

**Board of Selectmen  
February 24, 2010**

**Present:** Mark P. Duffy, Chairperson; Kenneth S. Paul; John J. Blackwood; Robin L. Frost, Town Administrator; and Toni Bodah, Secretary.

Also present at this time was Police Chief Ken Fifield.

The posted meeting was called to order by Mr. Duffy at 6:30 p.m. **Mr. Duffy moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Blackwood seconded the motion. Roll call vote: Mr. Paul – ‘aye’; Mr. Blackwood – ‘aye’; Mr. Duffy – ‘aye’. The motion passed 3-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:50 p.m., at which time Mr. Duffy called for a recess. Mr. Duffy called the meeting back to order at 7 p.m. and led those present in the Pledge of Allegiance.

At this time those present included: Dave Mankus; Al Mayranen; Steve Brown; Arthur Capello; Charlie Edwards; Art Fulton; Fred Elliott; and Jerry O’Connor. Joining the meeting in progress were Relf Fogg; Jim Fitzpatrick; and John Fournier.

**1. Appointments**

**a) Jim Fitzpatrick** – Mr. Fitzpatrick was not yet present. Mr. Duffy sought clarification from Mr. Capello regarding the “cut-off” date established with regard to building permits. Mr. Capello stated that the Board established January 1, 2004, at the cut-off date for open permits. However, with respect to recent letters sent out by his office, no building permits are on file.

**2. Unscheduled Matters/Public Comment**

--Mr. Fogg referred to the Town’s current contract for hauling of precious metals and questioned whether that contract went out to bid, whether those bids included the percentage to be paid to the Town and whether anyone in town bid on that contract. Mr. Duffy stated there is no such contract. Ms. Frost advised that the Transfer Station Manager regularly seeks out the best price. Mr. Blackwood added that the Transfer Station Manager has done a good job in finding the best prices, noting that the Town receives a much better return than it did years ago. The Transfer Station Manager is currently seeking an avenue to break even with tires, rather than having to pay to have them hauled off.

--Mr. Blackwood referred to a recent meeting of the Cemetery Trustees, which aired on the PEG channel, and indicated that some statements made were not correct. According to Mr. Blackwood, the work on the new cemetery began in 2005 and was not put out to bid. He believes that if it were put out to bid, the bids would have come in around \$200,000. In 2005, 2 acres were cleared. There were some large rocks on one side, which were not removed until 2007. The area was prepared for seeding in 2008.

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Mr. Blackwood stated that he rock-picked 5 acres in 9 hours, including rocks ranging in size from 2" to 24", adding his belief that the job could not have been accomplished for any less money. He stressed that he gave the Town a good deal, and the Board of Selectmen did the best they could for the Town of Wakefield.

Mr. Mankus stated that no one is questioning Mr. Blackwood's ability to do the work; however, over \$34,000 was paid to Mr. Blackwood from 2004 through 2008 to do that work. Mr. Mankus noted that according to the Town Report, Mr. Blackwood has received over \$44,000 in total as a vendor. He questioned whether any of the work at the cemetery or other work was put out to bid. Mr. Blackwood reiterated that the work at the cemetery was not put out to bid as he believed that would have cost the Town more money. Mr. Brown stressed that it still should have gone out to bid. Mr. Duffy referred to DRA's involvement in this issue. Ms. Frost explained that Mr. O'Connor's email to the Attorney General (perhaps via the Secretary of State) was forwarded to DRA, who determined that although the work should have gone out to bid, no action against either the Town or Mr. Blackwood was necessary.

Mr. Mayranen stated that this issue is in the past. The current Cemetery Trustees had nothing to do with this issue, and as far as he is concerned, it is in the past. Whether it was right or wrong, it is history and people should forget about it. Mr. Duffy thanked Mr. Mayranen and expressed his agreement. He noted that at the time, the Board of Selectmen believed it was getting the best services for the Town. In hindsight, Mr. Duffy agrees it should have gone out to bid; however, it is in the past. Mr. Mankus referred to another matter, which he had been told was resolved by another attorney. Now he is being told this issue was resolved.

Ms. Frost asked Mr. O'Connor whether he had received a response from the Attorney General's office. Mr. O'Connor has no recollection of contacting the Attorney General. Ms. Frost indicated that DRA provided her with a copy of Mr. O'Connor's original email to the Attorney General (or perhaps to the Secretary of State, who forwarded it to the Attorney General). Mr. O'Connor noted that he had asked LGC several questions, but does not remember this. Mr. Mankus stressed that we are only receiving verbal absolution. He would like to see a letter or an email. Ms. Frost will provide him with a copy.

Mr. Blackwood stressed that the job would have cost over \$200,000 if it went out to bid. Mr. Mankus asked whether it is Town policy to go out to bid unless a Board member is involved. He noted there are currently two candidates with this type of equipment and questioned whether they will be able to do similar work for the Town without the bidding process. Mr. Duffy noted that the Board has already agreed the work should have gone out to bid; however, he still believes the Town received the best bang for its buck. Mr. Mankus indicated we need to be able to confirm that the Town received a good deal.

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Mr. O'Connor noted that the Board had said it did not need an ethics ordinance as it was following a certain book [*Knowing the Territory*]. However, this book indicates the work should go out to bid. Mr. Duffy again stated the Board agrees that it should have gone out to bid. Ms. Frost agreed that the Board has so stated at several public meetings.

Mr. Brown asked why it did not go out to bid. Ms. Frost indicated that it was not a conscious decision. Rather, it started out as a small job, growing by piece meal. Clearly, a mistake was made. Mr. Brown noted that Ms. Frost appears quite knowledgeable about RSA's and laws at all the meetings, except for on this particular issue. He emphasized the Board should try to understand the appearance of the situation and stressed that if a member of the Board is doing work for the Town, then all the t's should be crossed and the i's dotted. He stated that being a member of the Board of Selectmen, or an elected official, or a Town employee, should supersede your rights as a taxpayer.

Again, Mr. Duffy agreed this was a mistake to which the Board has admitted. He personally believes that the Board has always acted ethically. The original project was not large in scope; however, it snowballed and should have gone out to bid at that time. The Board made a mistake, although it was not a conscious decision to not put the work out to bid.

Mr. Mankus referred to vendor payments made to Mr. Blackwood in 2007 (\$11,957 for work on the cemetery and \$3430 for other work) and in 2005 (\$2400 representing the difference between the total paid and the amount paid for cemetery work). One would need to refer to vendor files to determine the purpose of said payments. Mr. Fogg referred to a bill for hauling away stumps from the cemetery property even though there are stumps buried on that property. Mr. Blackwood stated that he submitted no bill for the hauling of stumps. Mr. Fogg hopes that in the future the Board of Selectmen will implement a conflict of interest ordinance.

Mr. Blackwood referred to a bid received by the Cemetery Trustees to reseed 50,000 square feet. Mr. Mankus noted that bid included spraying to kill weeds, rock-picking to a fine level and reseeding. Mr. Mayranen reiterated that what is done has been done and cannot be changed, and added that it is time to move on. Mr. Duffy stressed that the Cemetery Trustees have done a great job.

Mr. Blackwood stressed that there are two sides to every story, and only one side was presented at the televised meeting. He believes the Town received a good deal when comparing his cost to the recent bids received for reseeding. Mr. Duffy closed the discussion.

**1. Appointments (again)**

**a) Jim Fitzpatrick re: Request for Waiver of Building Permit Fee**

Mr. Fitzpatrick pulled a permit two years ago to build a barn. He has received a letter from the CEO requesting a fee of \$30 to renew the permit, as his project is not complete. Mr. Fitzpatrick is asking that the fee be waived on the grounds of all the vandalism in the area has caused a delay of about a year, including the cancellation of his homeowner's insurance, which in turn caused the cancellation of his loan to do the project. Mr. Duffy noted that the renewal fee was recently reduced. Mr. Capello confirmed that prior to the referenced fee reduction, renewal of this particular permit would have cost \$230 (half of the original fee).

Mr. Fitzpatrick stressed that he is requesting this waiver mainly on principle. He again referred to the cancellation of both his homeowner's insurance and his loan, adding that he is now doing the project with personal funds. Mr. Paul asked how long it will take to finish the project. Mr. Fitzpatrick estimates about a year. Mr. Duffy questioned whether Mr. Fitzpatrick will ask for another waiver if the project exceeds one year. Mr. Fitzpatrick confirmed this would be the case if the vandalism continues. He noted that the situation is getting out of control. Mr. Capello stated that extension for 1 year would cost \$30; however, the full permit fee would be due if any other extension is necessary.

Mr. Paul noted that the Board has heard of more difficult hardship situations, adding that he does not see where the vandalism is causing construction to stop. Mr. Fitzpatrick referred to various claims he made against his homeowner's insurance due to vandalism and added that the issue is beyond his control. He would still be requesting a waiver if the fee were only \$10. Mr. Duffy is aware of the associated history, but believes that the Town has made gallant strides to address the problem, adding that the neighboring property is no longer owned by the neighbor with whom Mr. Fitzpatrick has experienced difficulty. Mr. Fitzpatrick noted that the stigma still exists, the problem is not resolved and the vandalism continues. Mr. Duffy again noted that the Board recently reduced the renewal fee, and added that he is not inclined to waive the fee as requested. The Board agreed by consensus not to waive the \$30 permit renewal fee as requested by Mr. Fitzpatrick.

### **3. Unfinished Business**

#### **a) Pending Projects Spreadsheet**

--Canal Road Bridge: The State has estimated a cost of \$450,000 to address the rehabilitation of this bridge. If the Town decides to address this issue via the State's bridge aid program, the Town's cost would be \$90,000. If requested within the next 6 months, funds would be available in 2017. The State suggests the Town assume a 5% increase per year to account for inflation. Ms. Frost clarified to Mr. Blackwood that the State is willing to assist with funding the project; however, the Town would need to identify an engineer. When Mr. Blackwood expressed concern that the bridge might not last until 2017, Ms. Frost noted the State does not believe the situation to be that extreme.

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Mr. Duffy suggested we get on the State's list and investigate other avenues in the meantime. Mr. Mayranen questioned whether the State of Maine would be involved in this project. Mr. Duffy noted that the State of Maine has not been willing to accept any responsibility in this regard. Mr. Mankus questioned whether the State's figures are more in the nature of a grant than an estimate. Ms. Frost advised that the State has provided a specific breakdown of anticipated costs. The State bridge aid program will include obtaining hard numbers. In response to a question by Mr. Edwards, Ms. Frost advised that the estimate provided includes retention of the aesthetic nature of the bridge.

Mr. Elliott questioned whether consideration has been given to preserving the bridge as a historical site, eliminating use of this bridge and building another bridge. Mr. Duffy advised that the Board is considering building over the existing bridge; however, the Board believed it best to apply for bridge aid in order to determine an estimate of the cost. Mr. O'Connor stated that \$450,000 is a lot to spend on a 10' bridge and questioned what the weight limit would be on the rehabilitated bridge. Ms. Frost indicated that the State did not specify the anticipated weight limit. Mr. O'Connor likes the idea of building a deck over the existing bridge. Ms. Frost confirmed that getting on the State's list does not lock us into the program. She will contact potential engineering firms.

Mr. Elliott questioned whether the Board has considered creating a committee to oversee different options, perhaps a grassroots effort to "Save the Bridge." Mr. Duffy noted that the Heritage Commission is involved with this project and would likely be the organization to make such an effort.

--Transfer Station Design: No new information. Mr. Duffy was advised that there are 6 commercial/business haulers accessing the Transfer Station. He suggested Ms. Frost check with the Manager about the possibility of scheduling a specific day/time exclusively for these haulers. Mr. Duffy stated that these haulers have been doing this for years and should not just be cut off. Ms. Frost clarified that the Transfer Station Manager never suggested they be cut off; rather he did not believe that the old compactor should be kept open for that purpose.

Mr. Elliott referred to the traffic pattern at the Alton Transfer Station and its centralized dumping area. He questioned whether the Board had checked with other towns to share ideas. Mr. Duffy advised that Board members visited 3 other transfer stations, while the Town Administrator and Transfer Station Manager visited 7. Ms. Frost emphasized that there is a lot of information shared between towns. An unidentified member of the audience suggested moving the recycling area away from the trash disposal and questioned what would happen to the old compactor. Mr. Duffy advised the old compactor is being repaired and will be used for back up and, perhaps, for plastic.

--WWTF Gate: Although the gate is operational and can be controlled via telephone, this is not yet happening.

**b) Draft Email Policy** – Ms. Frost confirmed to Mr. Duffy that the proposed policy conforms to the findings of the Right to Know Law Study Committee. Mr. Paul received confirmation that limitation of use of various equipment does not include PEG station equipment. Ms. Frost advised that CCS would come in at regular intervals to maintain the email accounts. **Mr. Blackwood moved to amend the Town’s Personnel Policy to include the Employee Email, Internet and Computer Use Policy, as presented. Mr. Duffy seconded the motion, which passed 3-0.**

#### **4. New Business**

**a) DTC Representation Agreement re: Renegotiation of Cable Contract** – Ms. Frost advised she has spoken with Kate Miller, communications counsel at DTC, who advised of the process to be followed. This process includes public meetings to obtain public input. Ms. Miller is willing to come to Wakefield, at no cost, to meet with the Board and members of the Cable Advisory Board to review the process. A formal letter is not expected from Time Warner until April or May. Mike Edgecombe of Time Warner had hoped this could be an informal process; however, DTC recommends we proceed by the book. Mr. Duffy questioned whether we can start the process although we have no commitment letter from Time Warner. Ms. Frost advised we can begin the process with DTC. Mr. Fogg asked whether DTC has reviewed the draft document provided. Ms. Frost advised DTC is not willing to review the document until they have a signed representation agreement with the Town and until they have met with the Selectmen and CAB. **Mr. Blackwood moved to authorize Mark Duffy to execute the Representation Agreement between the Town and DTC, as presented. Mr. Paul seconded the motion, which passed 2-0-1.**

#### **5. Correspondence**

**a) Silver Star Families re: Silver Star Banner Day** – The Board has been requested to make a proclamation establishing Silver Star Banner Day. The request sounds honorable; however, Ms. Frost will contact the local VFW to get their opinion.

**b) Union Dam** – The Town received a letter from DuBois & King, sent on behalf of the owners of the Union Dam. They expect to file an application with the State for a Dredge & Fill Permit in order to remove the dam. Discussion followed regarding the cost of maintenance, repairs and insurance in order to keep the dam in place.

**c) GWRC** – The GWRC has expressed some concerns with adherence to the original grant. Ms. Frost assumes this communication was precipitated by our attempt to renegotiate the management contract. Ms. Frost recommended that the Board members review the letter for discussion at a future meeting.

Mr. Duffy noted that there are no funds in the budget for repairs. Ms. Frost stated we are trying to put together a management agreement; however, GWRC feels the Town is asking them to do too much and that the Town should do more. We have all heard how the project was sold to the Town; however, the grant agreement does include a letter of commitment from the Board of Selectmen in place at that time. She will provide the Board members with copies of the grant. The service organizations that supported the project (by letter) are not utilizing the available space. Ms. Frost noted that many of those organizations are facing financial difficulties. Mr. Duffy stated the Selectmen will need to meet with the GWRC Board.

**6. Unscheduled Matters/Public Comment #2**

--Mr. Fogg noted that Mike Edgecombe of Time Warner was fine with keeping the process casual. He questioned whether it would be improper to forward a copy of the draft contract at this point. Mr. Fogg noted the draft includes many benefits to the Town and added that he is just trying to save the Town money. He confirmed to Mr. Duffy that the proposal includes expansion of services. Ms. Frost stressed that DTC will not look at the draft without a signed agreement from the Town. Mr. Duffy stressed that the CAB wanted someone with a legal background in cable communications to review the contract. Mr. Fogg stated he is just trying to save the Town money. Ms. Frost noted it is important to consider the cost of reviewing the contract over the entire term of that contract. She stated that public input is important. Ms. Frost will include a copy of the draft contract when she returns the executed Representation Agreement, in the event Ms. Miller is able to review the document prior to meeting with the Board and CAB.

**7. Administrative Matters**

**a) Liaison Reports** – Mr. Paul: ZBA has not met; and Mr. Paul was not able to attend the recent Planning Board meeting.

Mr. Blackwood: Planning Board held a preliminary discussion with the prospective new owner of Woodman's Store.

Mr. Duffy: The Chamber of Commerce will host a Business Expo on March 14 at the Paul School. The Bearded Wonders Show held this past weekend was a success!

**b) Selectmen's Letter of Appreciation** – The Board agreed by consensus to send this month's letter to the Heritage Commission.

**c) Administrator's Update**

--Ms. Frost is now on a committee for government affairs, which committee reviews updates on legislative action and litigation. In April they will be discussing possible new legislation to be brought forward. Mr. Blackwood expressed interest in bringing back Home Rule. Ms. Frost noted the State is facing a \$150 million biennium shortfall, and the Governor is looking for ideas to cut the budget. Ms. Frost will draft letters to our local legislators asking that they make sure revenues to the towns are not reduced.

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--The Auditors have finished their fieldwork. Kathy Estabrook did a great job preparing for the audit. Because the firm is new (to Wakefield) it took time for them to become familiar with our processes. This firm will assist us in becoming GASB 34 compliant. The Board will need to determine the threshold for capitalization. Typically, towns do not include anything under \$10,000. A brief discussion followed regarding the purpose of GASB 34. Becoming compliant will be beneficial in the event the Town decides to bond any projects.

**d) Building Permit Releases** – None presented.

**e) Minutes** – Mr. Duffy moved to approve the minutes of February 10, 2010, as presented. Mr. Blackwood seconded the motion, which passed 3-0.

**f) Tax Acquired Property** – Another property has been redeemed. Mr. Duffy moved to execute a Selectmen’s Deed for Tax Map 58, Lot 5. Mr. Blackwood seconded the motion, which passed 3-0.

**g) Non Public Session** – Mr. Duffy moved to enter Non Public Session under RSA 91-A;3, II (a). Mr. Blackwood seconded the motion. Roll call vote: Mr. Paul – ‘aye’; Mr. Blackwood – ‘aye’; Mr. Duffy – ‘aye’. The motion passed 3-0 and the Board entered Non Public Session at 8:29 p.m.

The Board returned to public session at 8:37 p.m., at which time the meeting adjourned.

Respectfully submitted,  
Toni Bodah, Secretary

Approval of Minutes:

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Mark P. Duffy, Chairperson

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Kenneth S. Paul

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John J. Blackwood