

Newington Board of Selectmen Meeting Minutes
Monday, December 12, 2011 6:30pm Town Hall

Chr. Iocovozzi called the meeting to order at 6:30pm

Present: Chairman Cosmas Iocovozzi, Selectmen Jack O'Reilly and Rick Stern, Jim Kerrivan (and son) representing Altus Engineering; Representing the Police Department were Police Commissioner Doug Ross and Jack Hoyt along with Chief Jon Tretter; Representing the Fire Department – Engineers Wib Goins, Steve Sabine and Ruth Fletcher along with Chief Dale Sylvia and Assistant Chief Andrew Head; Representing the Sewer Department were Commissioners George Fletcher (Chairman) and Commissioner Skip Cole. Administrative Assistant Beatrice Marconi was also present.

Minute Approval: *S. O'Reilly moved to accept the minutes of December 5, 2011. Seconded by S. Stern and the motion passed on a roll call vote 3-0.*

Manifest Approval: *S. O'Reilly moved to approve the manifest for payment dated December 13, 2011 in the amount of \$ 64,744.30. S. Stern seconded. Motion passed 3-0 on a roll call vote.*

Patterson Lane Paving Project Update: Jim Kerrivan of Altus presented the Board with an aerial view of the area and explained that culvert repair will be necessary along with grind & repave. The town will be able to utilize the ROW at the river end of Patterson Lane for off street parking. The Board hopes to keep the close proximity of the homes there in mind when it comes to parking. Crushed stone will be used for that area. There are pine trees that will need to be removed and have been probmatic over the years. Proper drainage will be part of the project. A trailer parking area may be very well workable so the residents at the end of Patterson won't be drastically affected. Jim will continue to work on the plan in preparation of creating a bid packet. Altus will obtain the necessary permits.

Mott Pond Preservation/Restoration Project: Mr. Kerrivan brought the Board up to date with this project. It is about a 3 acre pond. The existing outlet is bad. They applied for a non-evasive permit but was denied as this area is too close to the river. Altus will file the needed documents for permitting. A new culvert will be necessary. Part of the design will be for beaver deferment preventing blockage of flow. A water flow mechanism will be built. They will work with the City of Portsmouth as a water line crosses over the project. They anticipate traffic flow will be limited to one lane for a period of time, however does state for about a seven day period, the area will be totally blocked off. The Board felt there are alternate routes to take and didn't see this as a major problem. He will continue to proceed and will forward a 2012 estimate for budgeting purposes. The Board discussed use of the Capital Reserve and funding a portion of needed funds for 2012 as next year's contribution to the existing Cap. Res. will have restrictions. Jim notes the energy of the water movement will be decreasing with planned controls. Some trees will need to come down.

2012 Budget Presentations

Police Department: Requesting \$ 1,340,980 – S. O'Reilly moved to recommend \$1,340,980. S. Stern seconded. Motion passed 3-0 on a roll call vote. Before the vote took place, Chief Tretter presented detail on their request. Being up about 1%, this included scheduled steps, a 3.25% C.O.L.A. and the NH Retirement rate adjustment for 2012. \$ 7,860 was included in the budget for vests which is a 50% reimbursable grant. The cost to hire new officers has increased drastically with the cost for a uniform at \$1,500 alone. Health costs were calculated at both the old rates and new with the possibility of conversion to the Comp2500 in May. Commissioners Doug Ross and Jack Hoyt felt the residents will appreciate the effort the Chief has made in keeping the numbers reasonable while maintaining services. Chief Tretter asks the Board continue to fund the Child Advocacy Center in the amount of \$1,000 as they work well with the department and provide a needed benefit. The Chief asks \$ 5,000 be added to the Police digital/electronic communications and equipment's existing Capital Reserve via a warrant article.

Emergency Management: Although this budget falls under the Board of Selectmen, both Emergency Management Directors were present. Regarding the wage line which is for support costs and/or shelter coverage training and costs, it was suggested to add \$500 to that line to now make it a total of \$1,000 and to adjust the stipend line to include a C.O.L.A. adjustment of 3.25%. The Selectmen will officially address the numbers under the general government budget discussions.

Fire Department: Requesting \$ 1,351,124 – *S. O'Reilly moved to recommend \$ 1,351,124. Chr. Iocovozzi seconded. Motion passed 2-0 on a roll call vote.* (note: Selectman Stern excused himself to attend a portion of the Planning Board meeting leaving at 7:00pm and returned towards the end of the Sewer Commission's presentation) Before the vote took place, Chief Sylvia and Asst. Chief Head presented the budget. The overall increase was approximately \$52,000. The non-personnel items decreased overall by \$5,500. All personnel increases were a result of NH Retirement, steps and C.O.L.A. Because of the proposed conversion of the town's health care plan, the health line shows a decrease of approximately \$ 8,000. Ambulance billing fees were deleted for 2012 as the ComStar fees will be netted out of the revenue. Chief Sylvia noted that the department is more actively participating in the mutual aid program which is both beneficial for revenue and more importantly training and experience. 2011 revenue projections are in excess of \$250,000. There are 9 call personnel available full time and 6 part time call people available to fill shifts. A new line was created this year as a pilot shown as outside detail which will be billed out to the users and reimbursed back to the general fund. Chief Sylvia added that at this point, it appears his budget will be well in the black come close of 2011 as he was very concerned in the fall with the NH Retirement unfunded mandate increase. The Chief noted that the 20% WC supplement adopted by the town was not included in his budget. The Selectmen stated they will fund under general govt. No request for the SCBA cap reserve this year as the gear was negotiated and purchased in 2011. Regarding the Ambulance replacement cap reserve, the board discussed the time frame and it looks like they will be requesting a new unit in 2013. Cost will be approx. \$140,000 to \$170,000. The Selectmen will look at the balance, propose a Warrant Article to contribute X amount, then will plan on funding the balance needed in 2013 under cap overlay. (note: as of Dec 31, the Ambulance Cap Res has approx. \$ 95,000). Chief Sylvia would like to switch the office areas with the current sleeping areas to make general business operate in a more accessible part of the building. Will need a hot water heater. He doesn't expect too much expense. Chr. Iocovozzi stated that regarding the layout of the building, arrangement and organization of the areas come under the Fire Department. Regarding the smell permeating for the last 4 months at the station, they performed a smoke test and it was discovered that the output stack has a blockage at the seam and the smell is penetrating the attic and down into offices. A proposal will be forwarded from Mr. Hart for the cost to fix for encumbering if the work can't be done before year's end. (pipe and shingles, etc).

Sewer Commission: Requesting \$ 708,942. (amended to \$720,842) Chairman George Fletcher and Commissioner Skip Cole represented the Sewer Commission with Chairman Fletcher presenting the numbers. The Board questioned the math of the Commission as the figure submitted did not add up to the requested amount. With the correct amount being \$720,842, *S. Stern moved to send the budget to the Budget Committee, S. O'Reilly seconded. On a roll call vote, the motion passed 2-1 with S. O'Reilly voting against.* Before the vote, S. O'Reilly asked about the engineering request of \$30,000. Chr. Fletcher indicated the sewer line must be relocated due to the Spaulding project and noted that they may get something back from the project. A new section of the administration building will be constructed with a bridge connecting it to the existing structure which will meet ADA requirements. United Water does not have engineers on staff. The sludge line decreased from \$55,000 to \$46,000. Chr. Iocovozzi noted there is no request for funding to cover the treasurer's duties for Sewer and stated the treasurer's compensation should be included. S. O'Reilly stated with the proposal in Concord currently, more than likely, it will be part of the law around June. Mr. Fletcher felt if it wasn't in effect now, he truly could not budget for it at this time as it may not pass. Chr. Iocovozzi stated approximately 72 hours per year will be devoted to sewer operations and at a current estimate of \$ 25.00 per hour, they should plan on about \$1,800 plus Town Hall staff costs. The Commission was informed although the first stipend payment was via accounts payable, future payments would be through the payroll system and at year end, an adjustment would be made on

their W-2 accounting for the initial payment. Chr. locovozzi noted the town is still awaiting their w-4s and I-9s. Cos briefly explained the I-9 form from Homeland Security and the various forms of ID required. He went on to state the Board has hired a Tax Attorney to look into the many questions as getting a clear and concise answer to 1099s vs payroll form of payments and the need for I-9s varies so. Therefore we won't be issuing any checks until we either find out what is needed from the Tax Attorney or you file the forms requested. Mrs. Fletcher spoke of the Nov 1986 continual service exception. Proving continual service is difficult. Probably in Ruth's case, the Town Report will give us the answer. S. O'Reilly explained the town has asked the IRS, Homeland Security, etc, etc. Chr. locovozzi stated it has to be proved before any checks can be issued. S. O'Reilly added that complicating more so is when one converts from a 1099 form of payment to a payroll form, it creates yet another level of inquires, whereas Homeland Security themselves must consult with Washington. Cos noted, to get a check, you must address the W-4s and I-9. This paperwork is going to bury us. Chr. locovozzi stated no one is happy with this situation, as he himself has to locate a birth certificate he hasn't seen in 30 or 40 years. Chr. Fletcher questioned why the Board was spending so much time on the w-4/I-9 issue for a mere 600-800 bucks. Cos stated because it is the Law. George stated we have always done 1099s. Cos stated again because it is the law. George said we have been on the 1099s for 30 years – not a mention of this issue has ever come up. Cos asked Beatrice to explain how this all came up and she explained that Bob Vachon of Vachon & Clukay sent the town an IRS document that showed stipend people do not meet the IRS criteria for independent contractors. Ruth then suggests this is merely a recommendation. George said it is not the law. Cos felt then George should be a tax attorney but went on to say that the Board has to do what our auditors and tax attorney tells us to do. He went on to say the tax attorney doesn't live here nor does he know him or Skip. He doesn't know about sewer and added that this is pathetic. Chr. locovozzi told George he can say what ever he says but the law is the law. George then said to show him the law. Cos said we are awaiting to hear back from the Tax Attorney as to the information we require. Cos went on to say he is not a lawyer, but when you have a situation whereas there are doubts, we have to go and get right information as all we want is correct information. You all can say what you want. George then talked about how long it will take to prove it and asked if the Board wanted to go on like this. Chr. locovozzi then stated that if you file the I-9, you'll get your money. Cos stated these forms verify social security numbers and address. In the past Cos remembers getting a call from Pat Main asking for his Social Security and can't remember filling in forms ever. George asked where his W-4 was and felt it was stolen. She asked if police are charged for their checks payroll or otherwise. Chr. locovozzi stated no, as they come under the operation here. Sewer is separated from the town – in which you can be charged for any services the town gives you. Ruth went on to state the Sewer is part of the town when suited but not otherwise. Cos stated you are part of the town, but you have a separate check book. However, you do come under the town's federal ID number. The law dictates to the Town not because we say so. Ruth states the Treasurers duties says she must sign all checks and is paid for that as Town Treasurer and if you could show me the law that says we must pay her additionally, well, that's double dipping. S. O'Reilly interceded at that point and said not to talk to the Board about double dipping. Up until these recent changes in how things are done, you paid a person to be your treasurer. We assumed that since the work continues, we would bill you for someone else doing the sewer work. Ruth stated the Municipal Treasurer does not do all the work. Ruth stated that she figures out all the deposits and the only things she does is take it to the bank. She does not have to reconcile all the banking, however it is part of her job. George stated he reconciles and the municipal treasurer does not have to. Chr. locovozzi asked the AA if the Municipal Treasurer needed to reconcile their books. Beatrice responded in the affirmative, however George continued to disagree and asked where in the law it stated she must. Beatrice will provide Chr. Fletcher with a copy of the excerpt of the Treasurer's Duties that specifies she must reconcile all town finances. Ruth stated Laura used to do that and she used to come to every meeting too. George then stated the Treasurer has no business not signing any check we put on the manifest. Chr. locovozzi responded by saying that statement was kind of funny as the Selectmen had a problem with him (George) not signing checks when he himself was municipal treasurer. George denied this. Cos laughed. George again denied. Chr. locovozzi began to get very heated as he told George he could not denied this. Cos then told him to own up to it - at which point George stated yes, one time he did refuse. Cos stated he did not appreciate George not telling the truth, the George fired back that he too hated people not telling

the truth. Commission Cole then requested the table to get back to the budget. Mr. Cole asked about the I-9 law and when that went into effect. The Board stated it was not new. Pre Nov 6 1986, the form was not required. The Board then discussed Mrs. Fletcher's service as Moderator and felt through research with oath of offices, we could obtain documentation verifying this. George's service however was not pre 1986. S.O'Reilly spoke of the Dept of Labor audit of full and part time employees whereas Elected and Stipend individuals were exempt from their jurisdiction and wouldn't have inventoried everyone's I-9. At this point, a tremendous amount of hours have been dedicated to this but we are hoping to straighten this away per Cos. Chr. Iocovozzi then stated as soon as the verification comes from the Town Clerk, her check would be available and anyone else we can verify. Getting back to the budget, at this point S. O'Reilly did not feel comfortable making a motion. Chr. Iocovozzi stated he would wait for the return of Selectmen Stern. Cos asked about other issues. The AA pointed out that the medi and fica sewer expenditure line should be funded. Chr. Fletcher stated it won't be funded if the 1099's continue. S. O'Reilly again stated he will not support this budget and Chr. Iocovozzi stated the town will pay for what isn't funded and take the funds out of their stipends. Ruth then asks for the RSA that gives the Treasurer (or Selectmen) the right to countermand the Sewer Commission by giving the checks to the Admin. Assistant to hold. Cos said we'll get you that information. She then gave the Board of Selectmen a request for all stipends paid from Jan 1, 2005 through Dec 12, 2011. She stated she was looking for irregularities. Cos said as things are discovered, the Town is correcting them as found. S. O'Reilly said as late as last year the Board discovered all stipends were paid incorrectly as one got elected in March then paid for 6 months just 3 months later. In actuality, one can only be paid after service is rendered. Chr. Iocovozzi now wants to vote on the budget and although the stipend line will be deducted from, at least we are getting the numbers over to the budget committee. Ruth then asked if an actual stipend amount should be in there. Cos said the number for stipends will be adjusted accordingly for the lack of budgeting for the federal taxes. Cos added that when the Selectmen do their budget, that is when the stipend amount will be more clearly addressed. Cos stated that we can't tell you what to put in your budget, but we tell the Commissioners what the town will pay them for a stipend. ***S. Stern moved to send the number of \$720,842 to the budget committee. Cos seconded.*** The AA suggested the motion include to state any stipend adjustment would be forth coming, however Chr. Iocovozzi felt an adjustment will be made by the Board at a later time. The Board of Selectmen have the sole authority to set the Sewer Commission Stipend. Ruth added that the Selectmen also tell the Municipal Treasurer to hold the check. However, Chr. Iocovozzi and S. O'Reilly both echoed that the Treasurer is not holding their checks. Ruth then stated when the Treasurer is given a manifest, she is supposed to pay it. Cos stated this is correct; and that she signed the checks. However, Ruth stated she was supposed to pay it via accounts payable check (1099 form of payment) and did not do so. The AA clarified for the Selectmen that it looked like Ruth was trying to state that the Sewer's Manifest asked that it be paid via accounts payable, however the IRS mandated payment be made through our payroll. Ruth said she would like a copy of that document. ***S. Stern voted yes, S. O'Reilly voted no. Chr. Iocovozzi voted yes to send it on. 2-1 motion passed.***

George then stated that depending on how Commissioners Cole and Field feel regarding the 1099s (which will be discussed at Sewer Commissioner's meeting), the vote will reveal if the commissions stays with the 1099s vs. the W-4 form of payment of wages. Chr. Iocovozzi stated the town will proceed with working with the tax attorney and will bring the Commissioners in and explain everything to them as the information comes to the Selectmen. We need the correct information first and foremost. Cos ads for what we were told, no more 1099s. S. Stern stated the IRS advised the Town to consult a tax attorney. The information is different advice with many agencies. S. Stern noted the IRS ruling on the 1099 was forwarded to you and then you pointed out the 'fee basis' clause. At that point we then felt addressing the varied views should all be addressed to a Tax Attorney. George Fletcher, said that's the thing, our Sewer income is not via tax money and that is one of the criteria for 1099 allowance. S. Stern then stated that taxes can be considered 'fees' too. Cos added technically, your revenue is a 'sewer tax'. The Fletchers disagreed by stating it was user fees as gone over with PSNH when the Selectmen asked them to give them \$500,000- sewer took it out of the Sewer budget-that was when the Selectmen worked with the sewer. Cos responded by saying the Board was just trying to comply. Everyday rules and laws change. When the info comes from legal, we will sit down and let you know what we discovered. Ruth then asked when they

could expect an answer from the Board regarding the law that says the Board can dictate to the Treasurer to not issue checks. Cos corrected her by stating this had nothing to do with the Treasurer. She continued by stating the Selectmen stopped any checks being issued until we were in compliance. Checks are all signed. When the Treasurer gets a manifest, she is supposed to pay us. But you told the Treasurer to give the checks to Bea to hold. Cos says payroll is an area we have to be sure we are abiding by the rules. Like IRS. IRS is main component for payroll issues. You will be exempt from bringing in the I-9 more than likely once we get the documentation we need for proof of continuous service. Ruth was Moderator from about 1983 and on. We'll get the information and place it in your file and you'll be set. As soon as the Tax Lawyer give us the information, we'll contact you. Ruth then asked again about when she will get the RSA that states the Selectmen can counter mind the Sewer's mandate to pay. Cos said that he did not feel it was an RSA, it was an IRS issue. Cos went on to say that with being the highest officials in town, we have to take care of problems. Ruth stated the RSAs state the Sewer Commission does not come under the Selectmen, but are instead of the Selectmen. Cos agreed, we do not run Sewer's operation, however can set the stipend. And as far as your budget, we have to see it, but then have to forward it to the Budget Committee. S. O'Reilly asked the AA about the stipend payment and how the decision came to be under payroll vs. accounts payable. The AA explained that the first bout of stipends paid were issued while the Treasurer was on vacation and upon her return, she discovered they were paid via accounts payable, however payroll was with correct form of payment. The IRS sheet was forwarded to Sewer outlining independent contractors (1099) vs payroll (W-4) by Selectman Stern. S. Stern stated the sheet was received from the town's auditor. Cos stated we are checking everything out to make sure things are done properly. We are not lawyers. But even lawyers have different opinions. Ruth then asked if someone is not complying with RSA, who is the enforcing authority? Cos stated it would be the Selectmen. The next step up would be the Attorney General's office. If you have a complaint, you make it to them. They will then investigate (which she said she had). They are above the Selectmen. Ruth stated bringing to light an RSA violation to the Board of Selectmen is like bringing a fox into the hen house to guard the chickens. Chr. Iocovozzi told Ruth she was too cynical. Cos says if you have a complaint, bring it to the Board as they look at all complaints. The Board may not give the answers everyone is looking for, but we are here to take care of the provincial affairs of the town. Ruth said then the Board has the option of doing nothing, but Cos continued to encouraged Ruth if she had a complaint of the Board to go to the Attorney General but local issues are handled by the Board of Selectmen, being the highest political level for local issues. Cos ended by stating for to think anything they wanted but the rules are the rules. S. O'Reilly stated the Board could not condone a rule or a law to be violated. Cos also added that if the Board breaks a law intentionally, one can be removed from office.

Highway Budget Request – Continued from Dec 5th Meeting – Road Agent Len Thomas stated it had been multiple years since his staff's wages were adjusted. The Selectmen agreed and stated his staff and the plow drivers will all get a 50 cents per hour adjustment.

Wreaths on Town Hall Sign – S. Stern asked if the Board would agree to proceed with the placement of wreaths on the sign out front. The Selectmen felt it would look nice.

Internet and Phone Service – S. Stern has spoken to the two chiefs on internet/phone providers and neither object to Fairpoint or Comcast. Fairpoint (Fios) is faster. S. Stern will find out a bit more on web hosting, etc and will report back.

Bucket Truck Disposal: S. Stern will get an estimate of worth and will report back.

Pest Control Proposal: *S. O'Reilly moved to approve the GSC Pest Mgmt proposal. S. Stern seconded and the motion passed 3-0 on a roll call vote.*

Auditor Management Letter: *On a Roll call vote 3-0 - passed, the Board moved to authorize the Chairman to sign on behalf of the Selectmen.*

Stipend Increases/C.O.L.A. S. O'Reilly brought up stipend position COLA adjustment to the Budget Committee and reported back to the Selectmen that they voiced no objections to the 3.25% calculated in for 2012.

Facility Use Requests:

Use of TH Audi – Dec 24 – Tammik – Family Christmas Party – *Approved with fee & dep*
Church Suppers – TH Audi – Various 2012 Dates – *Approved with fee & dep waived*

Town Meeting House and Ramp: Through a inquiry from Sue Smith of Newington Road, the Board asked the AA to draft up a letter to the Deacons of the Meeting House to remind them of the available ramp and suggests that upon reservations of a function, that they also inform them of said ramp. Chr. locovozzi plans on meeting with the Deacons.

Health and Dental Renewal: The Selectmen signed the renewal for health & dental for 2012 with LGC.

Encumbrance Meeting: The Selectmen's next meeting will be held Thursday, December 29th

At 8:46pm, the Board went into nonpublic under RSA 91:A-3, II personnel. The AA was excused. Required motions were made. At 8:59pm, the Board came out of non public. Required motions were made.

At 9:00pm, S. O'Reilly moved to adjourn. S. Stern seconded. Motion passed on a roll call vote 3-0

Respectively Submitted,

Beatrice Marconi - Administrative Assistant