

**BOARD OF SELECTMEN
JANUARY 28, 2002
REGULAR SESSION MINUTES
"APPROVED"**

Present: Chairman Peter S. Cunningham, Clerk Dann Chamberlin and Administrative Officer Jean E. Kitchen. Mr. McCuin was on Active Reserve duty.

The meeting was called to order at 7:00PM.

LAND USE OFFICE ASSISTANT - NEW HIRE

Ms. Kitchen provided some background information on the position. It was originally planned that the person would assist the Planning Board, Conservation Commission and Board of Health. It was later determined that the Board of Health did not need to be included at this time. It is a 20 hour position, and five candidates were interviewed. Ms. Regina Hull was considered to be the best qualified, by far. Mr. Cunningham asked the candidate if the duties of the position were made clear to her. She answered affirmatively. It was further pointed out that she had the best computer skills, a very friendly demeanor and was available to start immediately.

Mr. Chamberlin mentioned that according to the Job Description the employee would work under the general supervision of the Board of Selectmen. He wanted that clarified. Ms. Kitchen stated that the day-to-day supervision would be done by the Planning Board and Conservation Commission. Mr. Chamberlin asked that it be made part of the Minutes that Ms. Kitchen would evaluate the performance of the Land Use Office Assistant with a generous amount of input from the Planning Board and Conservation Commission.

Mr. Chamberlin moved to hire Regina Hull as the Land Use Office Assistant with a pay grade of 4, step 1; at a rate of pay of \$11.80 per hour for 20 hours per week. The motion was seconded and passed unanimously.

MINUTES-REGULAR SESSION 1-14-02

On page three, paragraph one, under "Recreation Commission-Budget Overview" the Minutes read in part "Mr. Chamberlin stated that he could not support such a large increase". He requested that said statement be amended to read in essence, that they were asking for a budget which was more than three times greater than this year's budget and that was what he felt he could not support. Mr. Chamberlin moved to accept the Minutes of the Board of Selectmen-Regular Session-1-14-02 as amended. The motion was seconded and voted unanimously

LEWIS TARBOX REQUEST

In a letter received by the Board of Selectmen on January 23, 2002, Mr. Tarbox stated that he had been called to active duty by the Massachusetts National Guard as of Dec. 5, 2001. He requested that the Town of Groton continue to pay for his Health Insurance while he is away. He hopes to return sometime in March 2002. Mr. Chamberlin asked if there was any prior practice of this nature. Ms. Kitchen said not that anyone could recall. Mr. Chamberlin said that while he supports the premise of providing assistance to an employee who is on active duty, he would like to hear from someone on the Personnel Board about their feelings regarding precedent setting.

Ms. Kitchen mentioned that Ms. Ann Walsh, who handles Health Insurance matters would be in attendance for a later agenda item, and they could ask her opinion. Ms. Kitchen also mentioned that the Federal Government would pay the Health Insurance, but the State does not. When Ms. Walsh arrived she advised the Board that she has never had anyone called to active duty. In answer to questions, she stated that there have been no call-ups from the National Guard or anyone - nothing to set a precedent. During her 21 years on the job there have only been 1 or 2 reservists and they were never called up. Mr. Cunningham is convinced there would be no dangerous precedent and that the Town should honor his request. Ms. Kitchen recommended making it through March 31st, and if he does not return by then, as expected, the decision could be reviewed then. Mr. Cunningham made the motion to allow for the Health Care Benefits for Lewis Tarbox to be provided at the 90%-10% rate for a period until March 31, 2002 or if his service is discontinued prior to that. This agreement should not be considered as precedent setting. The motion was seconded and voted unanimously.

ANIMAL INSPECTOR NOMINATION

Mr. Cunningham noted that the position of Animal Inspector should not be confused with that of Dog Officer. Mr. Chamberlin moved to nominate Steven F. Mickle as Animal Inspector for a term of 1 year to expire on March 31, 2003. The motion was seconded and voted unanimously.

GROTON LAKES ASSOCIATION - JOHN DIEZEMANN

Mr. Diezemann and Dr. William Eger represented the Association. They provided an overview of the weed problem, which has persisted for a number of years at Knopps Pond-Lost Lake and the various methods, which have been employed in an effort to contain the weeds. The Association's letter to the BOS dated January 2, 2002 and the Weed Committee Report dated December 10, 2001 explain the situation in detail. Mr. Diezemann mentioned that the Association is an advocacy group, while the Conservation Commission and the Town have jurisdiction over the lakes.

Mr. Diezemann explained that foreign weeds have been expanding into ever-deeper water causing a threat to the safety of swimmers and boaters and to the ecology of the lakes. He mentioned a number of control methods which were tried or considered, including drawdown and harvesting, which were not sufficiently effective. Biological agents would not be effective for eliminating the Milfoil weed and would probably not be acceptable by the State; dredging would be extremely costly and the effects on the lake would be hard to predict. It would be a last resort.

Dr. Eger conducted extensive research concentrated on the use of Copper Sulfate and Diquat Dibromide and came to the conclusion that they would not present a significant risk when used in the diluted concentration required. Mr. Cunningham asked which one would be used. Dr. Eger said Diquat would be the primary choice for the Milfoil weed, but Copper Sulfate would be needed to offset the effects of the dead weeds. The two together seem to help one another. In answer to Mr. Cunningham's next question, he said it would require a trained and certified professional to do the work. Mr. Chamberlin asked how long residue would remain in the water and was told about one to four days, and that fishing and swimming would not be considered dangerous. Diquat is used in agriculture and Copper Sulfate, while it is a toxin, is also an essential nutrient. Mr. Cunningham asked if there is a cumulative effect in fish. Dr. Eger said no.

Questions from the floor were entertained next. Ms. Deuger from the Board of Health asked if both herbicides would be used and was told that Copper sulfate might not be needed, but we should be prepared to use it. Secondly, she asked if they were used in other nearby lakes. Ms. Berenson said they were used in Webster Lake with very satisfactory results. Ms. Deuger also asked if people would need to stay away from the lake. Dr. Eger said they would expect to inform people and as a precaution might ask pregnant women to use bottled water for a day or so. Since application would be done before the spawning season in April, the number of people using the lakes would be small and the trout season would not have begun. Dr. Horowitz mentioned that cows are affected more than other animals. Dr. Eger said it was their milk production that was affected. It was agreed that this would not be an issue at the lakes. She asked about the use of the herbicide 24D and was told it would not be considered.

Ms. Corwin of the Conservation Commission asked about the effect on non-target species. Dr. Eger said Diquat would not affect fish or invertebrates; Copper Sulphate is toxic to both, but it would depend on the dosage. The amount we would be using would have very little effect. He explained that in controlled tests perch were definitely stressed in a tank where there were no weeds to which the Diquat would bind. Dr. Eger and Mr. Diezemann pointed out that Diquat would almost certainly need to be used more than once, selectively in spots. The plan would be to follow up in the 2nd and 3rd year.

Mr. Kibler of the Lakes Association mentioned that Diquat would kill any plant it comes in contact with immediately, so if there were no Milfoil in an area it would kill other weeds. Dr. Eger stated that they would not do the entire lakes area at once. Ms. Corwin asked what dosage affects fish as opposed to the dosage to be used here. Mr. Cunningham suggested that the professional who might be hired to do the work would assess the needs and then provide such figures. Ms. Berenson added that application in March or April is critical in terms of what growth would be affected.

Peter Morrison, Conservation Commission, asked what chemicals were used last time in the lake and were there any negative effects? Mr. Eger said sonar - it's like 24D. Q. Was it successful and was there any long-term effects? A. As far as we know it worked and there have been no long-term effects that we know of. Mr. Diezemann added that a test was done at the dam 30 days after application and there were no ill effects.

Mr. Swezey, Water Commissioner, expressed concern about the water that comes out of the lake - nearly all of it comes into Whitney Pond, which is the aquifer for the two wells. While there may be no migration problem with Diquat, what are the numbers for Copper Sulfate, and are there communities that have used these chemicals in combination for their reservoirs? While Whitney is not really a reservoir, it acts as a gravel filter between the wells.

Mr. Diezemann remarked that the lake is historically drawn down 3 feet every year in winter to protect the dams so there would be no run off into Whitney. That is not the same as the extreme drawdowns, which were discontinued. Mr. Chamberlin asked if the application can be done when there is no outflow into Whitney and was told Diquat would not reach the dam and Copper Sulfate would be only very small trace.

Tom Orcutt asked about private wells and was told there would be no contamination. With regard to freezing Mr. Diezemann said it could be helpful. Last year, with 18 inches of ice, was a comparatively good year, but he expects this year to be bad, because there has been little or no freezing. In answer to a question, he said only about 100 acres would be treated (not the deep areas). He anticipates a three-year plan. Dr. Eger mentioned that the shallower the water the more effective the treatment. He added that the lakes are considered among the cleanest in the area. Mr. Cunningham asked about the cost. Steve Marranzini said that as a rough estimate the 1st year would be about \$40,000 and years 2 and 3, about \$10,000. It was noted that there are only 2 licensed operators in the state and would have to go to bid.

Mr. Swezey would like a bond issued to protect the Whitney against liability. Ms. Kitchen said maybe the town's general liability would cover.

Mr. Cunningham said he is in favor of the herbicide approach and asked Conservation to get information from other towns and water departments. Dr. Eger has that information, which he could provide. Mr. Cunningham asked if there is a specific action the Lakes Association is looking for from the BOS. Mr. Diezemann would like the BOS to file a notice of intent so they can move the matter forward to the Conservation Commission. Mr. Cunningham asked that they get all their information together and give it to the Board. Ms. Kitchen asked that they include a request for proposal or bid document and all scientific information. She noted that the town meeting warrant would close the 1st week in March, if they want it to go before the Town Meeting.

PUBLIC HEARING - EARTH REMOVAL EXEMPTION AMENDMENT

Mr. Chamberlin made the motion to open a Public Hearing to discuss the Earth Removal Exemption Amendment. The motion was seconded and voted unanimously.

Ms. Collette, of the Earth Removal Advisory Committee referred to a previous meeting with the BOS at which time they recommended amending the Earth Removal Regulations, Section 12, Certificate of Exemption, to include a fee of \$50.00 for each application. Ms. Collette, in the meantime surveyed nearby towns, particularly in the Nashua River Watershed area. Most towns do not regulate to the extent that Groton does, and their fees are higher, but for larger operations. She then suggested that the BOS might want to consider waiving the fee for less than 500 cu. ft. After a brief discussion about the types of removal, job sizes and Administrative costs involved, Mr. Chamberlin said he would favor leaving it up to the Committee. Mr. Cunningham said he had some reservations about charging more fees. With no further questions or comments, Mr. Chamberlin moved to close the Public Hearing. The motion was seconded and voted unanimously.

Mr. Cunningham moved to consider amending the Earth removal Regulations, Section 12, Certificate of Exemption by adding a new Section G: "Every application for removal of 500 cu.ft. or more shall be accompanied by a filing fee of \$50. The Board of Selectmen waives the fee for applications submitted by Town Departments and other public agencies." The motion was seconded and voted unanimously.

SHEA AGREEMENT

Mr. Cunningham announced that we now have a signed agreement regarding the Shea situation with the gravel removal operation next to the landfill. Town Council has reviewed it and appropriate amendments have been made in recognition of the fact that it has lingered so long. He mentioned that once the agreement is executed, the operator would file an application for a permit. Ms. Collette noted that the conveying of the land from the Town to Shea will put it back on the tax rolls and will also settle the law suit that went on for 18 months. Also Shea will do a survey of what is there so we will know where the operation is taking place.

Mr. Chamberlin moved to accept the settlement agreement with V.H. Shea Corporation of Westford, Massachusetts, dated December 31, 2001. The motion was seconded and voted unanimously.

COVANTA UPDATE - DR. HOROWITZ

Dr. Horowitz wanted to make the BOS aware of a probable reason for Covanta wanting to negotiate a new contract three years early. The Board of Health had a call from a concerned citizen indicating that Covanta may be heading for Ch. 11. The Board of Health planned to meet with him tonight, but their meeting was unavoidably altered, so they were unable to do so. There would be the possibility that Covanta would stop taking our trash and that the Ch. 11 proceedings might negate our contract with them. Mr. Cunningham felt that in such circumstances the State would step in and arrange for someone else to take over, since it is such a necessary community service. It was agreed that the BOS and Board of Health should talk with this person and put it on an agenda, possibly in two weeks and then to talk with Covanta as agreed upon at the January 7th Selectmen's meeting.

TRAILS COMMITTEE - JENKINS ROAD

Brad Paul spoke for the Trails Committee, making reference to his letter dated January 7, with the year shown as 2001, but presumably meant to read 2002. It is addressed to the Board Of Selectmen, and has as an attachment a copy of a letter dated March 29, 2001 from Michael D. Martorella P.L.S. of David E. Ross Associates, Inc., a Civil Engineering Firm. Mr. Paul would like the Selectmen to direct Town Counsel to perform legal research, looking into the idea of prescriptive rights to use the travel way known as Jenkins Road. He recalled that prior to last spring's Town Meeting his committee met with Town Counsel who recommended survey and full research of town records from present day all the way back to 1885, when the road was discontinued. Mr. Paul, at this point, noted a discrepancy in the Martorella letter of March 29th where he referred to the traveled way as being abandoned in 1885, whereas Mr. Martorella's *report* indicated that it was discontinued. That is an important distinction as far as State law goes.

Mr. Paul mentioned that the BOS brought a warrant to the Fall Town Meeting to do a temporary taking so it could be surveyed, because the Friedrichs would not allow surveyors on the property. It did not get the two-thirds majority vote (153 in favor and 100 against). The committee has had Senior Volunteers doing research. A number of old town records make reference to Calebs Way, Fairgrounds Road, Hazel Grove Road, Farmer's and Mechanic's Club, Sullivan's Corner, some of which may be former names for Jenkins Road or have some relevancy.. He sees constant references to activity going down that road for the last 100 years. Records indicate that Electric service has been upgraded on more than one occasion. Mr. Paul said the Committee needs to know from Town Counsel if the prescriptive rights strategy is a viable means of resolving the situation.

Mr. Cunningham said that the portion of road researched was not really the portion in question. He felt there was an understanding at Town Meeting that if the vote was negative the subject would not be revisited with the family and while he did not agree with the outcome, it was the will of the people and he would not feel comfortable pursuing prescriptive rights and ultimately bringing it up again at Town Meeting. Mr. Chamberlin feels that pursuing the strategy honors the intent of the 153 voters who supported the article. In fairness, he made the point that Mr. McCuin, who was unable to be here, had supported the Friedrich's position. Mr. Paul said that so far the Friedrichs have not demonstrated their rights to the property down to the river's edge. He feels that it's wrong for the question to go unanswered. Mr. Chamberlin supports that line of thought and feels that the family is arbitrarily blocking a place to which the public has had access for so many years and 1-1/2 voters to one were of that opinion.

Mr. Clements asked for more details on the agreement not to pursue the issue with the family. Mr. Cunningham said that Mr. McNierney, in discussing this at Town Meeting, suggested we do the survey and when complete we should leave the family alone. Mr. Chamberlin feels that the family short-circuited the process, making any such commitment null and void. Mr. Clements agreed. Mr. Cunningham suggested that the action to be taken now would be to research the matter further. Since the Trails Committee has money left from a previous appropriation he would not oppose the research. He also mentioned that when doing a prescriptive rights taking, you need to define what it is that you're taking and Town Counsel would have to advise on that issue. Ms. Kitchen believes that Land Court would make that determination. It was agreed that the Trails Committee and Ms. Kitchen would get all the available documents together along with an outline of the questions to be presented to Town Counsel. Mr. Cunningham and Mr. Chamberlin support that course of action.

SURVIVING SPOUSE HEALTH INSURANCE

Prior to beginning the surviving spouse issue, Mr. Cunningham asked for Ms. Walsh's input regarding the Lewis Tarbox, which is outlined on page one.

Ms. Walsh reviewed the memorandum to the Board of Selectmen dated 1/11/02 on the subject. There are currently 3 surviving spouses and they pay 100% of the group premium. Prior to the death of the retired employee the town pays 65% and Ms. Walsh would like the town to pick up the same portion for the surviving spouse. Mr. Chamberlin wondered what the School District does and Ms. Walsh believes that they pay. Mr. Cunningham asked if surviving spouses get any other benefits and was told that it would depend on the option chosen by the employee. Mr. Chamberlin asked if this needed to go before Town Meeting and was told that the town has accepted the section that allows them to cover spouses. He also wondered why this is coming up now if the town has had the choice for many years. Ms. Walsh said that rising costs have made her more concerned that the surviving spouse is finding it harder to keep up with expenses. Ms. Long, newspaper correspondent, asked if there is a provision in the recommendation to cover a change in the spouses situation, such as remarriage. Mr. Katz suggested that the Board could review situations on a case-by-case basis. Mr. Chamberlin feels that it will lead to added cost down the road, but supports the recommendation nevertheless, as does Mr. Cunningham.

Mr. Chamberlin made the motion that the Town will pay 65% of any retired employee's surviving spouse's Health Insurance premium, effective March 1, 2002. The motion was seconded and voted unanimously.

FINANCIAL CONSOLIDATION REVIEW COMMITTEE

The Committee was represented by Lorraine Leonard, Evan Katz and Ann Walsh. Mr. Cunningham noted that the committee was set up in recognition of the fact that there will be some movement in the financial offices of the town as well as recognition of the fact that the town is growing and change in the way these offices conduct business may be in order. The committee submitted their preliminary report. They did not conduct a survey of other towns, nor conduct any research, as it appeared from the beginning that there was not a lot of support for a larger change. They considered a range of options including leaving things as they are, consolidating the Treasurer/Tax Collector positions and appointing a Financial Coordinator. The committee did not come up with any sweeping changes. Expansion of the BOS to 5 members was one big concern. They felt that a three-member board was subject to major swings in position by the change of one member, making the committee reluctant to recommend major changes. Mr. Cunningham felt that the committee had reservations about the Board's ability to be objective. Mr. Chamberlin asked when, in the last 15 years a major decision was impacted by a swing on the 3-person board. The Committee found it difficult to explain their position. They explained that they were not talking about the present Board and Ms. Kitchen was aware of the Board they were concerned about, which was before her time here. Ms. Collette supported the position of Mr. Katz and Ms. Walsh indicating that the swing impact has occurred in the past. There was considerable discussion about the 5 members vs. the 3-member structure with Mr. Chamberlin suggesting that this could be taken up at a later date, separate from the Finance restructure. It was generally agreed that consolidation of the Treasurer/Tax Collector is worth consideration. Mr. Katz implied that the Committee was more or less at a stalemate and that the Board might wish to form a new committee at a later date. There was a discussion about what other towns have done, which is outlined on the survey, which Ms. Kitchen submitted.

FIRE STATION ARCHITECT - Postponed

APPOINTMENT OF STATION AVENUE DIRECTIONS ADVISORY COMMITTEE

Mr. Cunningham stated that he and Mr. McCuin met with GELD recently and came up with a committee. Ms. Chojnowski mentioned that Mr. Mullin of Mullin Associates stated the importance of deciding on the size of the committee. He also stressed the importance of giving the committee members all pertinent material so that they can be well versed for the kick-off meeting, which will be March 12th. A Selectman needs to be chosen to be on the committee and Mr. Cunningham wants to wait until Mr. McCuin returns to make the decision. He favors going with the list they have and try to be ready for Fall Town Meeting, which will require a lot of work. Each member will be given a copy of the draft report by Mr. Mullin and will meet with him on March 14 to go over the process. Mr. Chamberlin moved to appoint the following people to the Station Avenue Directions Advisory Committee to expire on June 30, 2003.

Daniel J. Barton, David A. Elliott, Anthony Hars, Patrick Parker-Roach, Andrew B. Searle, Edward P. Doucette, Anna M. Barker, Frederick J. Diedrich, Thomas D. Orcutt, Michelle Collette, Doris A. Chojnowski, Steven D. Morlock, Richard O. Curtis, Christopher Murphy, David L. Gandle, Maureen Giattino, Kim Buckingham, Robert N. Pine and a Representative from the BOS to be announced.

The motion was seconded and passed unanimously. Ms. Kitchen noted that given the size of the committee, they would need 10 people to make a quorum.

COLA FOR NEXT YEAR

Ms. Kitchen reminded the Board of a letter from the elected officials to the effect that the Treasurer, Tax Collector, Town Clerk and Highway Surveyor want to be included in the COLA. They wanted to be in the step process also, but Town Counsel said that was not possible. Mr. Cunningham was trying to recall something else that they requested in that letter. Ms. Kitchen will review the letter and let him know. He would like to verify that before dealing with their COLA and there is plenty of time to do so before Town Meeting. At this time he wants to address the COLA for the people covered under the Personnel By-law. He also asked Ms. Kitchen if there were any collective bargaining negotiations going on now. She stated that there is one, but establishing a COLA now for next year should not have any negative impact.

The increase was determined based on the CPI for All Urban Consumers (Nov. 2001) @ 2.8%, and the Year 2002 Social Security COLA @ 2.6%. Mr. Chamberlin moved to recommend a 3% increase for Cost of Living Adjustment for FY '03. The motion was seconded and voted unanimously.

SELECTMEN BUDGET

Ms. Kitchen reviewed the budget and explained the various items to the satisfaction of the Board.

ADMINISTRATIVE OFFICER REPORT

Ms. Kitchen reminded the Board that there is a Master Plan meeting on Wednesday, next week; the Nashua River Watershed Assoc. has a 5-year action plan - if any questions, let her know and she will contact them; Doris is returning tomorrow, working 4 hours to start.

Mr. Cunningham stated that he would not be here next week.

At 10:15 PM Mr. Chamberlin made the motion to adjourn. The motion was seconded and voted unanimously.

Approved _____
Dann Chamberlin, Clerk

Respectfully Submitted,
Eileen Navien
Recording Secretary