

SELECT BOARD MEETING  
June 22, 2011

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

**Present:** Select Board: Norm Russell, Doug Field, Paultette Leukhardt  
Administrative Assistant : Mary Fitz-Gibbon

**Minutes:** Motions were made, seconded, and voted to accept the minutes of meetings held on June 8 and 13, 2011.

**Appointments:**

**Assessors:** Present: Mark Graves

Mr. Graves reported that Jennifer Morse from Rowe has been selected to be the new Assessors' Clerk. She will be here on Friday to spend some time with the Tax Collector and will begin working in the Assessors' office on Monday.

There were five qualified applicants, four of whom were interviewed. Ms. Morse, who is Town Clerk in Rowe, was interviewed in an open meeting of the Assessors. She is familiar with working with the public. Arrangements are being made to provide the training she will need in the programs used by the department. When Mr. Russell commented about officially appointing Ms. Morse when the other appointments are made for FY'12, Mr. Graves said he had checked and learned that it was not necessary for the Select Board appoint the Assessors' Clerk. He said the Assessors were somewhat autonomous. Mr. Russell thought this could be researched further. Note was made that the Personnel Board, not being active at this time, was not involved in the hiring.

A question was asked about a probationary period. Mr. Field didn't think there was a policy, but the fire chief and police chief were hired with a six month trial period. Mr. Graves thought a probationary period is a good idea.

**Special town Meeting:** Present: Buz Eisenberg, Moderator

There were no questions about Articles #1, 4, or 7. **Article #2** concerned paying the employees who had been grandfathered when the policy for accruing sick time was changed. Since repayment of these funds is done at the current rate pay rate, it seemed wise to pay it now rather than wait until the employees retire, when the pay rate would be higher. **Article #3** is intended to establish a fund to keep money for a cruiser in the budget so that it doesn't get moved into "free cash." Since this action would create a new fund, there was a question about whether it was necessary to appropriate, as well as, transfer to create the fund. No one present thought that was necessary. **Article #5** is to provide funds to pay the three firefighters who responded as mutual aid to the tornado sites. Mr. Field explained that the county is organized into task forces. In an emergency, a call is placed requesting specific equipment from the task force to respond. In this instance the request was for a fire truck and men to operate it. **Article #6** Mr. Russell explained that the money in the Grant Program Income fund had come from a closed housing grant program. He said this money could be used without further approval by the Select Board, but the general practice has been to ask the Town to approve its use. He said improvements being made to town hall were coming from two sources; one public, one private; the Grant Program Income money, being the public money will go into a town hall accessibility and renovation fund and the private money composed of donations and gifts for the restoration and preservation fund.

Mr. Eisenberg asked if anyone was aware of any issues that might be raised over any of the articles. The Finance Committee is meeting on Monday, the 27<sup>th</sup> to review the warrant. It is possible there might be some questions raised at that meeting.

**Other Money items:** There are two requests for transfer of funds: one from police and another from the highway department. Both will be presented to the Finance Committee for its approval. The Select Board approved the highway request at its previous meeting . At this meeting a motion was made by Ms. Leukhardt, seconded by Mr. Field, and voted to approve a request from the Police Chief to transfer up to \$2,500 from Police Chief Salary to Police Expenses . The appropriate forms were signed.

**Police Department:** Present: Chief Droney

Police Vehicles --Chief Droney reported that the check engine light has come on in the Taurus. It was taken to Mark Upon to be checked out. When checked the indication was that the problem might be associated with the catalytic converter. Mr. Russell asked if there had been any loss of power coming up the mountain from Greenfield. Droney said there had not.

When the Explorer was picked up they got about a mile down the road when a knocking in the engine was noticed. It seemed to be coming from the opposite side from where work was done on the motor. Service bulletins for this vehicle indicate there can be problems with aftermarket oil filters. Since the oil was changed at the school, it's possible this is the source of the noise. The repairs done at the school cost about \$300 for parts which included a new starter.

Police Policies – **Policy 1.2.3. Compliance - Miranda** Mr. Russell said if the officer has a card and reads the Miranda, the card can be included as evidence. Mr. Field made a motion, seconded by Ms. Leukhardt, and unanimously voted, to accept Policy 1.2.3. Compliance with Constitutional Requirements.

**Policy GO 1.2.4. Search and Seizure** – Ms. Leukhardt had a question about searching vehicles. Droney explained that there are circumstances such as inventorying a vehicle before having it towed, where the glove box and trunk could be searched. Generally, without probable cause, the plain view policy is followed. Droney said that in the absence of a key, the officer would not force a trunk open, unless there was a compelling reason (probable cause) to do so. For example: a body in the trunk. Mr. Russell said a classic case a few years ago was for the officer to say he smelled Marijuana as a reason to search the vehicle. He also commented the fact that a person has a gun shouldn't make him a suspicious person, warranting further search, or as he called it, a "Terry" search. (A person named Terry was searched without there being sufficient reason for this to have happened.)

Mr. Field related a situation several years ago where an Ashfield officer stopped a vehicle (for speeding) and in running the plate discovered that there was reason to be interested. This led to the vehicle being impounded. [The driver was running drugs.] The Town eventually got the car.

A discussion about entering a property revealed that today's law which provides that if there are several persons in a property who have standing to object to entry , and one objects to an officer entering the property, the officer doesn't enter. This is the complete opposite from previous provisions that if one indicates it's ok for the officer to enter, he can – over the objections of the other person(s). A motion was made by Ms. Leukhardt, seconded by Mr. Field, and unanimously voted to accept policy GO 1.2.4 Search and Seizure.

**Policy 1.2.8 - Strip and Body Searches** - Chief Droney said the odds of ever needing to do this are probably one in a million, but there needs to be clear standards in the event the situation should arise. There would have to be probable cause that someone was concealing something on his body. It's usually narcotics but it could be anything. It is not something that could be conducted in the Ashfield Police station; most likely it would be done at the jail. Given recent history in Ashfield, the Board was uncomfortable with this policy. After much discussion this policy was tabled for future consideration.

**Policy GO 1.3.1- Use of Necessary Force** – A motion was made by Ms. Leukhardt, seconded by Mr. Field, and unanimously voted, to accept the provisions of Policy GO 1.3.1.

**Policy GO 1.3.2 – Use of Lethal/less Lethal Force** – Less lethal covers things like tasers (which the department doesn't have) or batons. Mr. Russell had concerns about the "reasonable belief" standard. He thought officers ought to be held to a higher standard; Droney said this was pretty standard policy

Dave DeHerdt said his concern about raising the standard would be the liability to the Town. Using "reasonable belief", you're relying on the officer's training. If the standard were to be raised, when challenged, the Town would have to prove that the higher standard was met.

Mr. Russell is bothered by the idea that lethal force might be used in Ashfield. Droney pointed out that Ashfield is a transit way for people going to Pittsfield, Greenfield, etc. He's heard stories that drug traffic passes through Ashfield [ RT 112 ] and the persons are not your typical Ashfield resident. He mentioned persons passing through from Springfield or Albany. Mr. Russell stated that he looked at this from the view of having been in combat. He always thought it was important to be restrained. His point of view is that if you choose to carry a weapon, then the onus is on you not to use it unless absolutely necessary. He thought that the people in Ashfield need to know their officers don't use lethal force. After further discussion, a motion was made by Ms. Leukhardt, seconded by Mr. Field, and voted to accept this policy. The vote was two in favor and one abstention.

**Policy GO 1.3.3 – Unauthorized Discharge of Firearms** – This policy deals with warning shots. Generally, they are not allowed. A motion was made by Mr. Field, seconded Ms. Leukhardt, and voted, to accept the provisions of GO 1.3.3.

**Wind Siting Advisory Committee:** Present: Andrew Wells, Walt Cudnohufsky, Duncan Colter, Brian Clark, Anne Yuryan

Andrew Wells presented a wealth of material that the committee had prepared. Since the Board had not had a chance to review it, Mr. Russell asked to be filled in on what the committee has done and where it's at. The materials provided are: a summary, the main report, and two minority opinions.

Mr. Wells said there was some confusion about the charge given the committee. It wasn't clear whether the committee was to develop a bylaw or provide information demonstrating the need for a bylaw. What they wound up doing was researching sound, which is perhaps the most difficult concept to grasp. They spent a lot of time studying research on how people responded to actually living near wind turbines. Although there are several types of wind facilities, they concentrated on the windmill type. What they learned that there's a great deal of disparity in standards used and people's response to them.

The recommended standard for noise is lower than that set by the state. The nature of noise, kind of a thump, thump, and the frequency of it create a noise that is different from other sounds. Among the recommendations is one that requires sound decibels be not greater than 5% of normal background noise. There has not been adequate data collection in determining background noise. Lack of data can lead to serious problems, as in the Town of Falmouth, where a turbine was installed and an enormous backlash resulted. Walter Cudnohufsky said the state has set one level for sound, but the levels in rural areas are different than those in industrial areas. There are no guidelines to account for these differences. There is a whole other aspect to sound, the infrasound. It's sound we can't hear, but it's the area where the greatest health impact is.

The proposed legislation that didn't pass last year is back again without any changes in the language which severely limits towns' ability to control what happens with wind power. The conclusion of this committee is that the Town should have a bylaw, as it would provide some guidance to the local review board.

Another point raised by Ricki Carroll is that there will have to be financing for any of these projects. She thinks that potential financial backers would have an interest in how the town views them. So, every little bit that the Town can do could be important.

Anne Yuryan spoke of the serious effort the committee had devoted to considering the best way to protect the citizens, assuming that wind turbines will come to Ashfield. She said a bylaw that says "you're not welcome," will not accomplish anything. But a bylaw that says, "this is what we expect," would be useful. She said one thing that makes Ashfield attractive is the presence of the substation located in town that is important for connecting to the grid for distribution of the power generated by a wind facility.

Brian Clark said he felt there should not be a mandatory setback for turbines. It should be flexible, as there's things such as topography to be considered. Ms. Leukhardt said there are different kinds of turbines too. This report deals mostly with the standard windmill. The hope is that some of the newer designs will move from the drawing board to reality.

The consensus of persons present was that there is some urgency in getting a bylaw established. The Planning Board is generally the board that proposed them. However, a group of citizens (10 or more) can propose a bylaw that would go to the Planning Board for its review. If that board finds it meets the needs and criteria, it would then have to be voted by the Town and approved by the Attorney General before being accepted.

Mr. Wells said the state is focusing on promoting development of wind power. It is not providing much in the way of developing standards for wind facilities. He said there is an organization on the Cape that is working on this whole wind issue. Much can be learned from this work. He said from his experience of having a wind turbine within 700 feet of a house he had on the Cape, he realizes that the state cannot be relied on to set acceptable standards.

Mr. Russell said the committee was doing just what the Board had hoped it would. It has sifted through a great deal of information and focused on issues that the Town should be aware of. A public meeting should be called to share these findings. Prior to the meeting the report will be published on the Town's website and copies made available at town hall.

## **OLD BUSINESS**

**Grant Program Income:** on February 24, 2011 the Board voted to take \$550 from Grant Program Funds for the purpose of paying for assistance in going through files downstairs. At the time the Accountant said she wouldn't do it because she didn't think the Board had the authority. After checking with the auditors and the law (53A), Mr. Russell determined that the Board did have authority. He suggested that the February vote be rescinded and the money be redirected to the Assistant Administrator Account. A motion was made by Mr. Field, seconded by Ms. Leukhardt, and voted, to rescind the vote of February 24, 2011 to "take \$550 from Grant Program Income to hire someone to clean up the files downstairs" and redirect the money to the Assistant Administrator Account.

**Northampton Landfill Closing** Mr. Russell said he was reminded by his son, who was recently at the Northampton Landfill where Ashfield's solid waste now goes, that the landfill will be closing in a year or two. There is the potential for the cost to Ashfield to have its trash hauled to some other site doubled. A suggestion was made that Ashfield look into establishing a landfill in town. There are eleven towns in the HMRC who will also need to find a new site. Mr. Russell said he didn't think the state would permit any new landfills. He brought the matter up at this time as it's something to stay on top of.

### **Liaison Reports:**

**Grader** - An update on the grader reveals that the Town is waiting for the necessary paperwork so that it can get the grader. Paperwork is slow in coming as the responsible person is not well. Field said he could stop at the DCR office and hopefully obtain what is needed.

**Emergency Manager** - Mr. Field has been seeking information on emergency notification systems for the Town. Reverse 911 said the town is too small and wouldn't give a quote. OneCall would charge \$3,000 per year, plus charge \$2,000 for training. Blackboard Connect, the service used by Conway, charges by household (\$1.91/yr), the cost would be \$2,300/ yr. This system will work with land line phones and cell phones. Cell phones don't work in most Ashfield locations, but persons having cell phones could get messages when in areas where there is cell service. Field has talked with Conway's Chief, who gave the system good marks. There's no limit on how many times it's used. Calls could be made from up to three areas, ex: town hall, firehouse, etc. He thinks this is something to consider.

**Personnel Committee** - The Personnel Committee will meet on Monday. There is only one member who has not responded. Mr. Russell said he has met with Town Clerk, who suggests the staff wants to revisit assistant clerk position( Nancy Intres) [with the idea of changing it to administrative aide with somewhat different responsibilities. It was noted that the assistant clerk position was never posted or officially hired; the incumbent had held the position previously and was willing to come back when the Board suddenly had a need for someone in a hurry. Mr. Russell suggests this might be something for the Personnel Committee to work on.

**Select Board Summer schedule:** Every other week: July 6 & 20; August 3, 17, 31 **Dog Officer** will be in on July 6<sup>th</sup>.

**Library** - The Library has a problem with the alarm system. The alarm was beeping but apparently not enough to dial out to Simplex, the alarm company. When called, a technician responded on the weekend but couldn't find a problem. On the following Monday a technician came out, but was unable to make repairs. The resulting invoice seemed exorbitant to the Trustees, who want the Board to intervene. Before taking any action the service contract needs to be reviewed . It is possible that the

contract is for monitoring, rather than service. According to Mr. Field, the Library Trustees want the Select Board to investigate the cost. Mr. Russell said he would like to look at the contract.

**S.T.R.A.P. Grant** - Starting June 22<sup>nd</sup> and for about two weeks Spruce Corner Road in Goshen will be closed weekdays between 7:00AM and 5:00PM for road repairs being funded by a STRAP grant. Persons are advised to avoid the area.

**ECHO** - The temporary data collecting tower has been installed on Leue property on Cape Street and has been collecting data for several months.

**Note from Lenny Roberts** - Lenny forwarded a copy of an article about a wood burning heating system in downtown Montpelier. Lenny's proposed biomass plant is a heating plant, too. He plans to heat his mill plus operate a generator from the burning of junk wood. According to Mr. Field the plant is supposed to provide enough electricity to power a good portion of Ashfield in an emergency.

**MIIA** – Feedback on status of injury on duty for EMT's and firefighters. (See attached letter)

**On-Line Permitting** – The Building Inspector will be at town hall tomorrow to show staff how on-line permitting will work.

Mr. Russell described the remaining persons in attendance by describing how he and his wife removed the plastic bags of leaves along side town hall. In doing so, hopefully, one source of flooding in the basement was eliminated.

A motion was made to adjourn sometime after 10:30 PM.

Respectfully submitted,

Priscilla Phelps