

**Minutes of Meeting  
CONWAY BOARD OF SELECTMEN**

July 26, 2011

The Selectmen's Meeting convened at 4:01 p.m. in the Meeting Room of Conway Town Hall with the following present: Selectmen, C. David Weathers (Chair), Lawrence Martin, Howard C. Dickinson Michael DiGregorio and Mary Carey Seavey; Town Manager, Earl W. Sires and Recording Secretary, Karen Hallowell.

PLEDGE OF ALLEGIANCE

Chairman Weathers led the Board in the Pledge of Allegiance to the Flag.

APPROVAL OF AGENDA

Mr. Weathers advised that two items will be moved to the next agenda. The non public session regarding the Town Manager Evaluation and, also, a meeting that was scheduled after this meeting regarding union negotiations. There were no objections.

**Mr. DiGregorio moved, seconded by Mr. Dickinson, to approve the 7/26/11 agenda. The motion carried 5-0-0.**

AUDIT EXIT INTERVIEW - GREG COLBY/PLODZIK & SANDERSON

Greg Colby of Plodzik and Sanderson joined the meeting. Also present was Town Finance Director, Lucy Philbrick.

Mr. Colby reviewed annual financial report for the town for the year 2010. A copy of the report is available on file at Town Hall.

Mr. Martin thanked Greg Colby, Lucy Philbrick, and staff for their time, effort and a job well done. Mr. Weathers and Mr. Sires echoed the comments.

APPOINTMENT WITH SELECTMEN: RANDY DAVISON

Randy Davison, Therese Davison, and approximately 14 neighbors were in attendance.

Mr. Davison stated he is here regarding his concerns with zoning in his neighborhood. He is here with the support of his neighbors and he appreciates their support. Mr. Davison advised that when he purchased his home in Conway they (he and Therese Davison) took on the venture of a yard sale. Mr. Davison stated this is a community event and they help college students and others with their venture. Mr. Davison stated he feels their neighborhood yard sale is grandfathered. They are good taxpaying citizens and feel their tradition should be followed. Mr. Davis next stated he feels the pressure put on the people in his neighborhood is ridiculous. Mr. Davison stated he forwarded a letter in this regard signed by his neighbors to the Town. Mr. Davison next reviewed the ordinance concerning yard sales. Mr. Davison next stated that he does not feel that he and his neighbors should have to move their endeavor 50

feet and sit in the sun. He does not feel that where it is currently located is a hindrance to the town. Mr. Davison next stated that Carol and John Gandreau ran this endeavor before him and the sign is still there and that they had been doing this since the 1950's. Mr. Davison stated he hopes the Board uses a clear conscious and removes the stumbling blocks in place as they believe they are grandfathered.

Mr. Weathers reviewed that this matter was brought before the ZBA about a year ago and was denied. Mr. Davison stated this is correct but feels the Zoning Officer put a road block up and contacted the police to say there were traffic concerns and he wished he new this in advance. Mr. Davison also pointed out he has a shop in the barn as well. Mrs. Davison next stated they wanted to work with the Town Planner, Code Enforcement Officer, Town Manager, etc, to see if they were in support. They attempted to work with town officials but when they got to the ZBA they were denied. They were not able to prepare for the ZBA meeting by bringing police reports, etc. Mrs. Davison stated she feels the bottom line is they were trying to be helpful and in doing so they are now being harassed. Mr. Weathers stated that town staff is not out to deliberately go out and harass people. Mr. Davison stated that town staff came to there property on several occasions and people felt harassed. Mrs. Davison also added that people were also taking pictures outside across from their property and she feels this borders on stalking. Mr. Weathers stated he disagrees that this is stalking. The town has seen many cases dealing with signage, etc, and pictures, etc, are done to make documentation to the file. Mr. Martin stated to think staff is stalking them is incorrect as they are doing their job enforcing ordinances. Whether Mr. & Mrs. Davison agree with it –they are doing their job and this was voted in by the voting body. When pictures are taken, they are documenting a case. Mr. Martin also discussed the traffic situation in the area. The traffic light at Irving backs traffic up and with the yard sale it can be a confusing situation and he thinks that people just tolerate it because it is a yard sale. Mr. Martin next stated that going back to the yard sale, whether or not is it grandfathered-the ZBA didn't see it that way. Also, the Davison's have a business inside the property that is an antique business and we have an ordinance about the display of merchandise and, in turn, your yard sale could be looked at by certain parties as an extension of the business. Mr. Davison stated they will take down the sign. Mr. Martin further added they have to look at this as -this is for everybody in town and not just you. Mr. Martin next stated that he is confused by the Gadreau sign and questioned –didn't they live on River Street? Mr. Davison replied in the affirmative but added that this was a neighborhood thing.

Mr. Davison next stated they believe this issue is grandfathered and when they went to the ZBA this was for a variance and they got blindsided. They also did a petition and felt the voters were confused and this didn't pass. He feels this is grandfathered and they do not feel they should have to move it. Mr. Davison further added if the town wants information from the Gadreau's he can provide same.

Ms. Seavey stated she feels this has been ongoing and doesn't think there are issues with parking. There are no incidents that she believes that involve police.

Mr. Martin stated he doesn't believe there is a provision for this to be grandfathered under the ordinance. He is also getting very frustrated with every time someone isn't happy with a policy that has been in place or an ordinance, they come to this Board and want to be the exception and they don't want to play by the rules. The voting body voted on an ordinance that says you can only have yard sales for so many days per year. If exceptions are made we are moving from what the voting body wanted.

Mr. Sires advised that when he was hired 11 years ago the Board of Selectmen reinstated enforcement of zoning laws. The Board of Selectmen established an approach that was a light touch. The mission he had when he started with the town was to implement zoning compliance and this is a several stage process that includes a friendly talk, friendly letter, notice of violation and then they come before the Board. He believes this process works and pointed out there has not been anyone before this Board for a long time. In this situation, it is an ongoing violation and this matter will be coming before the Board in a few weeks on an agenda as a zoning code violation.

Mr. Sires next stated that he was the one that went to see Randy Davison on Friday –not to harass him but to explain the situation. He was there to explain to him personally and to give him understanding of the matter. Randy feels this is contentious but people see this differently. Mr. Sires further explained that Mr. Davison had presented an article to the voters on this matter in the past and the voters voted same down. Mr. Davison has also been before the ZBA. The voters have voted and the Board of Selectmen cant change it.

Therese Davison stated she has felt harassed but not by Earl Sires. She wasn't there for this particular visit. Her emotional response to this is indicative of stress and by someone who feels harassed. She expressed this last year and asked that a certain individual not contact them again and then it stopped but started again this year. She does not know how this works and apologizes for being out of synch earlier in the meeting.

Mr. DiGregorio stated that as the process moves forward, if they are being cited, we will get copies of just what happened to date. Mr. Sires advised the Board will get a package of information for review.

Mr. DiGregorio next stated to Mr. Davison that a couple of years ago he tried to change the ordinance and stated that if you still don't like the ordinance then try to get it changed. If you don't like the outcome that is a different issue. There was next brief discussion on three articles that were presented to the voters. Mr. Davison stated he feels like he was set up and that it takes time to get all the signatures needed and that it was frustrating. Mr. DiGregorio explained that if Mr. Davison puts another article forward he may get what he wants and he is not sure why he hasn't attempted to get the number of days for yard sales changed in the ordinance. Mr. Davison stated that previously the Planning Board didn't support the article. Mr. Davison further stated it won't be a good use of time to meet the needs of the Town Planner as he did the article three times previously and it was confusing.

Mr. Sires stated that Mr. Dickinson and he sat down with Mr. Davison last year and nothing came of it. Mr. Davison did not submit an article this year. The town tried to work with Mr. Davison and this offers evidence we are trying to work with him and not against him.

There was next discussion on wording the warrant article. Mr. Davison stated he wrote the article 3 times. They said he needed to include village commercial district but the Planning Board still did not support the article. Mr. Weathers stated it is ultimately not up to the Planning Board, this is a recommendation only and it is up to the voters to actually decide on the article. Mr. Davison stated that if you have the support of the Planning Board it is easier and Mr. Weathers countered that it is still up to the voters.

Ms. Davison next stated she is not making a legal charge of harassment. The words harassment can bring a lot to the top of the milk jug. This is not the legal definition of harassment but felt it was overzealous and now that this has been expressed she feels better.

Mr. Martin stated that they may have a strong misconception of the role of the Board of Selectmen. Mr. Martin explained our hands are tied as to how much action we can take. We cant change the ordinance or grandfather this matter. The Planning Board can only go so far as well. If you want something you need to go after it and to say it is a lot of work to get signs, etc., you stil have to keep going at it if this is what you want.

Mr. Davison stated that he believes it is within the right of the Board of Selectmen and he has talked to a lawyer regarding this matter. Mr. Davison stated he believes they are grandfathered and was told to ask the Board of Selectmen this question. Mr. Dickinson stated he heard earlier that the Board does not have the authority to grandfather this. Mr. Sires stated it is his understanding it is up to the ZBA.

There was further discussion concerning grandfathering. Mr. Irving explained the way it works is there would be an administrative decision as to whether a property could be grandfathered. This decision is based on the claimant bringing forward proof and this would be evaluated by staff to make a decision. If the person does not like or agree with the decision they can make an appeal of the administrative decision and the matter goes to the ZBA. There was further discussion with the Board regarding grandfathering.

Mr. Dickinson questioned if the easiest thing would be to put forward a new petition that is written properly and clearly. Mr. Martin stated we cant speak for the voters of Conway as to how they would vote. Mr. Dickinson and Mr. DiGregorio stated they could try to help draft an article with Mr. Davison.

Mr. Martin stated he would like to move on from this agenda item as it will be coming back to the Board in the next couple of weeks.

Mr. Irving stated that town staff tried to assist in the past to help work toward a solution in this matter. This doesn't mean staff supports the article or that the planning board or voters will approve of same either. Town staff has done everything to help facilitate a solution and did so in a professional manner.

Mr. Weathers questioned if this will be on an upcoming agenda. Mr. Sires replied in the affirmative and advised they have received two notices of violation and they may receive a third if they have another this weekend.

Mr. Davison stated he will be preparing an article for the voters. Mr. Weathers pointed out that Mr. Davison has sufficient time to prepare same and, also, to try to get support for his article.

Mr. Sires stated that writing an article for citizens is a touchy subject and gets us involved in the political process and we shouldn't be involved. We cant involve ourselves in writing an article until enforcement is resolved. We have a situation ongoing and it is not resolved. Mr. Sires questioned if Mr. Davison intends to continue to violate the ordinance. Mr. Irving pointed out the window for submitting a warrant article is mid December.

Discussion on this matter concluded at 5:18 pm.

Neighbors in attendance at this meeting included Ruth Deforno, Bruno Deforno, Bruno Vallieres, Marge Wade, Therese Davison, Randy Davison, Nancy Hildebrand, Marcia Cole, Etienne Vallee and Sally Hatch.

PEQUAWKET SPEED LIMITS - MAUREEN ENOS

Maureen Enos appeared before the Board. Ms. Enos stated she is here to help solve a problem and keep a neighborhood safe. Ms. Enos stated her neighborhood is asking to reclassify Pequawket Drive. This issue is -it is a corridor. Ms. Enos explained in 1979 it was a dirt road and you could walk down the road, kids could ride bikes, and only once in a while cars were on the road. In 1988 the road was paved and now it is used as a cut through. The speed limits on the road have not changed and the traffic in 1988 is different than it is now and so is the amount of residences. From E Street to the bottom of the hill, about 6/10 of a mile, there has been eleven accidents in the past ten years. Ms. Enos advised she had spoke to the Police Chief regarding this matter and the Chief is concerned with the severity of the accidents. Ms. Enos next advised that children also play in this area. Ms. Enos stated she is asking the Board of Selectmen reconsider the speed limit for this area. There are three signs for 30 mph. The Chief also put the flashing sign out and that helped. Ms. Enos stated she is asking that the limit be reduced and more signs be placed as well along the road. Also, at the beach, she would like to see Children at Play signs. Ms. Enos next added that there are 53 homes on that stretch of road and that she feels people travel too fast. Ms. Enos next asked for speed bumps that are removable. Reverse speed bumps wouldn't affect plowing and people would have to slow down to get though the speed bumps. It is her understanding that the sewer will be going through in the future and they will have to rebuild the road and she feels that would be the time to do the speed bumps.

Mr. Weathers asked Public Works Director, Paul DegliAngeli, to comment. Mr. DegliAngeli advised that in 1994 the Board of Selectmen formed a committee to look at road utilization. The intent of the committee was to come up with guidelines for the Board of Selectmen so they could look at requests such as this in an organized way and make informed decisions. The committee made recommendations on speed limits –local roads posted at 25 mph and there were not postings below that. Collectors roads were 25-30 mph and arterial collector roads 35-45. Pequawket is currently signed at 30 mph. Mr. DegliAngeli questioned if Ms. Enos is asking for 25 mph. Ms. Enos replied in the affirmative. Ms. Enos further added that she doesn't feel anyone should be going around curves at more than 20 mph. There are no sidewalks or curbs and people come barreling around the roadway and she doesn't feel it is safe to walk there, kids cant ride bikes up and down the street. It is just not safe. Further, she feels the worst offenders are construction vehicles.

There was discussion regarding the classifications for the road and also construction traffic. **Mr. Martin moved, seconded by Mr. Dickinson, that we lower the speed limit to 25 mph on Pequawket Drive and re-sign it adding two (2) more signs to this area and two (2) children playing signs.** Mr. Sires pointed out we have had a number of requests for children playing signs and studies show these have no impact. Mr. DegliAngeli added that we follow federal guidelines for this and that signs have been removed and are not used nationally. **Mr. Martin amended the motion, seconded by Mr. Dickinson, that we lower the speed limit to 25 mph on Pequawket Drive and re-sign it adding two (2) more signs to this area.** Mr. DiGregorio questioned if dropping the speed limit will have any affect when people are not obeying the limit now. He feels this is an enforcement issue and is curious as to the Police Department position on this issue. Ms. Enos stated that Chief Wagner supported the ideas and advised he will designate one of the grants they will be receiving for enforcement in the area. Ms. Enos further added the Chief also feels more signs showing speed limits will help. Ms. Enos next reiterated she would like to see speed bumps put in this area. Ms. Enos next stated that if trucks are not supposed to be in this area this should be enforced. She also has a

list of town trucks and will give same to Paul. She would also like to see the Police set up speed traps in the area. Ms. Seavey stated she is not in favor of speed bumps but questioned how many signs Ms. Enos would like to see. Ms. Enos stated three (3) or more signs. Mr. DiGregorio questioned if Ms. Enos is asking to change the speed limit on entire road or just an area of the road. Ms. Enos stated she is asking for the entire road but would settle for the area discussed. Mr. Martin stated the motion is for the entire road. The Board agreed. Ms. Enos next stated that some people in the neighborhood are aware she is asking for the lower speed limit and some are not. Mr. Sires stated changing the speed limit may require a public hearing and, if the motion is approved, we will start the public hearing process if same is required. Mr. Sires next reviewed a letter from the President of the Association agreeing to the lower speed limit. Mr. DiGregorio stated if the Association endorses the lowering of the speed limit he will as well. Mr. DiGregorio questioned how we can move forward at this point if we need to go through the public process first. Mr. Sires suggested amending the motion to state this is subject to any public process that may be required and then take a final vote. Mr. DegliAngeli stated when adding signs we can follow the standard and we could just say add signs to comply with the standards. Once you decide on the limits the residents wouldn't have a say on the number of signs. Also sharp corners may need additional signs. There was brief discussion. **Mr. Dickinson withdrew his second and Mr. Martin withdrew his motion.**

**Mr. Dickinson moved, seconded by Mr. DiGregorio, to direct staff to initiate procedure to consider an amendment to traffic code for speed limits and signage on Peqauwket Drive. The motion carried unanimously.**

#### CONSIDERATION OF GRANT APPLICATION FOR BRYANT'S AUTO SALVAGE

Mr. Sires reviewed a proposed grant application for Bryant's Auto Salvage. Mr. Sires advised town staff is working with Bryant's to help achieve compliance and to get a grant. Staff looked into this Brownfields application. There will be no expense to the town and DES funds to get the tests done. This can then move forward with other actions. Bryant's is in support of the application. **Mr. Martin moved, seconded by Mr. Dickinson that we submit the grant application for Bryant's Auto Salvage. The motion carried 5-0-0.**

#### GARAGE BID RESULTS

Mr. DegliAngeli reviewed a summary of the bid results for the Garage with the Board. There was discussion regarding the bids and options.

Mr. Martin left the meeting at 6:28 p.m. noting that he did not want to be appointed to the MWVSWD Committee or Hussey Field committee.

**Ms. Seavey moved that we go with the \$123,040 work as bid but changing the painted roof to a galvanized roof. The motion carried 4-0-0.**

Mr. DegliAngeli next discussed the service building and reviewed information. The Board held discussion regarding the bid and options.

**Mr. DiGregorio moved, seconded by Mr. Dickinson, to award the bid as modified by Alternative 1 with direct siding attached and spray foam insulation for a savings of \$3,400 and a net award of \$218,109. The motion carried 4-0-0.**

### TRUCKING REQUEST ON NORTH-SOUTH ROAD

Mr. DegliAngeli stated that earlier in the meeting there was discussion about trucking on Peqauwket. There was talk about contractors using roads for construction and the contractor for Wyman Avenue, etc. has asked to use the North-South Road when they haul in the gravel and rebuild the base road for the town. This would be happening in the next two weeks. Mr. DegliAngeli stated he advised them he would mention this to the Board of Selectmen to see if there is any opposition. There was discussion by the Board on the weight limits and the condition of the North-South Road. The Board agreed there was no opposition to this request.

### APPOINTMENT OF REPRESENTATIVES TO MWVSWD

Mr. Sires reviewed that over the past several months there have been several meetings of the Mount Washington Valley Solid Waste District and Mr. Weathers was the representative for the Board of Selectmen. Mr. Sires advised that in the past, he and Paul DegliAngeli were the representatives as well as members from Albany and Madison. Recently an issue has come up and what we really need on the committee is citizens and others who aren't staff. Staff shouldn't be voting members at the meetings, they should be there as a resource. There was brief discussion by the Board. The Board gave direction to the Town Manager to advertise for public input.

### APPOINTMENT OF HUSSEY FIELD/FIRST RIVER BRIDGE COMMITTEE

Mr. Sires reviewed a memo provided regarding the First River Bridge Committee with the Board. Mr. Sires suggested that two members of the Board of Selectmen be part of the committee, staff members and livery owners. Mr. Sires further suggested the Board also add members of the general public as well. Mr. Sires advised the Town could advertise for the committee in the newspaper. Mr. Sires next suggesting inviting the Conservation Commission to appoint someone to the committee and, also, someone from the North Conway Precinct as well. Mr. Sires next advised that one of the business owners, Peter Gagne, is interested in serving on the committee. The Board agreed to advertise for interest from the public in serving on the committee.

### APPOINTMENT OF PARKS COMMISSIONER

Mr. Sires reviewed the Town advertised for a position on the Parks commission. David Brooks has put his name forward for this committee. **Mr. DiGregorio moved, seconded by Mr. Dickinson, to appoint David Brooks to the Parks Commission. The motion carried unanimously.**

### SIGNING OF DOCUMENTS

- a. Abatement Map/Lot 202-176.001
- b. Abatement Map/Lot 272-23
- c. Current Use Land Use Change Tax Collector's Warrant Map/Lot 203-11.3
- d. Current Use Land Use Change Tax Collector's Warrant Map/Lot 263-1.8
- e. Land Use Change Tax Map/Lot 203-11.3
- f. Land Use Change Tax Map/Lot 263.18
- g. Notice of Intent to Cut Wood or Timber Map/Lot 258-32
- g. Permit to Sell Raffle Tickets/Mt Washington Old Car Club – Drawing 9/11/11
- h. Permit to Sell Raffle Tickets/NH intertribal Native American Council – Drawing 8/7/11

**Mr. Dickinson moved, seconded by Ms. Seavey, to approve the signing of the Abatement Map/Lot 202-176.001, Abatement Map/Lot 272-23, Current Use Land Use Change Tax Collector's Warrant Map/Lot 203-11.3, Current Use Land Use Change Tax Collector's Warrant Map/Lot 263-1.8, Land Use Change Tax Map/Lot 203-11.3, Land Use Change Tax Map/Lot 263.18, Notice of Intent to Cut Wood or Timber Map/Lot 258-32, Permit to Sell Raffle Tickets/Mt Washington Old Car Club – Drawing 9/11/11, Permit to Sell Raffle Tickets/NH intertribal Native American Council – Drawing 8/7/11 as presented. The motion carried 4-0-0**

RATIFICATION OF DOCUMENTS SIGNED OUT OF SESSION

- a. Manifest dated 7/21/11

**Mr. DiGregorio moved, seconded by Mr. Dickinson, to ratify the manifest dated 7/21/11. The motion carried unanimously.**

CONSIDERATION OF BILLS:

- a. Manifest dated 7/28/11
- b. Payroll dated 7/28/11

**Mr. Dickinson moved, seconded by Mr. DiGregorio, to sign the manifest dated and payroll dated 7/28/11. The motion carried 4-0-0.**

REVIEW AND CONSIDERATION OF SPECIAL EVENT APPLICATION(S)

- a. Saco River Intertribal Pow Wow/NH Intertribal Native American Council – 8/6-8/7/11

**Mr. Dickinson moved, seconded by Mr. DiGregorio, to approve the special event application for the Saco River Intertribal PowWow by the NH Intertribal Native American Council scheduled for August 6-7, 2011. Mr. Weathers advised he will be meeting with the Parks and Recreation Department to flag off the area to vehicle. The motion carried 4-0-0.**

CONSIDERATION OF MINUTES: 6/24/11

**Mr. Dickinson moved, seconded by Mr. DiGregorio, to approve the minutes of 6/24/11 as written. The motion carried 4-0-0**

TOWN MANAGER REPORT

Saco River Access – Mr. Sires stated thank you to the North Conway Water Precinct and David Bernier for helping work out the issue with canoe outfitters and letting them use the South side of West Side Road.

Vehicle Safety – Mr. Sires reported the matter of vehicle safety will be coming to the Board at an upcoming meeting.

Town Parking Lot – Mr. Sires reported the matter of the town parking lot in North Conway will be coming to the Board's next meeting for discussion.

### BOARD REPORTS AND COMMENTS

Budget Committee – Mr. DiGregorio reported the Budget Committee met recently and they have decided to separate into subcommittees for different topics. The Budget Committee wants to get a little more information earlier. Mr. DiGregorio stated he is concerned that the earlier you get the information –it may be inaccurate. However, it is good to see members on the committee more interested than in the past. They will have a full meeting of the Budget Committee in September and the subcommittees will report back at that time.

### PUBLIC COMMENTS AND MEDIA QUESTIONS

Daymond Steer of the Conway Daily Sun asked with regard to the yard sale discussion earlier -had that been a problem this year. Mr. Sires advised that there were 2 notices of violation issued this year. If they hold another yard sale this weekend, another violation will be issued. Mr. Sires asked Mr. Steer to call him at the office tomorrow to discuss any further information he may need. Mr. Steer agreed.

### NON-PUBLIC SESSION: NH RSA 91-A:3,II(C)/TAX MATTER(S)

At 7:05 pm, **Mr. DiGregorio moved, seconded by Mr. Dickinson, to go into non public session under NH RSA 91-A:3,II(c) to discuss two tax matters.** The non public session included taxpayers, Town Manager, Earl Sires, and Recording Secretary, Karen Hallowell. **The motion carried by unanimous roll call vote.**

At 7:12 pm, the Board returned to public session.

### NON PUBLIC SESSION: NH RSA 91-A,II(C) / TOWN MANAGER EVALUATION

This agenda item was carried to the next meeting.

### ADJOURN

At 7:15 pm, the meeting adjourned at the Call of the Chair.

Respectfully Submitted,

Karen J. Hallowell  
Executive Secretary

Note: There was a Non Public Meeting scheduled pursuant to NH **91-A:2,III(a)** regarding Union Negotiations after the regular Board meeting; however, this was carried to the next meeting date of the Board.