

**TOWN COUNCIL MEETING
MINUTES
Wednesday, May 22, 2013**

CALL TO ORDER

Councilor Sullivan called the meeting to order at 6:30pm.

ROLL CALL - ATTENDANCE

Chairman James Sullivan, Dr. Dean E. Shankle, Jr. (Town Administrator), Nancy Comai, Vincent Lembo, James Levesque, Todd Lizotte, Susan Lovas Orr, Robert Duhaime, and Leslie Boswak.

Excused: Michael Downer.

PLEDGE OF ALLEGIANCE

APPROVAL OF PUBLIC MINUTES 05/08/2013

R. Duhaime motioned to approve the public minutes of May 8, 2013 with edits. Seconded by V. Lembo.

Vote unanimously in favor.

AGENDA OVERVIEW

Chairman Sullivan provided an overview of tonight's agenda.

CONSENT AGENDA

- a. 13- 41 Site Surety Bond Release – Crown Communications - \$1,500
- b. 13- 42 Gift Card Donation from Memorial School - \$550

T. Lizotte motioned to approve the consent agenda. Seconded by J. Levesque.

Vote unanimously in favor.

TOWN ADMINISTRATOR'S REPORT

- Election Results – will be discussed later tonight
- Internal Activities – I did interviews for the positions of CEO & recording secretaries for different boards & committees. I finished a grievance hearing for DPW
- External Activities – The Hooksett-ites had their “golden years” luncheon at the Derryfield Country Club and Chairman Sullivan and I attended
- Hooksett Open Tolling – Councilor Levesque and I attended the ribbon cutting ceremony. This is an Easy Pass lane that you don't need to slow down below the speed limit. Part of the ribbon was given to Councilor Levesque
- Tax Deeded Properties – We are working with people in non-public session on how people will pay
- Bass Pro – They met with the ZBA a week or so ago and are moving forward from there. Senator Boutin in contact with Commissioner Clemens for a NHDOT driveway permit.
- Family Feud II – June 13th at the Library; it is a fundraiser for the Veteran's Memorial.
- Native American Mural unveiling – May 29th @ 6:00pm at Town Hall chambers

PUBLIC INPUT

Dan Irish, 6 Raebrook Rd.: The letter my wife and I wrote last quick was to the Building Dept., Town Administrator, and Town Councilors. On March 11, 2013 Matt Labonte CEO said we had no Certificate of Occupancy (CO) issued to our home and we owe impact fees. On February 1, 2008 we purchased our home from Mr. Liebel. After two e-mails and two certified mails it is Dennis Laliberte who was responsible for the impact fees. Referred to original invoice dated October 31, 2006. On the Town sign-off sheet the owner/applicant must comply with all laws. Mr. Liebel had no relationship with Mr. Laliberte. The Town of Hooksett is enforcing the impact fees and CO and I was told I could come to an upcoming Town Council meeting to discuss this. Our Purchase & Sales agreement section 17 additional provisions item 3 states the seller is to provide the occupancy permit from the Town.

J. Sullivan: If we can't resolve this today, the Town Administrator will do research. He will contact you during normal working hours. If he cannot resolve it, then he will address it to the Town Council.

Don Riley Harvest Dr.: I am the Town Moderator: Prior to the May 14th elections there are 3 major pieces that take place to include: 1) filing period for the ballot, 2) unmarked ballot testing, and 3) machine testing. This year those pieces were completed much more smoothly. On May 14th we opened on time with the Supervisor of the Checklist, Moderator, four (4) ballot clerks, and others. There was one (1) resident at 6:30am. There was one minor issue with redistricting. There were those electioning, and poll observing. The school facilities are a good site for us. We store our equipment there and it saves the DPW time for transporting the equipment back-and-forth. We had help to carry stuff out to our cars. We closed the polls at 7:00pm. The post-election processing that occurs includes the checklist counts, write-in counts, ballot reconciliation, and tape. All issues have to be reconciled before I can think about declaring the results. At 9:15pm I reported the results to about 12 interested parties and we were out by 10:30pm. The results were posted the next morning at 9:30am. There were lessons learned to increase effectiveness and efficiency. 40%-50% of the process is in draft form. There are statutory responsibilities and we performed as a team. We have to provide this service to the registered voters of Hooksett. We heard many comments throughout the day on the length of the ballot; 2 pages 2 sides. Many voters were in the booths for more than 20 minutes. To assist building this team in a stronger way, would the Council consider appointing a rep. to the Board of Elections? Thank you.

J. Sullivan: Thank you.

NOMINATIONS AND APPOINTMENTS

a.Parks & Recreation Advisory Board: Michael Young (term until June 30, 2014)

*T. Lizotte motioned to appoint Michael Young as a full-member to the Parks & Recreation Advisory Board with a term until June 30, 2014. Seconded by J. Levesque.
Vote unanimously in favor.*

b. Discuss openings

J. Sullivan: Nominations will be at the first Town Council meeting in June (12th) and appointments will be at the second meeting (June 26th). Read list of boards & committees openings into the record (list available via www.hooksett.org). The Police Commission openings will be discussed later this evening.

J. Sullivan: An application form for appointments/reappointments needs to be completed and sent to the Administration Dept. by May 31, 2013.

SCHEDULED APPOINTMENTS

a.Parks & Recreation Annual Report to Council

Jacqueline McCartin: I am the Chair of the Hooksett Parks & Recreation Advisory Board. Here with me tonight is Mike Horne. For the past couple of years we have been working with other departments to include DPW, Conservation Commission, Heritage Commission, accounting office (impact fees), and HYAA to improve and provide more visibility of Parks & Recreation opportunities. We would like to take advantage of the impact fees for infrastructure. The Conservation Commission receives the quarterly impact fee reports that we receive. The Parks & Recreation Department provides quarterly updates. We contributed in the creation of the dog park in Town and it is quite popular. We went through the review and approval process with other Boards on the Pinnacle Park and contributed to the signage and welcome other suggestions. We coordinated the Head's Pond Trail with the Kiwanis. This upcoming year we will work with MS&G to extend that trail further. We also worked on the Peterbrook property. We run the risk of losing fields if Tri-Town reclaims their field. The DPW has an interactive map. There are a lot of possibilities for information on playing fields, other areas of recreation and the future regional trails system connections.

S. Lovas Orr: What was the most challenging issue you faced this last year?

J. McCartin: We can't make everybody happy all the time, for those who live close to our parks. Communication is key on all levels.

T. Lizotte: For the regional trail system is the acquisition of the Merrimack riverfront close to Allenstown?

M. Horne: The trail goes from Concord on the east side of the Merrimack River through Allenstown to the waterfront park. The regional trails committee concern is that Hooksett is the middle of the trail from Lebanon to Salem. From the Hooksett court house to Merrimack Street, how do we connect to Manchester? Manchester may use River Road. Other parts are the rail with active trails. We want to make sure we are part of the statewide trail and become part of the solution.

T. Lizotte: Is your interactive map via GIS?

J. McCartin: It is a Google interactive map.

M. Horne: It is Google with icons.

J. Sullivan: Thank you.

OLD BUSINESS

a.13- 28 Town Meeting Discussion – Results

J. Sullivan: The Moderator gave an overview earlier tonight.

Dr. Shankle: The result of the election was they passed the advisory mandatory recycling item. I asked Diane Boyce to draft an ordinance for me to look at. I will bring it to the Town Council in the future unless the Council wants me to do something different.

T. Lizotte: We should assure that any ordinance created or proposed treats every taxpayer equally.

Dr. Shankle: Article 3 operating budget did not pass. The default budget is \$16,022,113. With the revaluation we will need to determine who pays what. Christine needs the report of appropriations voted and signed.

L. Boswak motioned to authorize the Town Administrator to sign the MS2 Appropriations. Seconded by T. Lizotte. Vote unanimously in favor.

J. Sullivan: Some money warrant articles didn't pass. The operating budget did not pass and that brings us back to a default budget.

Dr. Shankle: Friday morning I had a staff meeting and we talked about that impact on departments based on the default budget. \$230,000 for Police is the biggest part of the default budget. The part-time position was for the Finance Dept. to prep for bringing in the new finance software package and that did not pass. We will need to get her a little money for when her new program comes on line. The departments were told at the staff meeting to go back and review where they are at with their budget. Last year was a default budget. I asked the departments to look at where raises of 2% could come out of their budgets.

J. Sullivan: Are there thoughts on the warrant articles that didn't pass? Example is the revaluation that didn't pass, but we are obligated to do it by State statute.

Dr. Shankle: If the revaluation doesn't pass for 5 years, we will have to find money to do it per State law.

V. Lembo: I don't know if there is anything more we can do to promote or at least inform the public on some of the warrant articles. Example is revaluation. We will have to come up with that money somewhere. Could we have done a better job promoting it to the public? It wasn't a wish list item, but a necessity. Somewhere down the line we would have to come up with it. In 4-5 years we will need \$400,000-\$500,000. I didn't see a lot of write-up in the Hooksett Banner and Union Leader on the warrants. In the future we should put something in there from the Town Council.

J. Sullivan: Are there any thoughts on improving communications? This year and last year we had video communication. This year we did not send out a voter's guide mailer.

L. Boswak: We should continue to send out newsletters. You cannot try to persuade voters, but you can list if you vote yes or if you vote no on an item. You are not trying to sway the vote.

V. Lembo: At the deliberative session Mr. Miville spoke a little bit about this. He promoted as much as he could. Nothing from the Town Council got out there.

J. Sullivan: We appreciate Marc and the Budget Committee. We had a default budget last year and we had sent out a newsletter.

S. Lovas Orr: A suggestion is the Town Council could write a letter to the paper from all the Councilors. Does that step over the line not to try to sway the voters? Informing voters is appropriate. The next round could be a letter to the newspaper editor explaining critical pieces (i.e. revaluation). Consider this for next time.

J. Sullivan: Later in the year we should bring this subject back up.

V. Lembo: How many default budgets have we had so far?

J. Sullivan: This year and year prior were defaults. The two years before that passed.

T. Lizotte: We are in a severe downturn and on everyone's mind are taxes. The other thing is voter turn-out. Voters may think it doesn't matter if I vote or not.

L. Boswak: We could move the election to March. A lot of people didn't know we were voting in May.

S. Lovas Orr: The economic downturn is a valid point. The previous year was lower than the default budget and that didn't pass.

T. Lizotte: I think the budget was larger last year than the default. It was the school budget that was lower.

R. Duhaime: The moderator mentioned to shorten the ballot and explain a few things. Then maybe they will read it and understand it. Sooner or later taxes have to go up to pay for things.

T. Lizotte: I looked at the warrants for trends from 1954 to now. It is cyclical; 1970's had 25 warrants. We should figure out a way to trim the fat.

N. Comai: For Town voting from 1954 to today, how many voting times was in May?

T. Lizotte: I was looking at revaluations for trends and it just struck me how many warrants there were.

J. Sullivan: The 1989 Town Charter adopted the May meeting. Prior to that the school district and town voting for officials occurred on the same day in March.

N. Comai: 25 years is long enough to know we vote in May.

b.Merrimack River Conservation Land

J. Sullivan: Representative David Hess is at the State House, however he will come back here later tonight. Do I have a consensus for Rep. Hess to address the Council later this evening?

Council Consensus: Yes.

c. 12-122 Police Commission

Dr. Shankle: We have a Commission; we just don't have commissioners. I have been working with the Town attorney on moving forward. Referred to the Charter and 1975 law for a Police Commission. The way it is set-up is that a commissioner vacancy is to be filled by the remaining commissioners. At this point that can't happen, because we have no commissioners. The options: 1) go to court and have a judge say with no commissioners give the Town Council the authority to pick three commissioners instead of one, 2) without going to court we were due to appointment one commissioner as of July 1, 2013 who can then appoint another commissioner and then the two acting commissioners can appoint the third one for 240 odd days, and 3) legislative solution created by an act of legislation that could abolish the Police Commission at the guidance of Senator Boutin. We have half dozen interested individuals who would like to serve on the commission. For these individuals there is the process of getting background checks, however the Town Council can waive those. The issue is we wouldn't have anyone until July 1st.

J. Levesque: The initial warrant article had the Police Commission dissolve 15 days after it passed by the voters. Leslie's amendment gave them 240 days out of courtesy to the commission for them to complete their work instead of throwing them out the door. Doesn't the State law trump the warrant article and after 15 days the Police Commission is gone? I have all the faith in the Town Administrator and Police Chief. After talking with the officers they are elated there is no Police Commission. We need a clean and simple way to move forward. We will have to move forward after 240 days anyways, so let's do it now.

Dr. Shankle: The problem is the original legislation didn't have 15 days in it. It passed by the people now with 240 days.

N. Comai: We should go back to the warrant article and dissect it to assure what the voters voted on is what we are following through with. To Jim's point the voters voted to abolish the commission. We should move on and not put three people back in the ring and have to deal with whatever. There are other options and we should take our time to review them and include the Charter.

J. Sullivan: Councilor Comai wants us to read the article that passed by the voters and we can dissect and discuss it. Is it OK for Rep. Hess to come up and speak with the Town Council at this time?

T. Lizotte: To use Mike Downer's description, we need to "rip the band aid off". We should go the way of a legislative solution to expedite the Police Chief reporting to the Town Administrator. We should not complex this with getting people in there as commissioners.

J. Sullivan: There may be a legislative solution. Is it appropriate for State Representative Hess to come up and speak now?

Council Consensus: No.

V. Lembo: I understand what the situation is. Can they run the Police Department without a commission? Do they need sign-off from someone above a certain amount?

Dr. Shankle: I have met a couple of times with the Chief. I think things are going fine over there and the Chief can speak to that. The Town attorney sent me a copy of letter dated 1/13/2010 to the former Town Administrator. He felt that the 1975 law was specific for the Police Commission to be responsible for all personnel, but that the money was under the jurisdiction of the Town Administrator and Town Council just like we handle other departments. For a practical matter the treasurer signs the manifest based on the signature of the Town Administrator. It is a matter of law according to the Town counsel and that is what should be happening. In the past it was a matter of courtesy to allow the Police Commission leeway on how they spent money. Now with no Police Commission, if OK with the Town Council, money items could just be with my signature.

V. Lembo: Like other departments they can spend \$2,000, then at \$5,000 need the Town Administrator approval, and over \$5,000 need the Town Council approval.

Dr. Shankle: Over \$15,000 requires bids.

S. Lovas Orr: Are there any guidelines on how many days to fill empty seats on the Commission?

Dr. Shankle: Technically we can't fill empty seats now. July 1st we fill seats.

S. Lovas Orr: 240 days is when?

Dr. Shankle: January 9, 2014.

S. Lovas Orr: I am concerned about overriding the voters will. This is what they passed and I am very hesitant to do something different than what the voters said. The Police Commission quitting made it more difficult to abide by the will of the voters. I would like to hear what Representative Hess has to say relevant to legislation.

L. Boswak: I agree with Councilor Lizotte to invite Representative Hess to speak.

R. Duhaime: The Town Administrator was coming up with a plan if the article passed. The Town Administrator was to take over after a certain date. Now you have to step up the process faster.

Dr. Shankle: The presumption was the Police Department would become a regular department of the Town.

J. Sullivan: And the Town Administrator is ready to take charge.

T. Lizotte: What's in best interest for the Town? We should expedite the process to get the Police Department in the hands of Dr. Shankle. Seeking a solution through the court is more damaging. It may unravel on the legislative side.

N. Comai: Referred to Charter Section 12.1 Continuation of Government “. . . The Council shall take whatever measures are necessary to effectuate an orderly transition . . .” We should take what the warrant says at its full context.

V. Lembo: Authors of that original petition had 300+- folks that signed that petition. I question the legality of it being amended at the Town deliberative session with only 50+- voters that amended it. The Town attorney at the deliberative session said we could amend it with that many voters.

J. Sullivan: Mr. Hess and our Moderator are invited to come up and speak. Representative Hess can help us in regards to legislation.

L. Boswak: Referred to the LGC municipal law section on petitioned warrant articles.

J. Sullivan: There may be a legislative solution to this.

Representative David Hess: Early this week or late last week I received a call from Senator Boutin asking about a possible amendment to a Senate bill to abolish the Police Commission immediately at enactment of that particular bill. He asked if I thought it would pass through the Senate. I also had a discussion with the Town Administrator. We talked about adding an amendment to a bill in the legislature and how you have to make sure you ducks are lined-up. I was under the impression they were lined-up under this bill. I was asked by Senator Boutin to check the last duck. It is in the water. It was approached as something already in the works. I didn't initiate it; therefore I have no opinion one way or the other. I read in the newspaper that all of the Police Commissioners had resigned. This is something you can consider.

J. Sullivan: What is the Senate and General Court timeframe?

Rep. Hess: One never knows the timeframe, but it should be on or before June 30th if it is passed. There are a number of steps in this process. I told Senator Boutin that if my name was added as a co-sponsor I would be happy to facilitate to move process along, but it doesn't mean that I agree with it. The process for the amendment: 1) gets introduced in the Senate with 13 votes, 2) needs approval by the Senate, 3) goes back to the House with passage as amended, and 4) House will concur or non-cur with the committee of conference (who knows on this last one). I have been told the House and Senate does not have a problem with an amendment on this. I feel confident there will be no objection by either the Senate or House. If that is the case, I think by June 30th it will be passed.

T. Lizotte motioned to authorize Dr. Shankle to expedite the transition of oversight of the Police Department to Administration, by seeking a legislative solution, via Hooksett's legislative representatives at the NH state house. Seconded by J. Levesque.

Roll Call

T. Lizotte – Yes

J Levesque – Yes

V. Lembo – Yes

J. Sullivan – Yes

N. Comai – Yes

S. Lovas Orr – Yes

R. Duhaime – Yes

L. Boswak - Yes

Vote unanimously in favor.

N. Comai: Would it be helpful for the Town Council to write a letter that we endorse this amendment?

Rep. Hess: Yes.

L. Boswak motioned to authorize the Town Council Chair to sign any letters of support for the bill with the amendment to abolish the Police Commission. Seconded by T. Lizotte. Vote unanimously in favor.

Dr. Shankle: Several people expressed their interest for the Police Commissioner openings. I will hold their names in case the legislation doesn't pass.

N. Comai: Tonight to July 1st, how does Chief function with administrative duties, spending money, and personnel? How do we give the Town Administrator authority? There has to be stuff going on now.

5 MINUTE BREAK – meeting resumed at 8:00pm

J. Sullivan: Now and after July 1st, how does the Police Department operate?

Dr. Shankle: If it is the will of the Town Council, we can use the Administrative Code as other departments do.

N. Comai motioned to authorize the Town Administrator to adhere to the Administrative Code for the Police Department to be a traditional department. Seconded by T. Lizotte.

Chief Bartlett: In speaking with Dr. Shankle my concerns operationally are bill payment, manifests, and things of that nature. From this meeting we will be covered under the Charter. For items over my spending authority, I will bring those to the Town Administrator. I do have some things from the last meeting to move forward. Financially my concerns are the radio equipment and computer system. We have a unique opportunity with some funding up to the end of the year. I will address to the Council at some point to move money around for some major issues such as computers and records management. There are a couple of personnel matters to address as well. The day-to-day operations are solid. The Police Dept. men and women are doing their jobs. We are in full operation mode. We have solidity on how we are functioning for public safety of the residents. We are solid and won't falter for a minute.

N. Comai: Referred to Charter Section 4.5 Powers and Duties of Administrator Dr. Shankle “. . . shall supervise and direct the administration of all of the Town departments and personnel therein . . .” Financial and personnel is how I interpret this Charter.

J. Sullivan: The Town Administrator will bring us in when we need to be brought in. It is between you and the Town Administrator; similar to the Fire Dept.

Chief Bartlett: As of now the Town Administrator and I will run the Police Dept. at the guidance of the Town Council as any other dept.

Dr. Shankle: Administratively that is OK. For personnel items we will have to talk about how that will be handled until the Police Commission is dissolved.

L. Boswak: Do you have any hires to fill before July 1st?

Chief Bartlett: No. We recently hired a new dispatcher and a new candidate that I swore in on Monday.

Vote unanimously in favor.

b.Merrimack River Conservation Land

J. Sullivan: I invite Rep. Hess to come back to the table.

T. Lizotte: Rep. Hess has provided an outline of the three motions he is requesting as they are lengthy.

Representative David Hess: Mr. Chair and members of the Town Council, on behalf of the Conservation Commission we thank you for your indulgence. We would like to purchase 135 acres of conservation land at no cost to the taxpayers of Town. We are negotiating with five property owners vs. the original two. The motions are affirmations and ratifications of what was already done. The project is along the Merrimack River. The two major land owners have been paid. They are Barbara Brown and Hooksett Land Trust.

Rep. Hess: The first motion is for the north area. We based our information on tax maps and assumed the area was owned by Barbara Brown but it wasn't. This area is 6.21 acres of land from the Merrimack River to the eastern side of the water way and is owned by Mr. Bailey. He will sell it to the Town and in turn the Town will sell him the B&M railroad ROW that was abandoned in the 1850's. MS&G owned that land and quitclaimed it to the Town at no cost. Doug Bailey has a contiguous deed. The lower ROW is closer to the Head's Brick Yard. It gives us 24 ft. to construct and maintain a pedestrian and motorized way. Part of the reduction in purchase price was because we found out Barbara Brown didn't own that property.

Rep. Hess: The second motion is for property owned by Carlisle and Judith Mason. Mr. Mason is here tonight and he has legal counsel. He owns two lots between Merrimack Street and the railroad ROW and a sliver of land along the Merrimack River. The Town will quitclaim property south of this land and he will give us the trail easement for pedestrian and non-motorized traffic, and a foundation for a bridge along Brown Brook north along tree line. We hired surveyors. We grant him and his heirs or whoever owns the back property will forever have access to the Merrimack River. We will give him the personal right to maintain, install, and remove a temporary seasonal dock that is 4 ft. wide x 24 ft. long.

Rep. Hess. The third motion is all the land except the Mason land indicated in yellow on my plan. The Society for the Protection of New Hampshire Forests will be granted a conservation easement over all of the land except .91 of the Mason Land. We want to secure \$75,000 in grants to help us purchase the land. The Society above helped us get \$80,400 in grants from LCHIP. There will be no limits on hunting and the public has to have access to the property. This last item does not require your vote. Mark Dunn, lawyer from Concord, was not sure you need to ratify, but he said to be on the safe side we should request three motions tonight. We are going to enter the stewardship between the Forestry Society and Conservation Commission. The

Forestry Society oversees the Conservation Commission annual monitoring at no cost to the Town.

T. Lizotte motioned that the Council ratify and affirm the boundary line adjustment with Douglas P. Bailey along the northerly side of the Merrimack Riverfront Conservation Project whereby: (1) The Town Conveys to Mr. Bailey by quit claim deed approximately one acre of the old former B&M Railroad right-of-way bisecting Mr. Bailey's land approximately 1686 feet east of the Merrimack River; (2) The Town conveys to Mr. Bailey by quit claim deed approximate $\frac{3}{4}$ acre of another former B&M Railroad right-of-way bisecting Mr. Bailey's property between 740 and 823 feet easterly of the Merrimack River, but retaining a surface easement for a pedestrian and non-motorized vehicular trail 24 feet wide and approximately 506 feet long within said right-of-way or within 40 feet east or west of said right-of-way; and (3) Mr. Bailey conveys to the Town approximately 6.21 acres of woodland, wetlands and cultivated field from the easterly bank of the Merrimack River approximately 780 feet east and approximately 334 feet wide to the easterly side of a wetlands drainage area; all upon payment by the Town exclusively from conservation funds to Mr. Bailey of \$10,000; AND that the Council authorize the Chair to execute any and all documents needed to consummate said adjustment. Seconded by L. Boswak.

Roll Call

T. Lizotte – Yes

J Levesque – Yes

V. Lembo – Yes

J. Sullivan – Yes

N. Comai – Yes

S. Lovas Orr – Yes

R. Duhaime – Yes

L. Boswak - Yes

Vote unanimously in favor.

V. Lembo: At the break Mr. Mason said he would like to address the Town Council tonight.

Rep. Hess: That is for the 2nd motion requested tonight.

J. Levesque: Does Mr. Bailey have the right to cultivate the corn field?

Rep. Hess: No that is with the Conservation Commission. We have no present plans on this. The grants we received have a 50 ft. buffer for wetlands and water lands and that may affect the cultivation of farmland. Mr. Bailey doesn't reserve the right on 6.2 acres. The grant process states cultivation may happen in the future.

J. Levesque: I believe there was something discussed with the Conservation Commission about the tractor getting out there.

Rep. Hess: The area goes down Merrimack Street to Allenstown and stops if someone is plowing the fields. The McNamara family would need to give permission to access their fields. This area was farmed by the Gold Farm from Pembroke for years.

L. Boswak: The 4th issue we are not voting on, but for the entire parcel will the Forestry Society have additional restrictions and stewardship like Bearpaw?

Rep. Hess: It will be similar to the Bearpaw stewardship. Essentially they are the same. To the extent of Conservation Commission easement it is almost non-negotiable. We have the LCHIP \$80,400 and \$150,000 grant. Michael Spelts, Forestry Society and I spoke with Steve Couture and Cindy Robertson of the Conservation Commission. The conservation easement is a 20 page document and out of 25 items Mike resolved 23 of them. The LCHIP, DES, and EPA say what we have to have.

T. Lizotte motioned that the Council ratify and affirm the boundary line agreement with Carlisle B. and Judith F. Mason along the southerly side of the Merrimack Riverfront Conservation Project whereby: (1) The Town conveys by quit claim deed approximately 0.23 acres of the old B&M Railroad right-of-way immediately east of the Merrimack River and north of Brown Brook, but reserving a surface easement across the entire parcel for a pedestrian and non-motorized vehicular trail and to support a bridge across Brown Brook; (2) Carlisle B. and Judith F. Mason convey by quit claim deed approximately .068 acres north of the aforesaid property extending from the easterly side of the former B&M Railroad right-of-way westerly to the Merrimack River in a straight line extension of the boundary line between Tax Map Lots 5-14 and 5-13 to the River, but reserving a surface easement to cross over a portion of said property to and from the Merrimack River beginning at the northwest corner of Tax Map Lot 5-14 and continuing 133.42 feet on a course of S72°53'17" to the Merrimack River, and further reserving a personal license to construct, maintain, repair, and remove a temporary seasonal dock no larger than 24 feet long by 4 feet wide within the surface easement herein reserved to Carlisle B. and Judith F. Mason; AND that the Council authorize the Chairman to execute any and all documents needed to consummate said agreement. Seconded by J. Levesque.

J. Sullivan: Please come up Mr. Mason.

Carlisle Mason: I haven't even had this plan for a week. I haven't had time to digest it. My attorney hasn't had time to digest it. This is the plan about the quitclaims.

Rep. Hess: In February and March 2013 I contacted Brian Germaine, Mr. Mason's attorney, and negotiated and reached an agreement. I assume his attorney shared the agreement. We incurred legal and environment fees to finalize the agreement. I met with Atty. Germaine at his office in Derry on May 10th and gave him a courtesy large version of the survey. Atty. Germaine had no disagreements and was coming to the Town Council. On Friday I received comments and concerns from Atty. Germaine, but no denials. I am here tonight to request ratifications. This is all after incurring thousands of dollars of Town funds. Since he (Mr. Mason) is represented by counsel I cannot speak with him. We have been on the property with Mr. Mason several times.

Dr. Shankle: I understand the Town Council may be reluctant to get involved with this with someone concerned with an agreement and whether it has been negotiated. The Representative from the Town is saying it has been negotiated. If Mr. Mason's attorney doesn't like it they will have to come back if they won't sign it.

J Sullivan: It is a legal agreement. If the Town Council authorizes me to sign it, it still has to go to Mr. Mason's attorney for signature. If they don't sign it then we can finalize any concerns and objections.

Rep. Hess: That is correct.

V. Lembo: Obviously Mr. Mason isn't saying he doesn't like it. He just wants more time to digest it.

J. Sullivan: If we sign here, he still would have as many days he would like to sign-off on his part of the agreement. Is that true Mr. Hess?

Rep. Hess: If the Town Council doesn't vote tonight, then the project is in jeopardy. The deadline for the LCHIP approval is before your next meeting.

J. Sullivan: If we sign now and if Mr. Mason chooses not to sign, how does that impact the LCHIP grant?

Rep. Hess: Not as much; that should not jeopardize LCHIP.

J. Sullivan: By us signing tonight does not limit the time for Mr. Mason to review the plan.

Rep. Hess: Correct, it is just not finalized until Mr. Mason signs it.

V. Lembo: I am concerned with the Town strong-arming a landowner to sell his property.

V. Lembo: Can I make an amendment that we approve the motion above conditional that Mr. Mason approves the agreement? We have a landowner here asking for a little bit more time to digest what was given to him last Friday.

L. Boswak: We need to present to LCHIP that we ratified it and that is where the issue is. The LCHIP grant is a greater need. Mr. Mason and his attorney can come back and take time to do what they need to do. We need to preserve the grant.

T. Lizotte: Mr. Mason doesn't lose any of his rights. We are ratifying what the Conservation Commission has moved forward. The procedural formality is what is being presented to the Town Council and the Conservation Commission needs our approval. Ultimately you have to agree. This is just a formality and nothing else.

Rep. Hess: You voted previously to this agreement based on a representation of Atty. Germaine. You are just ratifying it. \$80,400 in grant funds is in jeopardy.

S. Lovas Orr: I call the question.

Roll Call

T. Lizotte – Yes

J Levesque – Yes

V. Lembo – No

J. Sullivan – Yes

N. Comai – Yes
S. Lovas Orr – Yes
R. Duhaime – Yes
L. Boswak - Yes

Vote 7 in favor and 1 opposed. Motion Carried.

J. Sullivan: Mr. Mason you may come back in the future should you choose.

T. Lizotte motioned that the Council ratify and affirm that the Town, in consideration for the Society securing the grants of \$75,000 toward the purchase of the Conservation Project land and assisting in obtaining an additional grant of \$80,400 from LCHIP toward the said purchase, grant to the Society for the Protection of New Hampshire Forests a conservation easement over all of the land of the Merrimack Riverfront Conservation Project except the 0.91 acres of land involved in the Mason boundary line adjustment, consisting of approximately 133 acres; AND that the Council authorize the Chair to execute any and all documents needed to consummate said easement. Seconded by L. Boswak.

S. Lovas Orr: Explain to me how management of this land is different under this process?

Rep. Hess: In order to received State, Federal and private grants to purchase land, you have to make certain commitments. The Forestry Society requires you have to set up safeguards. Towns have purchased land for conservation use and over the years have de-conserved the land. Example is in Bow where there is now a high school on conservation land. If a town owns land the town can do anything they want with it regardless what they told the landowner. There are conservation entities such as the Forest Society and Bearpaw, but you have to commit to conserving the land by the granted easement. If you violate the agreement, they can step in and say no. They have the legal authority to enforce the town cannot change the use of the land as originally agreed. We can't put a three-story apartment complex on this property. We can't build a baseball field or hockey rink. That is why they helped us get half the price of the land. 10, 20, 30 years down the line our successors must have the land remain as conservation land. If the town doesn't live up to its obligations and if the conservation easement holder doesn't uphold their side, then the State can step in to assure the original use of the conservation land. The funds are \$150,000 aquatics, \$80,400 LCHIP, and \$75,000 from two private foundations.

S. Lovas Orr: So the Forestry Society can never take the land from the Town. They can just enforce that we can't build on or use it for other use.

Rep. Hess: If there was a horrendous event, the Feds could take over the land.

Roll Call

T. Lizotte – Yes
J Levesque – Yes
V. Lembo – Yes
J. Sullivan – Yes
N. Comai – Yes
S. Lovas Orr – Yes
R. Duhaime – Yes
L. Boswak - Yes

Vote unanimously in favor.

Rep. Hess: Thank you.

NEW BUSINESS

J.Sullivan: c.13- 45 Fee Schedule updates – the Fire Chief is unable to attend tonight.

b. 13- 44 Roadway Impact Fees – Zone 2 Sidewalks on Main Street

Leo Lessard, DPW Director: This is for zone 1 impact fees that expire June 13, 2013. I would like to take the \$72,926 money in there now and develop sidewalks in front of Town Hall from Lafond Ave. to Donati Park north parking lot. It is 770+- feet and we have preliminary designs. CMAQ funds are 80/20.

Dr. Shankle: At the Village planning meetings the few things they all agreed on was the importance of more sidewalks.

J. Sullivan: Could you continue the sidewalks from Lafond Ave. to Donati Park's south parking lot?

L. Lessard: We can look into the south parking lot.

V. Lembo: You said zone 1, but it is zone 2.

L. Lessard: Yes it is zone 2.

V. Lembo: The Planning Board has an ordinance on sidewalks. A couple of years ago the Town Council informed the Board there is maintenance issue with sidewalks and not to approve any more.

R. Duhaime: It is still in the ordinance, therefore the Board would still have to include it. I think you are speaking of State roads. Example is the connector road sidewalk that the Town is required to maintain.

J. Sullivan: Anything that occurred prior to that is grandfathered.

V. Lembo: Some developments that were asking for sidewalks the Council said they didn't need to do it.

J. Sullivan: I don't think the Council has the authority to state whether or not there should be sidewalks.

V. Lembo: Do we have equipment to maintain sidewalks?

L. Lessard: We have a sidewalk plow. Mr. Duhaime is right that we have to maintain state sidewalks.

V. Lembo: If a development has sidewalks do we maintain them?

L. Lessard: The University Heights project doesn't say we have to plow, but that we make an attempt.

J. Levesque: I remember the prior DPW Director didn't want sidewalks. We didn't change the ordinance, because it allowed the Planning Board leeway not to put them in.

V. Lembo motioned to authorize the DPW Director to use zone 2 roadway impact fees for new sidewalks on Main Street. Seconded by J. Levesque.

V. Lembo: Councilors Duhaime and Orr have been on the Planning Board. Has the Planning Board been waiving sidewalks?

R. Duhaime: Not that I am aware of. New developments yes, but not for existing roads with new houses, because that is preexisting.

V. Lembo: The master plan should be looked at for sidewalks.

N. Comai: Where did the \$80,000 for sidewalks on College Park Drive come from?

L. Lessard: 2008-2009 impact fees.

N. Comai: The impact fees could go back to the developer if not used by June 13, 2013. For 770 ft. of sidewalk, how much will it cost to maintain? We are already in a default budget.

L. Lessard: If we don't use the money, it goes back to the developer. It is a safety issue to have sidewalks from Main Street to the library. I don't want people walking in the street.

N. Comai: I want sidewalks too, but we need a plan.

L. Lessard: We could get a donation through CMAQ money for sidewalks from the connector road to the library and someday to Robie's.

N. Comai: I concur with Vinnie tonight, but I would like to see a map and plan of sidewalks moving forward so we are all solid where we are going with this. An 8 ½ x 11 plan listing a, b, c and the cost to maintain them.

J. Sullivan: Authorization for the CMAQ sidewalk was approved by this Council. I personally said no because it did not connect. This is now connecting from Town Hall to another town facility and that makes sense; town owned property to town owned property. In winter months I was wondering why we are plowing behind the town library when you have to walk almost two miles before you would get to a house. Let's hope this is not Hooksett's sidewalk to nowhere.

V. Lembo: In your best guestimate what is the life expectancy for a sidewalk plow and how much would it cost to maintain? Can we use impact fees to purchase a new one?

L. Lessard: We can't purchase equipment with impact fees. That one (sidewalk plow) is in the CIP. It is a mid-1990 model and in bad shape. We will need a new one shortly.

Marc Miville, CIP Vice-Chair: The CIP scheduled two more years for the \$90,000 request out of total \$140,000.

L. Lessard: I believe it costs \$160,000.

J. Sullivan: For future Councilors the issue with sidewalks is the cost to maintain them.

R. Duhaime: Kiwanis is great at picking up trails. I believe they are already looking at sidewalks. I live between two developments, but there is no contiguous sidewalk and it is a state road.

Roll Call

T. Lizotte – Yes

J Levesque – Yes

V. Lembo – Yes

J. Sullivan – Yes

N. Comai – Yes

S. Lovas Orr – Yes

R. Duhaime – Yes

L. Boswak - Yes

Vote unanimously in favor.

a.13- 43 Electronic Public Input

N. Comai: After the last meeting I sent a quick e-mail to Dean Shankle and Jim Sullivan regarding a charter change request.

J. Sullivan: I don't think electronic public input is a charter requirement, but rather under Council procedures. The intent is for a Councilor who couldn't attend, but participated via technology vs. non-councilor Tweets. Skype is allowed for a Councilor that can't be here. Citizens participating electronically during our time is another thing.

L. Boswak: I don't think we need to address this. Per RSA 91:A2 paragraphs 2 & 3 states we don't discriminate against the public for those who have or don't have electronic access.

J. Sullivan: Councilors who participate via electronic method is OK, however the question is the public participating this way.

S. Lovas Orr: First I would like to address that we have time for public input and we respect that. Whether we decide to accept electronic public input or not is another issue. Those from the public who took time to come here and speak should be allowed to speak. I am torn about this. There is the issue of the elderly or a person who doesn't have internet access. On the other hand you may allow public input to those who weren't able to participate. I would agree I would like to see what other towns do and have a more in depth discussion on how to manage this. I don't want to give out my personal cell phone number for people to text me during the meeting. We would need one mailbox and who is going to manage it?

V. Lembo: First who requested this item be put on the agenda? I am debating 7 or 8 Councilors and then to have a constituent into the conversation via a Tweet and have public record saying

something I thought was inappropriate. The forum at the library for candidates there were many times he would like to shout “point-of-order”, but he knows he has to wait for public input. It took me back when you, Nan, did that the other night.

J. Sullivan: I received four individual requests to put this item on the agenda.

V. Lembo: I am against people Tweeting in questions. When that happened to you Nan I believe that then happened to Dr. Shankle.

R. Duhaime: The younger generation is coming along whether we like it or not. We want to get people in politics and become active in the community. How I don't know: texting, etc.? At the same time we need to be realistic and keep the meeting moving along. It is not fair to people who wait patiently in the audience to speak.

N. Comai: There is a broad range on how to do it. These things can be done at public forum. Some will say no. We communicate now in a whole different way. We need to be a board who allows for change. I just wanted to put it out there. What happened the other night, I was honest about what came in and who said it for transparency.

L. Boswak: The number one reason we are here is to our business meeting.

S. Lovas Orr: The Town Administrator should do a little bit of research on how other towns are dealing with this issue.

J. Sullivan: Dean will look at more information.

SUB-COMMITTEE REPORTS

L. Boswak: The HEDC is meeting next Tuesday afternoon. I attended the Access Greater Manchester meeting and there was a panel EDC chairmen from Manchester, Goffstown and Hooksett (Matt Mercier). There are various communities that conduct EDC initiatives. Matt is representing our Town very well.

S. Lovas Orr: I was not at the Planning Board meeting on Monday, because I was an abutter to 2 out of 3 items on the agenda.

N. Comai: I have nothing to report.

J. Sullivan: Heritage Day is this Saturday check the website. Activities include: Robie's open with reflections of old timers, Historical Society open, Old Town Hall open, and friends of the Head School Society open house. Week from tonight at 6:00pm is the unveiling of the Native American murals by Mr. Cheever. Presenters will include the artist's son, State Archeologist, Arts Council, a member of the Indian Museum in Warner, and preservation and restoration people. Also there are new Historical Society displays out in the hall. Family Feud II is June 13th to raise funds for heritage programs. We are slowly working on a program for Veterans Park at Jacob Square. A fantastic job to my fellow board member Kathie Northrup.

V. Lembo: I have nothing to report.

J. Levesque: The Board of Assessors has not met. Next week is the Recycle & Transfer meeting. This week SNHU had two ZBA items for wetland impacts. The ZBA also had a homeowner with a daycare who wanted to increase to 6 kids; state approved 9 that passed. The 28 by-pass site walk was Monday for a proposed medical building in an industrial area. The ZBA granted same approval for where the mortgage company is located across the street.

T. Lizotte: I have nothing to report.

PUBLIC INPUT

Marc Miville, 42 Main St.: I want to correct Councilor Orr's statement, such that there has been a town default budget for the last two years. This current year's budget request was for \$327,000 above default, and the voters instead favored the lower default amount. Previous was \$327,000 over default not approved. My point of view after elections is that I heard a lot of similar comments as Moderator Riley that there were too many warrant articles. To some extent we have done our part and there was a voter's guide. Yes I think there should be more information sharing to the voters before the election. With this year's overall proposed budget being \$366,000 over the default budget, there was consensus between Town Council and the budget committee that we needed to sell it to the voters as investments in our town. I wrote the voter's guide and sent four letters to the editor so I have no regrets on my efforts on that. Even though there were too many articles they voted on all except three. Salaries should be in the warrant articles. We should examine what goes in as CIP items. The focus next year should be to get under the default budget. No matter how the vote came out for the Police Commission you are handling it for a seamless transition and I commend you for that. I would now like to see a double-down strong concerted effort for positive atmosphere from all citizens despite former positions on the Police Commission. I would like to be able to approach any town citizen, hold out my hand for them to shake it, and hope they would take it – I have shirt on tonight I haven't worn in long time (Hooksett – A Shared Vision). I have felt it to be a cynical phrase for a while, but hope that changes. We must all move on together with the Council in the leadership role. The citizens must unite. I have suggestions and will provide those at a later time. As for Tweeting and public input, I sit here for hours and wait to speak. I don't want to be sitting here to hear a Tweet or e-mail coming in. We have the videos. If someone wants to speak they should commit to attend the meetings and be as passionate here as I am.

NON-PUBLIC SESSION

NH 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.

NH RSA 91-A:3 II(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

Entered Non-Public Session @ 9:45pm per RSA 91-A:3 II (c) & (d)

*J. Levesque motioned to enter non-public session @ 9:45pm per NH RSA 91-A:3 II (c) & (d).
Seconded by T. Lizotte.*

Roll Call

T. Lizotte – Yes

J Levesque – Yes

V. Lembo – Yes

J. Sullivan – Yes
N. Comai – Yes
S. Lovas Orr – Yes
R. Duhaime – Yes
L. Boswak - Yes

Vote unanimously in favor.

Exited Non-Public Session @ 11:29pm per RSA 91-A:3 II (c) & (d).

J. Levesque motioned to exit non-public session @ 11:29pm per NH RSA 91-A:3 II (c) & (d).

Seconded by S. Lovas Orr.

Vote unanimously in favor.

T. Lizotte motioned to seal the minutes of the non-public session. Seconded by S. Lovas Orr.

Vote unanimously in favor.

T. Lizotte motioned to adjourn at 11:30pm. Seconded by L. Boswak.

Vote unanimously in favor.

ADJOURNMENT

Chairman Sullivan declared the meeting adjourned at 11:30pm.

Respectfully submitted,

Donna J. Fitzpatrick