

**Minutes of Meeting
CONWAY BOARD OF SELECTMEN**

January 25, 2005

The Selectmen's Meeting convened at 4:07 p.m. in the meeting room of Conway Town Hall with the following present: Selectmen, Gary Webster (Chair), David Weathers, Karen Umberger, and Larry Martin; Town Manager, Earl W. Sires; and Recording Secretary, Karen Hallowell.

PLEDGE OF ALLEGIANCE

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

SIGNING OF DOCUMENTS

The Board reviewed and signed various documents contained in the signature folder.

APPROVAL OF BILLS

The Board reviewed and approved the manifest dated 1/27/05.

APPROVAL OF MINUTES

Ms. Umberger moved, seconded by Mr. Weathers, to approve the non-public minutes of 12/7/04, two sets, as written. The motion carried unanimously. Consideration of the minutes of 12/14/05 was carried to the next meeting.

PUBLIC HEARING: TO ACCEPT UNANTICIPATED REVENUE
\$250 FROM TANGER TO CONWAY POLICE DEPARTMENT; AND
\$2,000 FROM STATE OF NH TO CONWAY POLICE DEPARTMENT

Police Chief, Sean Billert, joined the meeting.

Mr. Webster read aloud the public hearing notice regarding accepting unanticipated revenue and opened the public hearing at 4:09 p.m.

Chief Billert first advised that the Police Department received a \$250 donation from Tanger and they would like to put the money toward equipment purchases.

Chief Billert next advised the Police Department received a \$2,000 grant from the State of New Hampshire for training purposes. The Chief explained that each year they send a couple of officers for training and this grant money will go toward paying a portion of the training and then the Police Department picks up the other portion of the training.

There were no questions or comments from the public and Mr. Webster closed the public hearing at 4:11 p.m.

Mr. Martin moved, seconded by Mr. Weathers, to accept both grants. The motion carried 4-0-0.

DISCUSSION WITH PETER MALIA, ESQ.
A) FILLING BOARD VACANCIES; AND B) RLUIPA AND THE PROPOSED
EMERGENCY SHELTER AT THE NATIVITY LUTHERAN CHURCH

Filling Board Vacancies – Attorney Malia reviewed that it is within the discretion of the Board of Selectmen to fill a vacancy or not. A copy of a letter from Attorney Malia regarding same is attached hereto.

After brief discussion regarding the vacant seat on the Board of Selectmen, **Mr. Martin moved, seconded by Ms. Umberger, that we do not fill the seat and we let the will of the people do it.** The Board held further discussion and all agreed that due to the short time before the election that the seat not be filled and to it should be left up to the voters. **The motion carried 4-0-0**

There was next discussion regarding the request by a citizen to fill the vacant seat on the School Board. Attorney Malia reviewed that if School Board can't agree on an appointment (not if they don't agree) then the Board of Selectmen can fill the vacancy. The Board requested that Dr. Carl Nelson be contacted regarding Attorney Malia's opinion. The Board also agreed that no motion was necessary in this matter.

RLUIPA and the Proposed Emergency Shelter at the Nativity Lutheran Church – Nativity Lutheran Church Pastor, Silvio LePlante, and Co-Pastor, Reverend Tim Roser were present for discussion. Attorney Malia reviewed the Nativity Lutheran Church applied to the Planning Department and the Planning Director denied their application. Thereafter the Town heard from the church's attorney citing the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000 cc (2004) et seq. (RLUIPA) and Attorney Malia stated that he feels the act applies but church cannot necessarily go ahead and open shelter. However, Attorney Malia recommended that the Planning Director issue the permit in this matter.

There was a brief discussion by the Board regarding concerns heard regarding the way this shelter will be promoted and if it will be just local and not for transients from sixty miles away. Concerns raised are that this will be a burden to the town if transients come to the area and it will become a burden on the general assistance office.

Reverend Roser advised that the shelter is for the local community and they have no intention of advertising in Concord or Manchester as they have their own shelters. Carroll County is the only county with no facility. Reverend Roser further advised that the plan is to let various agencies locally know they are available. Further, the emphasis will be that the shelter is for when the temperature is 10 degrees or lower and the Church will make the call on a daily basis as to whether they will be open. Reverend LePlante advised that the maximum for the facility is ten people

The Board questioned whether neighbors of the Church had expressed any concerns over the shelter. Reverend Roser advised that their neighbors were notified via a variance notice when going through the planning process and he heard nothing from the neighbors. Reverend Roser further advised that the Gibson Center is in favor of the shelter.

The Board next questioned if the Church will be making the call on a day to day basis depending on the temperature, do they only plan on opening the shelter in the

winter. Reverend Roser confirmed that the shelter is strictly for winter during cold temperatures.

A member of the public, Robert Parrow, next spoke and advised that he represented the American Legion Post 95 and they are 100% behind the shelter.

After further discussion, **Mr. Weathers moved, seconded by Mr. Martin, to authorize Tom Irving to sign the appropriate document.** Mr. Martin stated, for the record, that the perception was that this Board didn't want this to happen and he wanted to clarify that the Town and Tom Irving were just clarifying all of the issues and there were no preconceived notions prior to coming into this meeting and having this discussion. **The motion carried 4-0-0.**

VALLEY VISION

Bob Bernhard and Zach Ambrose of Valley Vision were present for discussion.

Mr. Sires first advised that the Town has not yet received the check from Adelphia for franchise fees. Mr. Sires explained the budget submitted by Valley Vision anticipates receiving all franchise fees and, at this point, the budget from Valley Vision asks for \$80,000. Mr. Sires next reviewed that there are several options but it is his recommendation that the town retain some of the anticipated \$80,000 in franchise fees for future needs.

There was discussion by the Board regarding hours. **Ms. Umberger moved, seconded by Mr. Weathers, that the Board would agree to support Valley Vision as our PEG Channel 260 hours, Conway Community Access 40 hours, and Valley Vision Produced Programming at 45 hours. The motion carried 4-0-0.**

Ms. Umberger moved, seconded by Mr. Martin, that we use \$6404 for equipment purchases next year. The motion carried 4-0-0.

There was also discussion with Mr. Bernhard regarding the fact that Valley Vision may not get money from other communities and the concerns over how they will continue to function if this occurs. Ms. Umberger stated she felt that Valley Vision needs to bring this Board a plan as to how they would make it should this situation occur.

REVIEW AND CONSIDERATION OF WARRANT ARTICLES

Planning Director, Tom Irving, distributed information to the Board with suggested Warrant Article language relative to the establishment of a Capital Improvements Program Committee pursuant to RSA 674:5. **Ms. Umberger moved, seconded by Mr. Weathers, that we place on the warrant the requirement for a Capital Improvements Program Committee in accordance with RSA 674:5.** A citizen, Bob deFeyter stated that he thought this was approved by the legislative body of the town many years ago and that someone should go back and check again. It was requested that if Mr. deFeyter has further information such as dates, etc., to please notify the town. Mr. Irving also pointed out that even if it was the case that the Planning Board was authorized to do a CIP, what is being requested here is to establish a CIP committee as opposed to the Planning Board doing the CIP. After further brief discussion a vote was taken and the **motion carried 4-0-0.**

Mr. Irving next distributed information to the Board regarding proposed zoning amendment and petitioned zoning articles and reviewed same with the Board. Mr. Irving advised that the Planning Board will be holding public hearings regarding same on Thursday, January 27, 2005.

Mr. Weathers left the meeting at 5:50 p.m.

Ms. Umberger next advised that the Budget Committee recently held discussion on the town's proposed warrant articles. They had concerns with the article for safety equipment and the equipment for the Adopt-a-Highway program. Ms. Umberger suggested either rewording or breaking this into two articles. The Board held brief discussion and **Mr. Martin moved, seconded by Ms. Umberger, to separate them into two separate articles. The motion carried 4-0-0.**

Ms. Umberger next explained that another area of concern for the Budget Committee was with the Police Commission requesting an increase in compensation and they will be discussing this with them. Ms. Umberger next advised that the Budget Committee also requested additional information from the Supervisors of the Checklist with regard to their request for an increase as well.

TOWN MANAGER REPORT

Discretionary Preservation Easement Request – Mr. Sires reported the Town has received a request for a Discretionary Preservation Easement. The barn is located in the Goshen area of Town on Leavitt Road. A public hearing has been scheduled for February 15, 2005 and the applicant has been notified. Also a letter has been sent to the Conway Historical Society asking for information.

Mount Washington Valley Ski Touring Association – Mr. Sires reported the ski touring trails at Whitaker Woods are being groomed and passes are \$15 and are available through the Mount Washington Valley Ski Touring Association.

Mount Washington Valley Preservation Association (WMVPA) – Mr. Sires reported on a proposed agreement prepared to be sent to the MWVPA with regard to the streetscape/underground utilities project in North Conway Village. The main feature of the agreement is that it asks for surety for the project while the town agrees to help facilitate the project with no costs to the town – as all costs are to be borne by the North Conway businesses involved in the project. Further, the agreement will protect the town if there are any overages for the project. There was a brief discussion with the Board. The Board requested that the MWVPA be asked to come in and provide an update to the Board.

Unemployment Insurance - Mr. Sires reviewed that the Town recently switched Workers' Compensation Carriers from Primex to NHMA and would recommend switching the Unemployment Insurance carrier from Primex to NHMA as well. **Mr. Martin moved, seconded by Ms. Umberger, to switch to NHMA for Unemployment Insurance. The motion carried 3-0-0.**

Adelphia – Mr. Sires reported the Town received a letter from Adelphia regarding upcoming changes, price adjustments and upgrades to the cable system. Mr. Sires next advised that he has received complaints that there is no local number for residents to contact Adelphia and he will be addressing this with Adelphia.

Mount Washington Valley Economic Council – Mr. Sires reported he will be attending an all day planning meeting with the Mount Washington Valley Economic Council tomorrow, January 26, 2005, at the Highland Center in Crawford Notch.

Meeting with NHDOT Representatives – Mr. Sires reviewed that representatives from the NHDOT will be looking at property the Town has proposed for mitigation property tomorrow, January 26, 2005 at 11:00 a.m., weather permitting. Conservation Commission members and others will be there to meet with the NHDOT.

BOARD REPORTS AND COMMENTS

Budget Committee – Ms. Umberger reported the Budget Committee met on February 24, 2005 and went over the Town budget. Ms. Umberger further reviewed a meeting is scheduled for Saturday, February 5, 2005 to review non profit budgets. Ms. Umberger next reviewed that on February 9, 2005 the Budget Committee will hold Public Hearings on the Budget and will have a regular meeting at the close of the Public Hearings.

PUBLIC COMMENT/MEDIA QUESTIONS

Bob deFeyter first stated that he would like to put in an endorsement for the cross country skiing in Whitaker Woods as it is a wonderful resource.

Mr. deFeyter next stated he is concerned regarding the petitioned article regarding the land behind the Staple property in North Conway. Mr. deFeyter stated that he is concerned as he felt it was represented that the town is getting \$70,000 now for tax revenue and if the zoning was changed the town may be able to get \$300,000 in tax revenue. Mr. deFeyter next reviewed some others parcels in town that he felt were suitable for the type of building that could possibly be built should the property behind Staples be rezoned. It was pointed out by the Board that the parcels identified by Mr. deFeyter may not be for sale and that the Town cannot mandate that these be the only locations that such a business can be located.

ADJOURN

Ms. Umberger made a motion, seconded by Mr. Martin, to adjourn the meeting. The motion carried unanimously. The meeting adjourned at 7:20 p.m.

Respectfully submitted,

Karen J. Hallowell
Executive Secretary