – If I may it sounds like we need to get the survey make sure all the ducks are in a row there and then we can decide on a course of action. No action tonight other than proceeding with the survey to peg exactly where things need to be.

Councilor Lembo– Is there a tax card on this property that outlines the property?

Matt Labonte– Yes,

Councilor Lembo – And does the tax card indicate where think?

Matt Labonte – It does.

Councilor Lembo – And who is challenging the tax card?

Matt Labonte – Some the abutters, past owners, present owners. It is a family issue. This is a very complicated and there are errors in some of the previous deeds that have been noticed that conflict with deeds that were transferred on the same day. It is a very complicated history that is being processed through to verify but we're comfortable that we have the right survey.

Councilor Lembo– But they have all been filed legally?

Matt Labonte – We are basing it on what has been filed at the registry and what we think is correct. That has been the position of the Assessing Department is my understanding.

Councilor Lembo – And with what is in the tax card they own \$100,000 in back taxes roughly.

Matt Labonte - Yes with interest that is correct.

Councilor Lembo – The lot is only valued at \$90,000

Matt Labonte – The land yes.

Councilor Lembo – Is it a buildable lot?

Matt Labonte – Yes, it has water and sewer.

Councilor Lizotte– Final question it sounds like the majority of the abutters do not want to assume any liability for this property is that correct?

Matt Labonte – It gets even more complex the parking lot for the church is on the abutting property not on this piece of land. Which has the building we're considering raising and no one stepped forward who wants to raise the building at their cost.

Dr. Shankle – But as soon as we raise the building someone is going to come in and say that land is mine.

Karin Cataldo – And here I sit suffering on the other side. You see how close that is to my property. The Fire Department wouldn't take it down because it is so close to my house. If there is a fire I am going with it if the wind is going my way.

Councilor Boswak – My question is for both Dr. Shankle and Matt, what is the timeline to clear up the question on the survey and what would be the time line to take to court because I just don't think that we should sit here in limbo too long if he can go to court and if he actually does go to court can we place a lien on the property so that whoever comes forward has to pay for this demolition.

Matt Labonte – I would expect results back from the survey within a week. It's a four sided lot, if he sees it to be consistent with what we think it is then he said it would be very quick survey. It is going to take him much more time to complete the title research. If we do deed it and take it I will not need to go to court because that would be our property. If we go to court it will take time. I am not sure how long. I would have to find out how long it will take.

Dr. Shankle – One of the other complicating factors is a bankruptcy in the middle of all of this. Supposedly the father deeded the property to the sons without their permission and without them knowing.

Chairman Sullivan- As this point as Councilor Downer had stated once we resolve those two items, then we will know maybe with the two weeks they will be coming back and we'll know what the next steps will be and let Mrs. Cataldo know.

Councilor Boswak - Can we make a consensus that if the survey comes back and it is still in question that Matt initiates court proceedings to get this going it so that we can at least find resolution on this instead of stalling?

Chairman Sullivan – We could do that if you would like to make a motion to that.

Councilor Boswak motioned if it proves that we have to go to court to solve this situation we initiate that process as soon as notification is received and we allow the administration to handle that seconded by Councilor Downer

Matt Labonte– I did discuss with Town Administrator the what if we don't have clear title and his suggestion was to notify all of the interested parties including the abutters, give them a timeline 30 days to raise any claim differing from what we consider to be the configuration in the title. So that we can go into court and say we have given the opportunity to these people to inform us if they feel the configuration of the lot is incorrect. That way it might speed the process.

Chairman Sullivan – So this motion would allow you to move forward if need to be?

Roll:

Council Lovas Orr –Aye

Councilor Boswak – Aye

Councilor Comai – Aye

Councilor Danforth – Aye

Councilor Downer – Aye

Councilor Lembo - Aye

Councilor Levesque - Aye

Councilor Lizotte – Aye

Chairman Sullivan - Aye

Motion Passed

OLD BUSINESS

16 Monroe Drive

Dr. Shankle – At the last meeting you wanted me to check to see what the actual hard costs would be I talked with a surveyor and again this is the property where the neighbor wanted purchase the property next to him. The hard costs of doing the surveying are about \$3,500 if we waive the costs in here to file and what not the sale. We would be looking at a minimum bid of \$6,500.

Chairman Sullivan – Have you had further conversation with the gentle man who broached this subject?

Dr. Shankle – No, I wanted to find out from the council if that is what you wanted to do. I thought we would actually talk to him before we put it out to bid. I don't he wants to see someone else purchase it. I figured we would at least give him a shot at it.

Councilor Levesque– Is there any other abutters to that property?

Dr. Shankle – Yes there are, we are an abutter on one side because there is a drainage easement through there. Then there is someone right next to us and then there are also abutters behind the property. There are other people who may want it.

Councilor Lembo – The gentleman here last week said he had a price of \$3500 and that is the cost to survey it?

Dr. Shankle – Right, from my understanding last year before I got here this was supposed to go on the agenda but it did not make it. The original proposal from the Interim Town Administrator was for a sale price of \$3500 with closing costs and title and deeds fees which are another \$3,500 so the total package was \$7000.

Councilor Lembo – His impression was it was \$3,500 and he would own it without any deed if I understood it right.

Dr. Shankle – I think that was the impression he seemed to have.

Councilor Lembo – Then would the council entertain letting him put a bid on it without a minimum bid on it? We don't have to accept it.

Councilor Boswak – I think where it is not urgent we should ask Dr. Shankle to speak with the gentleman to see if he is willing to bid before we even move forward on anything and bring it forward at the next meeting because if he is not willing to pay any amount of money and he is not willing participate in this then why are we moving forward for?

Councilor Lembo – He had indicated to us that he had limited funds. I would say you are correct let Dr. Shankle negotiate with him.

Councilor Orr – I think that we had decided that we couldn't in all fairness just make the negotiations with just the gentleman. That because it was town land that was for sale we had to come up with a minimum bid and put that out to bid to everyone else. That if we just worked directly with them it just does not look good.

Councilor Boswak – I just want to comment on what Councilor Lembo said in regards to the limited means comment, because the argument immediately was if I want to build an addition to my home then I should be able to do it and that costs a lot more than \$3,000.

Dr. Shankle – The very strong feeling on everyone's part that we need to restrict what could go on that. I continue to be concerned about our ability to do that. If you do not want something built on that land then you should continue owning it. Once you sell we could try to restrict it but the ZBA can change that. Someone could spend \$5,000 for a piece of land and then be willing to spend the time and money to fight those restrictions and make it a buildable lot. I just want to throw that out there.

Chairman Sullivan – Do we actually want to sell it? By us not selling it that would prevent anyone from building on it, so if the person who approached us to purchase it is out bid.

Councilor Lizotte – I think its town property we should put out a minimum bid and if the net effect is zero cost to the tax payers and leaves it on the tax role that is a great thing. But if it hits the tax payer, I am not in the subsidiary business so just let it go through the process if he wants to bid on it let and if he doesn't then it can stay in the inventory,

Councilor Orr- We had an extensive conversation last time about this and all the options. I think we have to follow the process. This is town land that is for sale we have to go with the process. We cannot work directly with him. I agree if I buy land I will do with that land what I want to and what is legal. We can't really put restrictions on that I think we roll the dice and assume that it is really not a buildable lot and the only interested party might be that abutter.

Councilor Comai motioned to put the property out to a public sealed public bid a minimum bid of \$3,000 for the process to begin seconded by Councilor Boswak

Councilor Comai - To move this forward as we have all gone around and around. There is a process in place and the Town Administrator has made his recommendation on this proposed land sale and we should follow it

Councilor Boswak – May I amend the motioned to include the language Dr. Shankle has stated last week “should an abutter purchase it” and I don't remember the rest of the language and maybe the additional \$3,500 for closing costs seconded by Councilor Lizotte

Dr. Shankle - That would be my recommendation whatever you think the land is worth and the closing costs

Chairman Sullivan – Any discussion on the amendment?

Councilor Lembo – Should we just state in newspaper article that it is not a buildable lot?

Chairman Sullivan – Do we know if someone purchased it and wanted to build something else on it can they? I am not sure.

Dr. Shankle – I think we should make clear wherever we can that it no longer meets the requirements for a buildable lot in that zone.

Councilor Boswak - May I amend my amendment to include that statement seconded by Councilor Lizotte

Councilor Orr – I just have a question because the original recommendation required that if it is sold to an abutter that we require the merger of the lots.

Dr. Shankle - I think it is good to put that wording in.

Councilor Boswak – I withdraw my amendments

Councilor Lizotte – I withdraw my seconds

Councilor Comai - Withdrawn her motion

Councilor Comai motioned to put the property out to a public sealed bid with a minimum bid of \$3,000 in addition to requiring the buyer to pay for any associated costs of the sale. Sell this property to the highest bidder who exceeds the minimum bid, if it is sold to an abutter, there should be a requirement that they merge it with their present property and pay for the associated costs. This is a non buildable lot. Seconded by Councilor Boswak.

Chairman Sullivan – Any discussion at all on that motion.

Roll Call:

Council Lovas Orr – Aye

Councilor Boswak – Aye

Councilor Comai – Aye

Councilor Danforth – Aye

Councilor Downer – Aye

Councilor Lembo - Aye

Councilor Levesque - Aye

Councilor Lizotte – Aye

Chairman Sullivan - Aye

Motion Passed

Surety Bond Release, Wal-Mart Off-Site Improvements - \$36,412-60 –

Councilor Lembo motioned to table this item until next meeting seconded by Todd Councilor Lizotte. Motioned passed

Media Relations Policy

Councilor Boswak motioned to amend the Media Relations policy under exceptions I would like to add a C: Elected officials may speak to the media unless the media inquiry is personnel and/or non-public session subject matter in which case the inquiry shall be directed to the Town Administrator as stated above. Seconded by Councilor Downer. Motion Passed

Councilor Boswak – Last week it was very late and Councilor limbo did discuss this Media Relations Policy and it says “media inquiries or new releases whether verbal or written are to be directed to the Administrator who will evaluate....” Exceptions are department supervisor or Fire Chief it says nothing about elected officials it does speak below as to how a council member can speak but not only the council is exempt but no elected official are governed by us. However with the exception that it is personal or non-public subject matter because we are all then bound by statue. So that covers all of the elected officials by statue. Councilor Lembo is absolutely correct it is contradictory the way it is written now and that is way I would like to change it.

Councilor Comai I think we could make this easier by amending the motion to say elected officials can communicate with the press instead of adding a C.

Councilor Boswak – We should be an exception, elected officials should be exempt. As this policy applies to all employees who are under the direction of the governing bodies but an elected official should be an exception. Then there is no contradiction because this is contradictory. The policy itself is flawed I believe.

Councilor Lizotte – I agree with Councilor Boswak and a good example is recently I received a call regarding a legal settlement. I cannot make a comment because this was settled by our attorney even though it was settled in public. I did not want to get into a situation where someone asked me my opinion about the expansion of Petersbrook and I can't make a comment on it. If someone puts out a public statement that's different from a personal issue which are 91-A issues. I like that amendment.

Chairman Sullivan – This would allow all of us to make a comment as long as it is not a personal issues or pending legal case.

Councilor Comai – I would like you to re-read what you had said because I'm really concerned about an elected official speaking as elected official representing all of the elected officials in the body and that's the point of why it is not there. I want to be clear that the person speaks on their behalf and not as the elected official.

Councilor Boswak – I am happy to read it however none of us have authority over another elected official.

Councilor Comai – We can't be the paper saying I am and town councilor and I think this.

Councilor Boswak – Absolutely, yes you can. That is my constitutional right. I cannot slap Marc Miville's hand because he makes a statement that I don't like because I have no authority over him.

Chairman Sullivan – Are we clear on what the motion is and what the intentions are behind it?

Councilor Lembo – My thoughts that Mr. Lizotte has spoken out of turn and you have as well in regards to that media policy was written it's in fact true isn't it?

Chairman Sullivan – Speaking for myself and Councilor Lizotte we felt that we were able to do that under that section as we were speaking as an individual councilor not as a whole board. This now clarifies it. I don't think I violated the rules at that point you felt it was. It prompted you to bring this to us and now we are going to clarify that.

Councilor Lizotte – The issue at hand is you can make any law but if it violates your constitutional rights it is an illegal law. In regards to the way it is stated it is the way it is. You can say it is confusing but to me it is crystal clear you have rights as an individual. This is basically stating that we cannot even have a debate because we are talking outside of the policy. I think it clarifies things in regards to legal areas.

Councilor Comai – If you add exception C. as stated it is still confusing and in direct conflict of the policy. You can speak as Councilor Boswak just not as Town Councilor Boswak.

Councilor Boswak – Yes you can.

Councilor Lizotte – Yes you can as a Town Councilor.

Chairman Sullivan - The press will not saying Chairman Sullivan they will be Jim Sullivan. I would think you would also state that you are speaking of your own opinion.

Councilor Boswak – I have spoken with the press a few times here and in my profession and I have never used my title. Monday's news story I don't believe Councilor Lizotte made a comment to the press. I

believe the correspondent watched the video and had nothing else to write about. We didn't even make a statement and we were quoted. This I believe just clears up that elected officials can speak to the media.

Councilor Orr- I think we are picking this apart. If I speak in this chamber and I express my opinion there is no one that will assume that is the same feeling of everyone on this board. Of course I am only speaking about myself. I agree I have a constitutional right to speak my mind as long as I am not violating any laws and I believe we are making more of this than needs to be.

Councilor Levesque – The last paragraph in the media policy states that the elected official will specify that they are representing themselves and not the body they serve on.

Town Charter Amendments

Chairman Sullivan – I know that we charged the Town Administrator to look at the charter and we do have a timeline as to when we want to place articles on the warrant for charter changes if we so choose.

Dr. Shankle – I handed these out tonight and we wanted to ensure the timelines were correct. Jan 8, 2013 the public hearing notice must be in the paper, if there are things that you would like to change in the charter. November 28 is the only scheduled meeting in November. You may want to have a special meeting in November if you believe there are major changes that you are considering. December 7, 2012 petition for charter changes must be submitted.

Chairman Sullivan – So the last day for a petition charter change to be submitted is December 7?

Dr. Shankle – Well it states that a minimum of 130 days are needed to complete all of the steps above in order for them to appear on the May 14 ballot.

Chairman Sullivan – Any questions on the timeline?

Councilor Boswak – I definitely have some questions. I am guessing this page here was prepared by the attorney the charter amendments by petition. This only addresses 49B52-A which is only the following procedure will be used in the alternative method set out in paragraph 2 which is much simpler and I don't understand why they didn't include that. Paragraph 2 says that on a written petition on a number of votes equal to 20% of the votes cast at the town election but in no case less than 10 voters the municipal officers shall by order place petition warrant article on a ballot. This seems more complicated than it needs to be. I am not sure how many voters we had at the last municipal election but I have certainly received petitions in the past in accordance with Paragraph 2 not Paragraph 2-A.

Councilor Boswak – My concern is the deadline for citizens to submit this petition is 11/7 we are not having a meeting prior to that date so we are taking away citizens' right and I know that there is a petition circulating for the Police Commissioner question to be placed on that ballot as a charter amendment. I have seen a conflicting legal opinion regarding that as well. We need to know before November 7.

Councilor Lizotte – Are we making all of those sorts of legal opinions public or keeping them non-public? I am just asking.

Chairman Sullivan – Yes I believe legal opinions are sealed unless we vote to release it and we would need to vote on releasing it in regards to the charter changes.

Councilor Lizotte – Petition warrant is different from a petition for a charter change correct?

Councilor Boswak – The charter states police commissioners shall perform their duties as prescribed by law. This is very conflicting. I want the voters to decide.

Councilor Lizotte – I want to ensure that if we are looking at those types of charter amendments that have indicated that if they make a big change we make sure we have done our diligence in regards to what replaces and such of that nature.

Chairman Sullivan – If residents have opinion then it is up to them to move forward in accordance with the rules. But if we want to move forward as charter changes as the council then that should be our concern.

Councilor Lizotte – Although we do not need to spoon feed people we do need a procedure and process in place so that procedural due process happens. Based on the process I was not afforded procedural due process with the former Town Administrator in order to get a warrant approved. I agree with Councilor Boswak on that point.

Councilor Comai – If you read the remainder I am not sure there is enough time as the based on these dates to fit a petition in. This is hard.

Councilor Boswak- I want to let the public know that if you want to do this. If the council wishes to put this on the ballot or not I think we should vote on it this evening so that the public is aware whether or not the council putting this on the ballot. November 7 is there deadline and we do not meet before that. I think we need to make the public aware so we are not holding up what they wish to do. We are here to assist the public not hinder them

Councilor Comai – We are not hindering the public this is.

Councilor Boswak - I am asking the council if they wish to amend the charter eliminate the police commission. If they do that's great and if they don't that's great I am not trying to go there.

Chairman Sullivan – At some point in this charter there was a reference to the sewer commission this reference no longer exists. The sewer commission does exist and must follow the same RSAs but they are no longer referenced in the charter. If we vote removing the protection of the police commission from our charter, this would still need to be a separate vote and people need to know that this does not do away with the Police Commission. That would still need to be a separate vote.

Councilor Boswak - I am asking are we going to entertain as a council a charter amendment to remove this so that the voters if a petition comes forward it is cleaned in the process. I believe we just need to say if we are going to or not. I just feel the public has the right to know one way or the other what we are going to do so they can move forward as well.

Councilor Lizotte – I say no and that is why I wanted to set up the subcommittee. I am looking at the bigger picture and what we can do. I believe the citizens can still bring their petition to the legislation and I really want it to be the citizens that do it.

Councilor Boswak motioned to amend the charter to eliminate police commissioner from section 11.6 knowing it doesn't remove them it just removes them from the charter and this will not change state law seconded by Councilor Lizotte

Councilor Lizotte – I would be in disfavor of it only because what I would like to see is let the citizen bring this forward and remain a neutral party. I would rather utilize our subcommittee and move forward from the recommendations that are generated there.

Councilor Lembo – What is the final date for the citizen's petition? Do we know that?

Dr. Shankle – I just went to get that and I have the date as being March 5.

Councilor Downer - Under RSA 39:3 it requires either 2% of the registered voters or 25 registered voters whichever is less.

Councilor Lembo – Citizens come before the council with the petition with 25 or more signatures on it, to abolish the police commission it will go on the ballot correct?

Councilor Downer – Basically what happens is once the signatures are verified the town council would be required to place the article on the ballot and again that is 39:3.

Councilor Boswak – I would like consensus to release legal opinion strictly related to chart amendments from Hage and Hodes.

Chairman Sullivan – Does the council agree? All agreed

Councilor Boswak – This legal opinion is from the same legal counsel who provided a contradictory opinion on the same matter. “This letter will reply to your additional inquiries concerning the Hooksett Police Commission who advised us that there are efforts underway to place an article on the Hooksett Town Warrant for the May Town Meeting to abolish the Police Commission consistent with our letter dated January 13, 2010. In order to abolish the Hooksett Police Commission it will be necessary for the town to adopt a charter amendment pursuant to the provisions of RSA 49-B:5. RSA 49-B:9 provided that special laws pertaining to the town of Hooksett which were in effect at the time the charter went into effect in 1989 can be repealed by a charter amendment, in this instance the laws would be repealed by a charter amendment which would abolish the Hooksett Police Commission. The provision of the charter that is being amended is section 11.6 it is stated the police commission shall perform their duties as prescribed by law.

Councilor Downer – I have letters dated October 5 that are contradictory.

Dr. Shankle – The only thing I would like to say is that I can’t believe there is a requirement where we have to have two votes on the same subject and if they go different ways what happens then. We can ask Atty Buckley to clarify his letter but they cannot expect us to have two votes on the same day.

Councilor Lembo – I believe Councilor Lizotte will agree Mr. Buckley at that point in time was very confused.

Councilor Lizotte – The issue was that legislation was changed and prior to that the question came up if you could abolish the commission by the removing from the charter. Then the legislation came about in regards to using 39:3. We argued against the caveat because the law changes on December 15 and posted by the Governor that evening it was brought here and did not provide the citizens with procedural due process. The town council had the ability to take unilateral action to bypass the voters and take action. The audience argued that 39:3 with 25 signatures was an avenue that could be used. I just want to allow this to happen.

Councilor Downer – As the council we would have to follow charter amendment procedures under 49 B:5 if not provided for in RSA 39:3. Since 39:3 was amended effective 2/15/11 since the law provides for 25 people to come forward and place it on the warrant the public has the right to do that. I feel as if we are injecting ourselves into this and if the voters want to do this all they need to get is 25 signatures to move forward with it. Then the voice of voter is the common sense is if the voters want it there is a mechanism to do and if we want it there is a mechanism to do that through charter review. I am in favor of the public bringing it forward.

Councilor Downer – I am on the record that I am in favor of whatever the public deems important enough following 39:3 I support that 100%.

Councilor Comai – To further into these letters there is vehicle for those who wish to bring a petition warrant article forward and they are 39:3 or 49B.

Councilor Boswak – This keeps pointing back to 11/7/12 deadline under 49B initiative petition. This requires 25 of the registered voter and the council does not have to act on initiative petition either. Only a referendum petition and that requires 1600 voters.

Councilor Downer - In 412 3:A option to rescind under article 39:3. I think again is deferring to the voter is wise at this point.

Councilor Boswak – That's fine but we are not going to pick one of our legal opinions to hold up in court if this were to come forward. I just want to send a clear message.

Councilor Lizotte- I guess the thing is that either or will not impact it but we need to make a decision. We want the public to do it and should give them the deadlines in which they will need to follow.

Councilor Boswak withdrew motion and Councilor Lizotte removed second

Chairman Sullivan– We want to make sure we do things properly whether we have the authority or would it be up to the voters to place it on the warrant.

Councilor Boswak – I have two more charter changes that I would like to raise and possible have Dr. Shankle look in these. The first one is section 8.3 Referendum Petition if someone from the public wants to put something on the ballot the only way they can make that happen is gathering 20% of the registered voters which is 1600 signatures. The largest petition ever received by anyone was 965 signatures. I would like to see the 20% reduced and I would like to see it reduced to 10% which is 800 signatures. Personally I don't think 20% is realistic we can't even get 1600 people to come out and vote. If not 5% not lower than 5% I think it has to be a serious effort but 1600 is just too high. The other and this was mentioned to me is in regards to the Planning Board and maybe Dr. Shankle can clarify this. Someone approached me it didn't make sense for the Town Administrator and a department head to serve on the planning board because they are serving as staff members as well. I don't have an opinion but I was asked and wanted to bring it forward.

Dr. Shankle – I have been saying this all along. I get in situations where I truly believe our attorneys seem to think our charter trumps state law. People who sit on land use boards should live in town. Neither I nor the DPW Director lives in town. For example I spoke with Richie Brother long before they went to the Planning Board and the same as the DPW Director who sits on TRC we see this information before it arrives at the planning board level. I think we should be there for staff input when necessary. In Merrimack I would be speaking with the public in the audience or I would come before the Planning Board and speak on the applicant's behalf. It is not appropriate for me to do that as a sitting member.

Chairman Sullivan– Once they file the application is it true that you can no longer assist the applicant.

Dr. Shankle – Thank you. This was another issue with Richie Brothers I had to stop the side conversations because I was voting on the subject matter at hand. I know people took that to mean I was opposed to this project which was untrue

Councilor Lizotte – I think that is a good idea

Councilor Orr – Are we talking adding something to the charter or is there a section that refers to that?

Councilor Boswak – I apologize it is page 28 section 11.1 paragraph A Town Administrator and one other member of the administration appointed by the Town Administration shall act as ex-officio members

Councilor Orr- I would like to say as someone who sits on that committee I find the Town Administrator and DPW Director input invaluable and I would request that they still be present at the meetings to give information that they may know in regards to these projects

Councilor Comai – In reading section 11.1 paragraph A if you read down a little bit there's the 9 members and 3 alternates as provided by state statute. So how are you going to make up the 9 and the 3?

Councilor Boswak – There two positions would be appointed. I am not bringing forward actual motions I am here saying can we look at these for possible changes.

Councilor Lizotte – On the referendum petition I think that if it's an issue that affects the town it is easy to get the 1000 signatures. When we were speaking to Mr. Riley I believe he stated that at the last municipal election there was turnout of about 2500 voters.

Council Boswak – As of today the Referendum stands at a required 1600 signatures and once the presidential election comes this will likely bump up to 2000 signature just to have something on the ballot.

Councilor Lizotte – In the same hand and I think if I went through the charter I would find the certain situations where Town Administrator is bound by a super majority of the town council. Public votes us in and they can vote us out. I think the public input has been very effective in bringing forward concerns, then see the discussion, and finally us acting on it. I just think 20% seems pretty reasonable. This is just my opinion.

Councilor Lembo – I go along with Councilor Boswak's suggestion if we reduce it would bring it down to 800-1000. That's a significant number. I would support that reduction.

Chairman Sullivan – We do have time so we wanted to start these discussions.

Councilor Boswak - The next meeting we are done. We will be seeking legal opinion in December so we only have our meeting in November to make decisions on these.

Councilor Boswak motioned to bring forward a charter amendment to change section 8.3 Paragraph A from 20% of the registered voters to 10% of the registered voters Councilor Lembo seconded

Roll Call:

Council Lovas Orr – Aye
Councilor Boswak – Aye
Councilor Comai – No
Councilor Danforth – No
Councilor Downer – Aye

Councilor Lembo - Aye
Councilor Levesque - Aye
Councilor Lizotte – No
Chairman Sullivan - No
5-4 Motion Passes

Councilor Lizotte – I would say that anyone who has any issues can come to us. These referendums could also include budgetary issues. I have not seen anything above 4000 except in a national election. I still think 20% is very doable.

Councilor Boswak – A Referendum Petition just forces something that may be put on the ballot.

Councilor Orr- You said that people would be overriding the councilor's authority. I feel my authority is the will of my constituents. They have every opportunity to have a voice and have a say. I do not see a problem lowering this. If it is a bad referendum it will not pass and if it does begin the process to change it. This is the power of the people.

Councilor Comai – I am sorry but I can't help think that this is changing the rules for a specific purpose. I agree with Councilor Orr and we are sitting here for the people. The people can follow the process that we have in place. Why do we need to keep changing our charter, I like the 20%. It is all relative.

Councilor Lizotte – I did have a question for Dr. Shankle. In regards to a referendum petitions what are they utilized for?

Dr. Shankle – I was sitting here wondering if you guys had one at all. It is generally something that you want a high bar for. I was trying to think of something that may come in as a referendum. One of the things that you folks do is set fees that could possibly be one.

Councilor Boswak – I cannot think of any. I know we have had a lot of initiative petitions. Street lights were one. I can't think of them off the top of my head. But I think that if the voters are passionate about it and it is that important that they will go out and get 1000 signatures.

Councilor Comai – I have a question section 8.2 Initiative Petition wouldn't we accept 2% of the registered voters signatures and place that on the ballot?

Councilor Boswak – No, the street lights, that was passionate we are going to turn off the street lights. Voters then got the signatures and the town council said no this costs too much and we are not going to put it on the ballot after the public hearing. I actual believe there was an initiative petition for the Hooksett 4 issue and the council said would not hear it.

Chairman Sullivan – I am not ready to vote on this tonight. I don't recall the thought process was two years ago when we went through the charter, as well as in 1988 what there thought process was when they attached 20% to the Referendum Petition. The Public Hearing Notice must be posted by January 8, 2013. I am hopeful our legal counsel can provide an opinion before 30 days.

Councilor Downer - Call the question seconded by seconded by Councilor Lembo

Councilor Boswak motioned to amend section 11.1 Paragraph A to remove the Town Administrator and the one other member of administration appointed by the Town Administrator to serve as ex-officio members on the Planning Board seconded by Councilor Lizotte

Roll Call:

Council Lovas Orr – Aye
Councilor Boswak – Aye
Councilor Comai – Aye
Councilor Danforth – Aye
Councilor Downer – Aye

Councilor Lembo - Aye
Councilor Levesque - Aye
Councilor Lizotte – Aye
Chairman Sullivan - Aye

Motion Passes

Comcast Cable Advisory Board

Councilor Comai – I would like to invite Mr. Pearl, Mr. Miville, and Mr. Farwell who serve on the committee with me. We have met 4 times now and we would like to have an informal conversation with you as to where we are at with our discussions with the franchise agreement. There are 4 issues at hand and they are the Overall Contract itself: Area to be serves; Area Fee percentage; guarantee of a Manchester channel. I would like to turn it over Mr. Pearl.

David Pearl – As we went thought the process we thoroughly checked the coverage of the town. There are very few areas that have no coverage Industrial Park Dr which is not really an issue as it is industrial and Edgewater Dr. They gave us cost if the town wanted to assume that cost. Under our contract Comcast does not have to because the densities are in the range where they would have to do it. It would cost about \$31,000 for Edgewater to service 10 people.

The main part in our discussion was talking about the franchise fee. There were 3 options discussed I would just to go over them and as you know the final decision will be yours. Currently we are at 3% about \$125,000 per year and it goes into the general fund and we are really not supporting any type of communication or public access channel with that money. One of the ideas we had was to cut that percentage to 2% and reduce revenue to \$80,000 forming a committee to manage that money and the town Granticas Contract as well as the schools. Granticas meaning the company that provides the service for the meeting and maybe looking to combined those to make them more efficient

The really interesting thing that came up during our conversations thanks to Mrs. Comai was the possible involvement with MCAN and the possibility of acquiring one of their channels for Hooksett. Information would be transmitted to the Manchester and put up on that channel just for Hooksett. Their also could be a bulletin on the channel. Other officials would have access codes to post information on the bulletin board. Initial cost \$10,000 – \$15,000 per year and for start up, equipment and labor. This has ready

opened doors and new idea. A lot of us had dismissed the idea of Public Access but this got us thinking of it again. Some other ideas were upgrade equipment with more automated equipment. Some of the systems are more costly but do not require labor. Display screens or projection set ups for here in chamber. You can also utilize some of these funds for other communication expenses that may come up, supporting audio and electronic billboard, and with that 2% there is the option to hire part time help.

The next idea was to cut down to 1% which would bring in about \$35,000 with those funds again pay for Granticas and MCAN. This would be much more limited and then you would not really look at hiring someone. The franchise fee is only based on the TV service and nothing else. I originally came into this thinking we don't need TV let's do everything on the internet. I do not think it is fair now. Are you going to ask some to pay for something of a service they do not use?

This is why the MCAN makes the most sense to me. People will be paying for the services and receiving the benefits from that service. We can't negotiate the prices of the cable services, so citizens who had asked about that unfortunately we can do anything about the cost. We also talked about Comcast and any possible grant money. They do not have any grants. What they will do if we did not start up money they have a program where they loan you money against the future fees. That is as far as we have gotten. I have a suggestion of coming back to you with a priority list.

Councilor Comai – At this juncture it would be a good time to ensure the town buildings have the proper internet services. It is a good time to just be sure we setting up ourselves in a good way.

David Pearl – There was also the discussion of wiping out all the fees all together. It was not a long conversation but I did not want to discard the conversation.

Peter Farwell – Only about $\frac{3}{4}$ of the town has cable the rest has satellite and they do not pay those fees. We have until 12/15 to make a final decision and if we had asked for more time I am sure they would give that to us. We are going to go see the school board and they along with the Police and Fire have been strong backers. We asked whether they would consider coming here for their meetings. I do not want these meetings on the internet. I think this is a money issue for some and I think if we could add on to one of the Manchester Stations with specific programming just for Hooksett. We do not want to go much further if we do not have the council support. I think we are probably trying to get some consensus as to council is on this issue

Councilor Boswak – One question when do you need a final answer from us?

Councilor Comai - Well it would be prior to 12/15/12. We have the renewed contract in hand and we already have it set to be viewed by an attorney the 8 years set and the minor details we can change are the percentage change.

David Pearl – We did speak about the way the money would be handled. Maybe writing into the contract a trust fund or an expendable fund and did not think that would be a really good idea as that would bound the council to only be able to expend those funds on those things. It is anticipated even with the 2% there will still be revenue for the general fund and it is still up to the council's discretion

Marc Miville – The cable committee needed to decide to stay with an 8 year contract as it is currently an 8 year contract. The TIF area also does not have coverage this consists of Quality Dr and Technology Dr. it is also deemed it does not need it. Clay Pond area as well does not have coverage. We were very conscious of the fact that this was a lot of money to withdraw from the general fund all at once. Initially Manchester Channel 23 was not part of the cable contract we entered a clause for this channel. We thought that was an added benefit to us so that we would have that additional public access without having paid a large expense in order to have public access.

Councilor Boswak – We have not set our tax rate yet. Some of those ideas are great could we add this to the newsletter that goes out with tax bills and ask residents to return it? Those are some great ideas. I think we could see what they people really want have.

David Pearl – I have been on the both sides. We are looking for something in the middle. The council would be in charge of what they want to do. A lot of this becomes cost effective because now a lot of this information that is required can be transmitted through the internet as you do with Granicus now. My thought was in creating a committee this committee would not be a just cable committee it would be a communications committee. We could then look at ways the government can communicate and is communicating with the voters.

Marc Miville- Once you establish that percentage it cannot go higher during the term of that contract.

Councilor Comai – Once it is established you cannot go any higher but the council can change the percentage now before the contract is signed.

David Pearl – For the full information of the council you can go up to 5% in the contract and right now you are at 3%.

Councilor Comai – To your point Edgewater Dr is 4 customers for \$23,000; Quality Dr is \$35,000 Technology \$21,000 and on Hackett Hill by Pike is \$17,000. That is what it would cost if these people wanted cable to pay Comcast to get them up and running.

David Pearl– We at no time discussed internet access because this is all negotiated on TV. We only discussed Cable TV. The internet was the elephant in the room.

Marc Miville – The only thing that was added into the contract was that Manchester Channel. that is the only thing that was added into the contract.

David Pearl – By adding this into the contract it gives us the option of entering into a contract with MCAN. This would have to be a separate contract.

Councilor Boswak – I have heard of other communities do this but I am not sure if we do in Hooksett and that is making affordable internet access for those in need?

Councilor Comai – Yes that is a national campaign that Comcast is doing it is available to school children in Hooksett.

David Pearl – The superintendent passed on giving the information out to students. But it has since been passed out so that students on free and reduced lunch can receive affordable internet access for \$10 per month if they so choose. They can also get a netbook for \$150.

Councilor Lembo – That was a lot of information you gave us to can we get something in writing to review for the next meeting.

David Pearl– A lot of these things that were spoken about are really outside of our charge of negotiating the contract. We did go past our charge but we wanted to give you all of the options and find out what is out there. When you sign the contract you will not see in your contract like MCAN; or displays or anything like that. It is really going to be your level of funding.

Councilor Orr – Did the charge come from us. I would like to expand that then. You people have obviously spent lots of time and brain power on this and I think I would like to hear your ideas on these items. What your preferences would be and to come to us with recommendations.

Marc Miville – The idea was to bring you three options to so that you would have those options and base your decision on those.

Councilor Comai – We came to you tonight to have an informal decision so that we know what direction you would like us to move in. We have no idea as what we would like to council have us do.

Councilor Orr – I am hesitant on voting on a percent without knowing what that money will be used for. I may vote on a hirer percentage because of the services that can be built from them.

Marc Miville – Percentages are based on what you think you need. My recommendation is go as lower rather than higher. How much money do we give to the town general fund to fill potholes with the Comcast funds? People feel like this is a hidden tax.

Councilor Orr – That is my point I want to see these things in writing before I make a decision as to what I think the percentage should be.

Councilor Levesque Left meeting 9:09pm

Chairman Sullivan – We had a this committee come before us and have a general discussion and I am inclined to agree with Susan that I would like to see these things in writing and you could come back with recommendations. As I understand it now we are collecting 3% and it is going into the general fund.

Peter Farwell - I will ask for a thirty day extension due to all of this discussion because they are not going to shut off service.

Chairman Sullivan – I would be inclined to get options from the committee and move forward off of those recommendations.

David Pearl – It was my suggestion that if the town was going to do that and the Council form a committee to I would be on that. I think you need to figure out when you are going to hire someone if at all.

Chairman Sullivan – We are inclined to ask for some options and look at it at our next meeting.

Police Commission Sub-Committee

Chairman Sullivan – I think what we want to do is establish the members who would serve on that committee since this was approved with the charge at our last meeting. That was my intention.

Councilor Lizotte – Create a matrix of the options and look at duties as to what would need to be changes such as budget, duties, staff impact, if going from current situation to Town Administrator. I believe it is collecting data.

Chairman Sullivan- So I would say put the subcommittee together and have them do these things and put a report together for the council to review.

Councilor Orr – I would add one more thing when asked of the commission what we could do for them the response was add members so change it from the current 3 commissioners to 5 commissioners. I would add that charge so that we can establish the process in making that happen.

Councilor Downer – I can agree that falls under the matrix that Councilor Lizotte is referring to. They simple can never talk because there is only three of them there is always a quorum. This is another reason their meeting go so long it is the only time they are able to communicate. I think we can absolutely incorporate that into our discussions.

Chairman Sullivan - I would suggest the subcommittee have 3 members. I would also encourage finding other commissions like this and talking with them to see how they work and maybe see how they approach things. I am sure we are not the only town like this.

Councilor Lizotte – I agree. Increase members or us taking over.

Councilor Downer - I think we only need to center our discussion around 39:3 tonight and I believe this is a fact finding mission. I believe the best way to go is with 3 council members on it and I thought we had already said who was on it but we can change it if anyone else of keen interest

Chairman Sullivan – Council only subcommittee for now and then come back.

Councilor Downer – I agree with Councilor Comai that a citizen voice is important but I think coming back to the council with facts and figure and then decide how to proceed.

Councilor Comai – I agree with having a citizen voice is important

Chairman Sullivan motioned to release the information received 10/5/12 regarding the ability to meet privately with police department employees from the attorney Buckley seconded by Councilor Downer Motioned Passed

Councilor Downer – If I could speak to my second I feel this is important to release due to the questions I get as to why the council doesn't do this. I think if we release this it answers a lot of questions that are out there.

Councilor Boswak – I don't believe that is sensitive in nature as it does not refer to personal issues it is simply an opinion on if we can speak with the employees at the Police Department.

Chairman Sullivan - The only reason I wanted to release this is because we voted to do this is, we said we would get the legal opinion and I think it needs to be stated what that opinion is so that we can explain why we are or are not doing this.

Dr. Shankle – No reason you shouldn't release it

Councilor Downer – I don't see the committee as direct interdiction into their affairs. This is simply a fact finding mission for us on what we can and can't do. There is probably significant opinions as to what we can and can't do between the 8 of us right now. I think laying things out will assist in the process,

Councilor Lembo – In reading that opinion I suggest we send Dr. Shankle on the fact finding mission. I am bias against the commission because I think they are doing a poor job and Councilor Lizotte is for the commission s there is going to be a lot of things interjected that maybe shouldn't be. I believe he has the ability to do that.

Dr. Shankle – If I had known he was going there I would not have suggested releasing this information.

Chairman Sullivan – So ultimately it suggested that we as a body not speak to the police employees. He suggested we did not have the authority to do this but that the Town Administrator can do some fact finding on our behalf.

Councilor Comai – The committee is supposed to be a fact finding mission and we are supposed to look at the bigger picture and not specific situation.

Councilor Lembo – I thought this was a fact finding mission on what was happening there now.

Councilor Lizotte – I am biased toward a commission structure but I am open to saying if the constitutes are saying the commission structure is not working then what options are there in regards to structure. One of things that we are facing if say this goes forward and the police commission is abolished and then we are thrust into this situation where do we have a plan? How does that transfer take place with Dr. Shankle, what are the legal issues, it there a certain amount of time where certain institutional knowledge is transferred. I figured we could just discuss this more broad terms such as 5 man commission with Town Administrator oversight; possible an elected commission instead of appointed; and what other ones we can think of but not get too deep in the weeds.

Councilor Boswak – I know at the last meeting but I could be wrong but I believe it was Councilor Lizotte, Councilor Downer, and Councilor Boswak. I think we can all agree we want to explore the different options and see what the real options are.

Councilor Downer – I agree with what Councilor Lembo stated we do not have the authority. I view these as mutually exclusive completely separate. The subcommittee is on fact finding mission in a macro view and Dr. Shankle in micro view.

Councilor Comai – I'd like to include Dr. Shankle as well in this committee?

Chairman Sullivan – Councilor Boswak, Councilor Downer, Councilor Lizotte, and Dr. Shankle are the committee. Thanks to those councilors for volunteering.

Councilor Lembo – You included Dr. Shankle in the subcommittee what will he be viewing macro and micro?

Councilor Comai – He will be looking at a view from 35,000 feet up. He will also be on a fact finding mission.

Chairman Sullivan – Do we want to set a date to have you return?

Councilor Lizotte – Why don't we schedule one meeting and then report back to the council at the next meeting with meeting dates?

Chairman Sullivan – I would prefer we put on the next agenda what exactly Dr. Shankle will be view in regards to the micro view.

Town Council Goals

Chairman Sullivan - Continuing item for all agendas so that we can talk about another goal or we can move. We will put this on many agendas for discussion

Councilor Downer – I would like to move forward as we have people waiting.

Councilor Boswak – Can we change it to town goals instead of council goals I just feel these should be town goals as certain items do not just pertain to the council.

Chairman Sullivan - Yes we can change that to be Town Goals instead.

NEW BUSINESS

Roadway Impact Fees - \$80,000 for CMAQ Project, College Park Drive Sidewalks

Dr. Shankle – CMAQ Project this was something in March of 2010 there was an application for a CMAQ Grant that would build a sidewalk down College Park Drive. This would connect the village area to the library and the town hall. This was also addressed in the Master Plan as well. There were recommendations from library, state reps, and a state senator. We got the grant and the town's portion is \$74,000. We are looking for the town to obligate \$80,000 from Roadway Zone 2 Impact Fees so we can move on with this project. I concur with this recommendation

Councilor Downer motioned to obligate \$80,000 from the Roadway Impact Fees Zone 2 to be utilized for the CMAQ Project which is to build sidewalks to College park Drive as specified 12-129 seconded by Councilor Lembo

Councilor Lembo – A former council put a moratorium in a few years ago that said no more sidewalks as we do not have the manpower or means to maintain them.

Dr. Shankle – There is a little difference than putting sidewalks in developments. It's different because it is putting in a sidewalk that would connect the library and the village and Town Hall.

Councilor Lembo – The new developments were told that we do not have the money to maintain them. I do agree with this sidewalk but I just want to make it clear what was said in the past.

Councilor Orr – My questions would be do we have the equipment and the man power to do this?

Dr. Shankle – Yes we do we are talking about one straight shot.

Councilor Lizotte – Up on Post Road in front of my house it does not get plowed I snow blow it. The reality of it is that this is a connector from the village to the library

Councilor Comai – If constitutes want a sidewalk they can come before us. We should use impact fees for infrastructure.

Councilor Boswak – I just wanted to say they highway department already does the sidewalks in front of this building and in front old town hall, this is the only walk able area and that is what everyone is promoting now is walkable communities. I agree though in not setting a precedent of not putting sidewalks in developments

Councilor Orr – I apologize in advance and I am taking a lesson in Vinnie's book. I wasn't part of this committee when this was started. I don't remember ever seeing a body walk on this roadway. I approve that we are making this area more walkable. My daughter walks Hooksett Road to Martins Ferry and this is a dangerous road. SNHU students are walking from SNHU to McDonalds and to all of those stores .I want a sidewalk walk there how do I get on there? I think sidewalks should be installed in for safety not for beautification.

Councilor Lembo – I would suggest that we open a dialogue with the Planning Board to see if this is something that they still want to do. I think we need to revisit that and see. I am not saying not to do but revisit it.

Chairman Sullivan – Do we approve this \$80,000 from the background? Are there areas in town that could use sidewalks? Yes. This town is 190 years old does not have a core downtown. In this case do we want to accept this based on the background? This is part of the agreement

Councilor Lembo – I would suggest that we do accept this be because if we do not use the impact fees we lose them.

Roll Call

Council Lovas Orr – Aye
Councilor Boswak – Aye
Councilor Comai – Aye
Councilor Danforth – Aye
Councilor Downer – Aye

Councilor Lembo - Aye
Councilor Levesque - Aye
Councilor Lizotte – Aye
Chairman Sullivan - No
Motion Passes

Quarterly Financial Report

Christine Soucie – I just wanted to update the council on the cash receipt policy question from your last meeting. The question regarding what was the findings? There was two findings the timing of deposits and income tax with holdings. Both have been resolved.

1. September 2012 -1st quarter of the New Year and the General Fund is right in line and that is a good indicator we will make through the end of the budget.

2. We are actually \$200,000 less than the previous year due to no Safety Center Bond and another lease that had ended
3. Revenue – Higher that we have been in previous years. Largely due to motor vehicles.
4. Pg 2 – Where we are for each department. Worker's Compensation has a \$40,000 savings. We look at what wages are for the whole town. When wages are not spent we do not have pay for the open positions;
I would like to bring to your attention to the Health insurance there was an increase of 3.9% and we estimated a 10% increase this brings a cost savings of \$40,00

Area of Concern - Family Services has been out spending the last 4 years for the 1st quarter. When I spoke with Joy she believes we are seeing people that have struggled all the years and now they are in need of services. This could trend to a \$50,000 overage.

Major expenses – Administration has really large expenditures at the beginning of the year
DPW – Winter Maintenance
Recycling – Trending where they should be and down one employee

Revenue Side – Looking really good. We are trying to get every dollar to squeak into that tax rate to get it down for you. We will be revising building permits revenues to \$60,000, Interest low and state share where it should be

Purchase of a Front End Wheeled Loader

Diane Boyce – In May the voters voted to expend the funds from our Solid Waste fund to purchase a front end loader. We had 11 bidders these bids are not apples to apples at all. To get to the required reach of 14.2ft to reach over our trailers a lot of companies had to put in bids for larger equipment. We have decided on the Milton Cat and it is definitely under bid they had originally sent us a bid last year at 160,000. We are about 38,000 less than what we thought.

Councilor Downer – You received a bid from Beauregard Equipment and they had a Case for \$171,000 what was it about that unit that didn't work?

Diane Boyce – It just did not meet the reach requirements of 14.2feet that we have.

Councilor Boswak motioned to accept the Transfer Station Superintendent's recommendation of purchasing Milton Cat 924K Front End Loader with a total purchase price of \$122,010 seconded by Councilor Comai

Roll Call

Council Lovas Orr – Aye
Councilor Boswak – Aye
Councilor Comai – Aye
Councilor Danforth – Aye
Councilor Downer – Aye

Councilor Lembo - Aye
Councilor Levesque - Aye
Councilor Lizotte – Aye
Chairman Sullivan - Aye

Motion Passes

Neighborhood Heritage Project Contract

Dr. Shankle – I concur with this recommendation you accepted a \$30,000 grant from the NH Housing Financing Authority to enable the town to plan for the creation of a neighborhood heritage district. This is a contract with Hawk Planning Resources, LLC for an amount not to exceed \$21,610. There are three parts of the team to do to this. We should be getting a contract from NH Housing Authority soon seeing the preservation portion of this grant. Hawk will be overseeing that we are utilizing the funds that way the state wants us to. The last part we will handling local in our Planning Department and with residents.

Councilor Orr motion to award the contract to Hawk Planning Resources, LLC in the amount not to exceed \$21,610. Councilor Danforth seconded

Roll Call

Council Lovas Orr – Aye

Councilor Boswak – Aye

Councilor Comai – Aye

Councilor Danforth – Aye

Councilor Downer – Aye

Councilor Lembo - Aye

Councilor Levesque - Aye

Councilor Lizotte – Aye

Chairman Sullivan - No

Motion Passes

SUB-COMMITTEE REPORTS

Police Commission Meeting

Councilor Boswak – I was unable to attend the last two meeting unfortunately.

Councilor Downer – I attended the commission meeting on October 16. The commission reviewed meeting minutes; monthly reports; revised a number of SOPs; discussed recording equipment; PSSG did offer their monthly report and discussed the fact the commission had terminated their contract and were in the process of a transfer over to Tom Burke and discussed a transition plan. They then entered into a non-public.

Old Town Hall

Councilor Danforth - There is a meeting on Monday at 6:30pm.

Planning Board

Councilor Orr – There was some extended discussion about Applebee's updating their outdoor look and if they could put the apple on the owning. The Planning Board voted against the apple on the owning as it would constitute a sign.

The sprinkler discussion came up and we were asked if we required the builder to install cisterns could the home builders for go on the sprinklers being installed in the homes. The Planning Board voted to require cisterns.

Webster Woods II – The Planning Board will not be issuing any more extensions or delays. They were told fix it or no phase II

Councilor Lembo – Sprinklers, didn't we have a vote one night to not require sprinklers?

Councilor Orr – The Planning Board voted to leave it in the regulations. I predict the next round of updates the Planning Board will be changing that.

ZBA

Councilor Comai – I have a question for Dr. Shankle since Councilor Levesque is not here. I received a letter from 33 Prescott Heights in regards to the water situation they asked if we could somehow assist them with their situation. Is there something that we can do to assist them Dr. Shankle?

Dr. Shankle – I am not sure what they expect you to do. ZBA is a board who makes their decisions based on the ordinances.

Dr. Shankle – I think the ZBA will what they do and the applicant has the right to appeal that through the regular process. I don't think the council can do anything even if you wanted to.

Councilor Comai – Should we have another person go to ZBA since we do not have a town council representative right now.

Councilor Lizotte – I am uncomfortable with this discussion. That is a separate board and I am not comfortable with the conversation that we are having.

Chairman Sullivan – In Councilor Levesque's absence should we have a communicator fill in for.

Councilor Lizotte – Ask the Town Administrator to respond and let them know that we cannot get involved and that this has to run it's

Councilor Boswak – Should we have the Town Administrator respond on behalf of the council explaining why we can get involved that way they are not waiting for a response from us.

Chairman Sullivan – I think that would be a good idea. Should we send a non-voting member to sit in for Councilor Levesque until he is able to return to full capacity? It cannot be a member that serves on the Planning Board.

Councilor Boswak – Can we just contact him to see if he can attend if he cannot can someone fill in?

Councilor Lembo – I will if he cannot.

Assessors

Councilor Comai – There is nothing to report

Heritage Commission –

Chairman Sullivan – Veterans' Square should with be with the sign. Katie went to a state conference and spoke about the Heritage projects that we have been working on

Dr. Shankle – I believe Councilor Comai and I are the only ones who got the letter from 33 Prescott Heights. I will send a response as to why you cannot help them.

Conservation Commission

Councilor Lizotte – Merrimack Riverfront Project is moving forward and the meeting on the Oct 30, it would be nice to see some councilors there and this is a fund matching event. If you can donate a little bit towards that \$20,000 grant match.

Pinnacle Park – John Turbyne was pushing for some trail expert to look at things from a professional stand point and the gentle man from Bear Paw brought forth a man from Fish & Game. Also we were setting priorities in regards to trails and the order is Pinnacle, Merrimack Riverfront, Quimby Mountain, and Clay Pond

PUBLIC INPUT

Marc Miville – Just a few things that you went over at tonight's meeting that I made some notes on. In regards to the chart amendments I am in full agreement with it, First of all I wanted to say I am not speaking as a Budget Committee member or a CIP member or a Cable Committee member or a Town Council groupie I wanted to clarify that. I just wanted to comment on Councilor Boswak's comments regarding the chart amendment and referring to the Budget Committee as part of that although I am in agreement with that charter amendment that we are allowed to speak and am in full agreement and that the budget committee is independent and we should not be following any council rules because of that. Despite of that I agree with all of the other comments as well despite what we do or say I the media, the media always a pungent for using titles no matter who we are. On any personal comments we make we are not speaking in official capacities it's not like we are at a meeting speaking about a meeting events. So I have referred to this scenario in the past what if a tree fell on my house? The tree did not fall on a budget committee member's house the tree fell on my house. Councilor Gorton is here and I remember the story was that he attempted to save a man's life once but it referred to in the paper for like two paragraphs that he was a town councilor. Now the story was he saved a man's life in the course of his job and that was very commendable but it had nothing to do with him being a town councilor. I am just bringing that point across. Councilor Lembo mentioned snowplows and thought that it should be in the

CIP when in fact that it has and is in the CIP and it has been for several years but it has been pushed back. I believe in this current year that I saw it in was either 2014-2015 or 2015-2016. I believe at one point it was voted down a few years ago but it continues to be on the CIP as a regular item. I don't have to tell you guys that the voters are consistently hesitant to approve excess funds as witnessing we are currently in a default budget season here. The Budget Committee looks at needs versus wants so yes the snowplows and the sidewalk. The Master Plan is also eight years old so that and we need to measure that is slow process to accomplish all of the goals in the Master Plan some great ideas are not always urgent or hysterical. Speaking of the CIP I just wanted to alert the council that the committee that we have about 1.1 million worth of proposals for this current year subject to change as we have only had one meeting. I wanted to make sure everyone was aware of it. There is also another CIP issue if Mr. Shankle is not aware of it yet he will be we had a discussion as to what we see as potential conflicts in our CIP book and the Master Plan statements there as opposed the RSA. This pertains to the Conservation Commission there seems to be some conflicts regarding maintenance and CIP plans as opposed to original proposals. Maintenance should not be part of the CIP there is a fine line there also land purchases through the conservation commission. We've asked Dr. Shankle to look into this and report back to the Planning Board on it.

Jim Gorton – 150 West River Road

Listening to the discussion sidewalks number 1 if memory serves me right on the plans that were approved by the town called for a sidewalk to be built by the developer at the time going up that road to the library why it never happened I don't know. Furthermore sidewalk discussion held by the previous council was that it is a state law I don't believe that anyone on the council investigated it including me that it was a state law that if a sidewalk parallels a state road it must be plowed and it must be plowed in a timely manner. Town of the most ridiculous and outrageous sidewalks requiring that exist on Route 3A and on Route 3 at the intersection of 93 and I refer to the one on Route 3 as the sidewalk to nowhere it's never used. I drive that road four or five times a day and I have probably seen less than 100 people there in the last twenty years. Another point I would like to bring up again during a discussion that took place about Charter amendments. I sat on the Charter Review Committee two years ago one of the questions that was raised was in regard to the referendum petitions requiring 20%. At the time there was research done and the national average for referendum petitions across the country was 5 -8%. Any research that I did or that was done and in the various articles that I read stated emphatically that anything over 8% was considered onerous and absolutely out of line. I just thought I would pass that on.

Chairman Sullivan – Thank you Mr. Gorton and Mr. Miville. Is there any other business to discuss? Ok seeing none.

Closed Public Hearing on the Conservation License Plate Grant at 10:30pm

NON-PUBLIC SESSION

ADJOURNMENT

Councilor Lembo motioned to adjourn the meeting at 10:30pm seconded by Councilor Lizotte. Motion Passed

Respectfully submitted by,

Jodi Pinard
Minutes Taker

John Danforth
Town Council Secretary