

**Minutes of Meeting
CONWAY BOARD OF SELECTMEN**

October 23, 2007

The Selectmen's Meeting convened at 4:10 p.m. in the Meeting Room of Conway Town Hall with the following present: Selectmen David Weathers (Chair), Larry Martin Gary Webster, Mark Hounsell and Howard C. Dickinson; Town Manager, Earl W. Sires; and Recording Secretary, Karen Hallowell

PLEDGE OF ALLEGIANCE

Chairman Martin 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.

CONSIDERATION OF BILLS

The Board reviewed and signed the manifest dated October 25, 2007.

CONSIDERATION OF MINUTES

Consideration of minutes was carried to the next meeting.

PRESENTATION OF CERTIFICATION OF APPRECIATION
TO RALPH W. SHIRLEY AMERICAN LEGION POST NO. 46

Members of the Ralph W. Shirley American Legion Post No. 46 were present at the meeting. Larry Martin read aloud a Certificate of Appreciation and presented same to members of American Legion. (A copy of the Certificate is attached hereto).

REQUEST TO PUT SNOWMAN IN CONNIE DAVIS WATSON PARK

Carol Westervelt joined the meeting. Ms. Westervelt requested that the Selectmen allow the placement of a decorative snowman in Connie Davis Watson Park in North Conway.

Mr. Weathers questioned the time frame the snowman would stay in the park. Ms. Westervelt advised from approximately November until March.

There was next a brief discussion with the Board regarding where the snowman would be placed in the park.

Mr. Hounsell moved, seconded by Mr. Webster, to grant the requested permission and have the Town Manager arrange to have the final siting accepting. There was brief discussion regarding the style of the snowman. The Board indicated they prefer a traditional type snowman. Ms. Westervelt provided a brochure and the Selectmen indicated either Snowman two on five on the first row of the brochure would be acceptable (see attached). **Mr. Hounsell amended the motion, seconded by Mr. Webster, to grant the requested permission, to have the Town Manager arrange to**

have the final siting accepted, and that the snowman be a traditional type snowperson similar to number 2 or 5. The motion carried unanimously.

RIGHT OF WAY TRAIL EASEMENT

Michael Weeks, Area Supervisor for the State of New Hampshire, Bureau of Trails, joined the meeting. Mr. Weeks presented a Right of Way Trail Easement for the Boards review and consideration. Mr. Weeks reviewed the Agreement and trail description with the Board.

Mr. Webster questioned if there is an agreement to cross North-South Road behind The Red Jacket Inn. Mr. Martin stated that is not part of this trail. There was brief discussion regarding DRED posting at Barnes Road and that the snowmobile club will be responsible for posting behind Red Jacket.

Mr. Martin moved, seconded by Mr. Dickinson, to grant the three year extension of the Right of Way Trail Easement. Mr. Martin commented that this three year Trail Easement is a key part of the trail corridor, to keep stability in the trail system, and for businesses in North Conway. **The motion carried unanimously.** The Board and Mr. Weeks signed the agreement and a copy of same is attached hereto.

CODE ENFORCEMENT MATTERS

A) Bowtie Realty LLC/MWV Asset Mgmt Group LLLC d/b/a Mountain High Marketplace – Sign Violation – Code Compliance Officer Jim Yeager reviewed the enforcement action history regarding this property with the Board. Mr. Yeager asked for the same relief from the Board as was given in another similar matter wherein should that situation continue, this Board gives his the authority to take the matter to Court and authorizes the use of a land use citation. Mr. Yeager next advised that the property has changed hands recently; however, one owner is still the same. The Board questioned if any violations have occurred during the new ownership and Mr. Yeager replied in the affirmative.

Attorney Chris Meyer advised that he represents the current owner, Mr. Lees, and was here to discuss the matter with the Board. (Mr. Lees was also present). Attorney Meyer advised that as of the end of September the Lees family now owns the property and the Castell's are no longer involved with the property. The Lees have notified the tenants regarding the A-Frame signs. They have set a schedule with a-frame signs and do not anticipate any problem in the future. It was pointed out to Mr. Meyer that it has been the tenants of the property but that it is the responsibility of the owner to follow the codes. Attorney Meyer asked that if any violations occur in the future to please call and they will be removed and assured the Board they plan to comply with the town ordinance. It was pointed out that the current owner was also part owner before. Attorney Meyer explained that he was part owner but not of all of the property and did not have control over all of the properties.

The Board held further brief discussion about whether the land use citation was in order and if it is adhered to after one year then this could be done away with unless further action was necessary. **Mr. Martin moved, seconded by Mr. Webster, to authorize the Land Use Citation based on a violation observed by Town staff and to sunset one year after today. The motion carried 4-1-0.**

B) Wild Boar Tavern – Sign Violation - Code Compliance Officer, Jim Yeager, reviewed the history of both verbal and written warnings with the Board with regard to having more than one a-frame on property at the Wild Boar Tavern. Mr. Yeager requested the Board grant authority to use a Land Use Citation in this matter.

It was noted that no one appeared on behalf of the Wild Boar Tavern to discuss this matter.

Mr. Webster moved, seconded by Mr. Martin, to authorize a Land Use Citation to be issued should the town staff observe a violation within one year on this property. The motion carried 5-0-0.

C. Walmart - Overnight Parking - Code Compliance Officer, Jim Yeager, advised this matter is about overnight camping and not overnight parking. This matter is being brought forward to the Board for discussion as it has been an ongoing issue. Planning Director, Tom Irving, explained this matter is relative to the site plan review process. This site has not been reviewed for overnight camping and has no current approval of the parking spaces for overnight camping. Mr. Sires pointed out that this issue has been going on for several years. It is Walmart's responsibility and the Town has told management on several occasions regarding the fact that they are not approved for overnight camping. Mr. Sires further suggested that if there are ongoing issues for Walmart they need look into whether they could put up signs, hire security, etc,

Andy Pepin, current Manager of Walmart was present. Mr. Pepin spoke about the Walmart's policy of allowing camping. Mr. Pepin also spoke about the security issue for his employees if they have to tell someone they can not camp at the North Conway Walmart.

There was discussion regarding the signs. Mr. Pepin stated that he is amenable to the signs.

Mr. Pepin was questioned if he had spoke to his corporate office regarding this camping issue. Mr. Pepin advised he had not.

There was further discussion regarding what constitutes camping versus overnight parking etc. There was further discussion regarding the suggestion of signage. There were also comments from the public regarding other areas in town where overnight camping/parking is occurring.

Mr. Hounsell moved, seconded by Mr. Dickinson, that we table any action until such time as necessary for a review by town staff and report back. Mr. Weathers suggested that Mr. Pepin notify his superiors to this matter and see if this is the case in other locations as well. Mr. Irving suggested signage for other locations in town where the overnight camping is occurring and that we also ask the Police to monitor these other sites as well. **The motion carried 5-0-0.**

PETITION REGARDING STREET SIGN ON HUNTING RIDGE ROAD

Citizens, John and Betty Longly, joined the meeting. Also present were Public Works Director, Paul DegliAngeli, and Police Chief, Edward Wagner.

Mr. & Mrs. Longly advised they are here on behalf of Daniel Stuart who lives on Hunting Ridge Road and his daughter, Danielle. Mr. Longly explained that he overheard Mr. Stuart one day at the post office talking about wanting a street sign for his daughter. Mr. Longly explained they also have a son who is paraplegic and this is a sensitive issue to them and so they are here to ask that the Board reconsider Mr. Stuart's request for a sign on Hunting Ridge Road. Mr. Longly next explained they have provided petitions to the Town signed by 600 people.

Mr. Sires reviewed speed limits, signs, etc, for this area. The request made previously was for a handicap sign and it is the practice of the town not to put these signs up.

Mr. Hounsell pointed out that many of the signatures on the petition, over 50%, are not from the Town of Conway and so the petition is not reflective of the community; however, he does understand the Longly's position on this matter.

Mr. DegliAngeli next spoke about the ineffectiveness of these types of signs. Mr. DegliAngeli also discussed that the Board of Selectmen had formed a committee a few years ago to review all road and subdivisions and they had reduced the speed limit in subdivisions.

Mr. Dickinson questioned if there was a Dead End street sign on this road. Mr. DegliAngeli advised there is not but one could be installed this week.

Chief Wagner next spoke about signs that are unenforceable. Chief Wagner advised that he spoke with Mr. Lambert at the State of NH who advised that the state is also trying to get away from the putting up these types of signs. Chief Wagner further added that, as Mr. DegliAngelil stated, there is no basis that these types of signs work.

Mrs. Longly next spoke and stated they are not just aiming for speeders, they are aiming for consciousness and awareness on the street. They are trying to have people pay more attention on this road.

After further discussion, **Mr. Hounsell moved, seconded by Mr. Dickinson, that the town approves the posting of two signs on Hunting Ridge road, one to warn of handicapped child and one to designate dead end street.** Mr. Webster questioned what if they put out their own a-frame sign. Mr. Sires advised he would need to check but thinks you may not be able to put your own sign out. There was further discussion. **Mr. Dickinson amended Mr. Hounsell motion, seconded by Mr. Webster, that a dead end road sign be erected at the beginning of the road with a sign underneath that says children at play.** Mr. Dickinson commented that, if the motion passes and the sign is put up, he would be delighted to know if the sign is successful. Mr. Hounsell commented that he has no problem with the amendment so long as it satisfies the applicant. Ms. Longly questioned why not put a caution handicapped child sign up. Mr. Dickinson stated this is because everyone should be cautious on the whole road and instead of pinpoint this child it would take care of the whole road. Mr. DegliAngeli stated that the sign budget for the year has been spent and currently there are no children at play signs in stock. Mr. DegliAngeli suggested that if we are abandoning policy staff will need guidance on buying signs for the future. There was a general discussion regarding signs. Mr. Weathers moved the amendment and the **amended motion failed. 2-3-0 with Messrs. Dickinson and Hounsell voting in the affirmative and Messrs. Webster, Martin and Weathers voting in the**

negative. The Board next voted on the main motion made by Mr. Hounsell and the motion carried 4-1-0 with Messrs. Dickinson, Webster, Hounsell and Weathers voting in the affirmative and Mr. Martin voting in the negative.

PROPOSED MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF
CONWAY AND CONWAY VILLAGE FIRE DISTRICT REGARDING A PUMP STATION
IN DAVIS PARK

Ed Bergeron of HE Bergeron Engineers and Conway Village Fire District (CVFD) Commissioner, Carl Thibodeau, joined the meeting. Public Works Director, Paul DegliAngeli, was also present for discussion.

Mr. Bergeron requested the Board allow the CVFD to locate a pump station in Davis Park without going through the planning process. Mr. Bergeron presented and reviewed a map of the location with the Board.

Mr. Hounsell questioned if there are any restrictions on the Deed on Davis Park by the who gave the land to Town. It was determined this would have to be researched.

Mr. DegliAngeli questioned the 20 foot wide access easement on the drawing. Mr. Bergeron advised this is not needed as it will be taken out of the drawing.

Mr. Martin asked about the visual impact from Route 16. Mr. Bergeron explained you will see the road to the pump station and also catch a glimpse of the pump station in the woods.

Mr. Webster questioned if they expect to have lighting at the pump station. Mr. Bergeron stated they don't know at this point. Mr. Webster also questioned fencing and a barred and gated road otherwise there may be cars back in the area of the pump station. Mr. Bergeron and Mr. Thibodeau both agreed this is something to also think about.

Mr. Thibodeau questioned if, conceptually, the pump station would be acceptable to the Board of Selectmen at this time and, if yes, then we can determine lighting, fencing, etc. If it is not acceptable to the Board, they will have to look elsewhere for a location. Mr. Weathers stated it is also important to check the deed restrictions first as well.

Mr. Weathers took a straw poll to see if the Board was in favor of the concept. By straw poll the Board all agreed they were generally in favor of the concept. It was agreed further information is needed, such as the deed information, etc.

BIRCH HILL UPDATE

Mr. Hounsell read the following prepared statement and subsequent motion as follows:

October 18th, 2007, the day the town held its Infrastructure mtg., was the 35th anniversary of the nation's Clean Water Act. This was the day when Citizen Maureen Westrick offered congratulations to the many elected officials and citizen volunteers and town and precinct staff and all entities

that have been working on the Birch Hill Water District drinking water source needs in such an open manner. She stated how good it was that everyone was sharing all of the information with each other and had achieved a great level of communication with all parties.

This was the day that a respected citizen and longtime resident of Birch Hill, Gene Drolet, pleaded for the town to get more involved in a quicker and more aggressive manner to insure that clean drinking water flowed to the Birch Hill Water District.

This was also the day that NCWP Commissioner, Jim Umberger of the North Conway Water Precinct urged the Conway Board of Selectmen to reconfirm and/or rewrite the memorandum of understanding that guides the Town Infrastructure committee in its present proceedings.

Karen Umberger suggested that consideration be given to a committee name change.

Conway Village Fire District Commissioner, Janine Bean read the language of the memorandum of understanding and asked that it be reconfirmed and/or modified in order to have a mission basis that members of the Infrastructure committee could rely on in their present attempt to serve all the people of the town.

The full committee present concurred with the above directives.

It is with this consensus that the selectmen's representatives on that committee, namely Crow and me, bring this to you today. This advisory committee directed us to do so and we wholeheartedly concur with that directive.

Crow and I, acting as selectmen members on that committee, believe that the first action the Board should consider relates to action that the town must take to insure that, upon the consent of the people to be determined at a special election held for the voters of the North Conway Water Precinct on November 14th, 2007, a pipeline from North Conway Water Precinct to Birch Hill Water District be constructed and put on line this year. This first action requires the town to work simultaneously and in parallel with, Birch Hill Water District (through their provider/operator Pittsfield Aqueduct Company), and the North Conway Water Precinct in an expeditious and manner on all levels.

This can not be achieved unless all parties are working cooperatively at the same time.

This can only be achieved with open transparent unabashed sharing of all developed thoughts and ideas. The urgency of the citizens of Birch Hill to have clean drinking water this Fall forces us all to communicate in such a manner.

It is the intent of all parties to come together in agreement on all relevant issues in order for all necessary interconnect agreements to be signed and in place by the third week of November, 2007. It is critical that we

include provisions for a plan for entering into the required intergovernmental agreement between the town of Conway and the North Conway Water Precinct during this time as well. This requires the Town Selectmen and Birch Hill Water District Commissioners to understand fully all of the prerequisites and funding mechanisms that can be made available to accomplish the most affordable and long-term goals of the people of Birch Hill and the Town of Conway.

We thereby recommend that the Board of Selectmen direct its Town Staff to work closely with NHDES and US Rural Development to develop an understanding of how to meet the timely goals of constructing in phases, and exactly how NHDES State Revolving Fund (SRF) debt can be transferred from Pittsfield Aqueduct Company to a Municipal entity after the first phase pipeline from NCWP to Birch Hill Water District is built by Pittsfield Aqueduct Company and ownership and debt are transferred to a municipal entity. We understand that SRF bridge loans can be used to build the pipeline and that the loan can then be turned into a 20 year loan upon completion of construction of the pipeline. Final ownership of the pipeline by a municipal entity will dictate the final agreed upon language that all parties will have to concur with and be a part of.

I would like to a motion that will give the town staff that directive.

Mr. Hounsell made the following motion, seconded by Mr. Dickinson, “I move, the Conway Board of Selectmen instructs the town Manager to contact both the NH Department of Environmental Services and the United States Rural Development in order to identify the process by which the following goals can be achieved;

- 1. The method by which the timely completion along with financing options of the pipeline connecting the NCWP to the borders of the Birch Hill Water District.**
- 2. The ownership of the aforementioned pipe and infrastructure improvements, not within the borders of Birch Hill Water District, and the debt transfer of the same from Pittsfield Aqueduct Company to a municipal entity.**
- 3. The process required to roll the SRF bridge loan into a 20 year loan As well as paying the SRF loan with a RD loan should RD grant funding program become available for any expansion of municipal water systems in the town of Conway.**

Nothing contained in this motion is to endorse any particular course of action. Rather, to help maintain flexibility as we press for the best approach available and possible.

Mr. Webster stated that he was hoping this evening we would reaffirm our unwavering support. He is afraid that this much information too close to the vote may cloud the issue. Mr. Hounsell stated he agrees 100% and would not put this out there if he felt it would cloud the vote and that there may be another motion coming later in the meeting that may help alleviate this issue. There was a discussion by the Board on this motion.

Karen Umberger stated that she feels that some of the directives may be putting the cart before the horse and this was not her understanding from the ACID committee meeting.

Mr. Martin moved the question. A vote was taken and the **motion carried 3-2-0 with Messrs. Dickinson, Webster and Hounsell voting in the affirmative and Messrs. Martin and Weathers voting in the negative.**

Mr. Dickinson moved, seconded by Mr. Webster, that the Selectmen of the town of Conway urge the Commissioners of the NCWP to prepare the interconnection warrant article for their November 14th, 2007 special precinct meeting with such language as to provide sufficient flexibility to the Commissioners of the NCWP to negotiate with the town of Conway and with Pittsfield Aqueduct Company. The Selectmen believe that the such language is required in order to achieve the appropriate agreements necessary to complete an interconnection between the NCWP and the Birch Hill Water District ,with the eventual ownership of all infrastructure improvements of said interconnection (not within the borders of the Birch Hill Water District) eventually belonging to a municipal entity.” Ms. Umberger stated that NCWP Commissioners to not need direction from the Selectmen to do their job. It was already the understanding that when they called the special meeting to include intermunicipal agreements with the town and Birch Hill if required. There was further discussion regarding an intermunicipal agreement. Mr. Webster suggested a letter and communication is in order. Further the previous vote of the Board is a supportable option and the second part could be a letter by the Town of Conway Board of Selectmen ready to support whatever options are available to complete the project. Mr. Dickinson agreed. **Mr. Webster withdrew his second and Mr. Dickinson withdrew his motion.**

Mr. Dickinson moved, seconded by Mr. Webster, that the Board of Selectmen give their full support to the interconnect between the North Conway Water Precinct and Birch Hill Water District and urge the North Conway Water Precinct to support such a proposal. Mr. Dickinson stated this should be in letter form. There was further discussion by the Board. Mr. Webster suggested that language be added to the letter that it is our hope that the vote will allow us the opportunity to move forward with previously approved plans as quickly as possible. There was further discussion. **Mr. Webster withdrew his second and Mr. Dickinson withdrew his motion.**

Mr. Dickinson made a motion, seconded by Mr. Webster, that the Board of Selectmen of the Town of Conway support the decision made by the North Conway Water Precinct Commissioners to prepare an interconnection Warrant Article for the November 14, 2007 Special Precinct Meeting. Further, the Board of Selectmen believes that the Warrant Article language should contain sufficient flexibility to afford the Commissioners of the North Conway Water Precinct the flexibility to negotiate the necessary agreements between the Town of Conway, Pittsfield Aqueduct Company, North Conway Water Precinct and Birch Hill Water District. The Board further believes that the ownership of all infrastructure improvements of said interconnection (not within the border of Birch Hill Water District) should belong to a municipal entity. The motion carried unanimously

Ms. Umberger stated the NCWP Commissioners have a draft agreement between the NCWP and Pennichuck. This is in the works. She does not all of the language in the draft agreement but this was discussed at the last precinct meeting. Ms. Umberger further added it is their hope to have the draft ready prior to the November 14 meeting.

The Board next discussed a letter to the NCWP. The Board agreed that the motion just made should be put in a letter. Mr. Hounsell requested this get to the NCWP before their meeting scheduled tomorrow.

TOWN MANAGER REPORT

Town Manager Goals – Mr. Sires distributed a draft copy of the Town Manager Goals for the Boards review.

BOARD REPORTS AND COMMENTS

There were no Board member reports or comments.

PUBLIC COMMENTS / MEDIA QUESTIONS

With regard the Walmart matter, Karen Umberger, questioned how much land would be required by Walmart to have additional parking for camping.

Karen Umberger next commented on the passing of the motion made earlier in the meeting regarding the Handicap Sign. Ms. Umberger stated that the Town has held a pretty straight line on signs prior to this and now you may see many more requests for signs, i.e., Children at Play, etc.

NON PUBLIC SESSION / RSA 91-A.II(c) / TAX MATTER - HAM ARENA

This agenda item was canceled.

ADJOURN

Mr. Webster moved, seconded by Mr. Martin, to adjourn the meeting. The motion carried unanimously. The meeting adjourned at approximately 7:20 p.m.

Respectfully submitted,

Karen J. Hallowell
Executive Secretary