

# MINUTES OF HAVERHILL SELECTBOARD REGULAR MEETING

Monday, October 5, 2015

## Draft Subject to Review, Correction and Approval at Following Meeting

**Board Members Present:** Wayne Fortier, Tom Friel, Lynn Wheeler, Rick Ladd and Robert Roudebush

**Town Manager:** Glenn English

**Administrative Assistant/Finance Officer:** Jo Lacaillade

**Selectboard Clerk:** Karen Hyde

**Members of the Public Present:** Don Laplante, Doug Henson, Cindy Efinger, Darwin Clogston, Dick Guy, Harry Burgess, Tom Harris, Jeff Page, Jasper Page, Attorney Arend Tensen, Dottie Long, David Long, Wayne Presby  
Town Attorney Steven Whitley and Ed Ballam – Journal Opinion

### Call Meeting to Order:

Chairman Fortier called the meeting to order at 6:00 pm.

### Pledge of Allegiance

**Agenda Approval (additions/deletions completed by Board consent):** Lynn Wheeler made a motion to accept the consent agenda; seconded by Tom Friel and carried unanimously.

**Approval of Consent Agenda:** Rick Ladd made a motion to accept the consent agenda; seconded by Robert Roudebush and carried unanimously.

### Scheduled Public Appearance(s):

- **Supt. Don LaPlante-SAU#23:** Dr. Donald LaPlante, Interim Superintendent of SAU #23, commented that he has been working with Chairman Fortier on the Strategic Facilities Committee and he has met Rick Ladd on several occasions. He apologized for not meeting with the rest of the Board sooner. Dr. LaPlante commented that it has been busy and will continue to be busy for the remaining 9 months of his tenure. His purpose in coming to the meeting was to let the Board know that it is his interest in his remaining time to improve relations between the school district and the Town government. He wanted to find ways to work cooperatively with all of them and the Town to enhance the learning opportunities for the kids. He is happy to do whatever he can to advance that goal in his remaining time. He met earlier in the day with Sandy Knapp and Jim Fitzpatrick, who are working with the library folks and they will be looking at ways to interweave the Town library interest in terms of technology with the school district. They have applied for e-rate funding from the Federal government so this year as they begin their application process and begin the arduous task of getting themselves approved for e-rate funding, they are going to see if there are ways to work collaboratively with the Town libraries and include them in that funding effort to see if additional funding can be obtained for the libraries. They also talked about other ways of working cooperatively that would be of benefit to the Town and the school district. They will continue to explore those opportunities. Dr. LaPlante wanted the opportunity to meet with the Board to let them know that he will do anything positive to improve the working relationship between the two Boards. He will be happy to do whatever he can to advance that. Robert Roudebush thanked Dr. LaPlante for coming in and he would like to stop in and chat with Dr. LaPlante sometime and Dr. LaPlante said “absolutely”.
- **Doug Henson-Industrial Park:** Mr. Henson commented that he attended a ZBA meeting a couple of weeks ago and he had some questions/concerns about the Town-owned Industrial Park. He was invited to come to a Selectboard meeting. In reviewing the Business Park covenants, it was stated in Article I, Section 5, “The Business Park shall be utilized only for business, commercial, or light industrial and such other commercial uses as the Selectboard shall permit”. His question was how did it go from light industrial to an oil refinery, which seems to him like heavy industrial. The covenants called for light industrial and he doesn’t understand why there is an oil refinery and one that is putting on a major addition. His next question was: how did they get to the point of where there is such a large, dirty industry. Chairman Fortier

asked TM English for a little history on the biodiesel plant. TM English commented that the Board voted to sell the land for this applicant and were fully aware of what was going to be built there. Chairman Fortier asked if this was recycled, vegetable oil and TM English stated it was a biodiesel plant. Chairman Fortier commented that he didn't think the Board would classify that as heavy commercial. He asked for more specifics from Mr. Henson about his concerns. Mr. Henson stated it was having to breathe the blue smoke. Being a Town industrial park, he doesn't understand why that particular business has to be so messy and cluttered. He commented that it was "deplorable". He also commented that he had to look at the mess and breathe that stuff. Chairman Fortier asked Mr. Henson if there was a presence of blue smoke and Mr. Henson said it's been better the last two weeks but prior to that, it was more. He went on to say that the covenants call for a landscape plan amongst other plans. He was wondering if a landscape plan had been submitted by either of the businesses in the Industrial Park. He also asked who oversees the acquiring of these plans for the Town. He read Article II, section 3: "A landscape design for each lot shall be required and must be approved as part of the site plan. The Board may require the planting of vegetative screens as needed." He then asked if the smoke wants to settle down low and permeate his property, is there any way to get a taller stack in to bump the smoke up and out. He was looking for solutions to change the air flow so it moves up somehow. Going back to the landscape design, he had called the Selectboard office on Friday to get on the agenda and he had requested a copy of the landscape plan and he suspects that there isn't one. TM English stated that on several occasions, he has informed the Board that neither business in the Park was abiding by the Covenants and the remedy to that is court. Mr. Henson then asked what the sense was of writing Covenants and TM English stated that that was the way Covenants worked; they are self-enforcing and all the signatories of the Covenants were the enforcers. There is no RSA or statute involved. Mr. Henson then asked TM English what his job was in all of this and TM English responded that his job was to do what the Board assigned him to do. Mr. Henson then stated there was no overseeing and TM English responded that it was the Board of Selectmen or their agent.

Lynn Wheeler commented that a couple of meetings ago, there was a discussion about one of these sites and materials. She had been walking at the Airport and she was concerned about it. Mr. Henson stated that the Covenants mentioned paving of parking lots, but that really didn't affect him. There had been a concern about tractor trailers idling all night long that he had addressed and brought to TM English's attention and that had gotten better. He doesn't think that he should have to breathe the "putrid" blue smoke and smell the grease smell all the time. He opened his bedroom window at night and that "stink" came into the bedroom. He doesn't think that anyone on the Board would appreciate it if they had to be subjected to it. All he was saying is that there are Covenants and there is no weight to them. Why is the Town going to establish more regulations/inspections/permitting process? It was Mr. Henson's feeling that if the Town doesn't enforce these rules and some of the other rules that are on the books, when the Town sends the inspector to look at his property, he will not be received with welcoming arms. He is disappointed with the biodiesel plant. Chairman Fortier again asked Mr. Henson about the blue smoke and whether it was frequent and long lasting or periodic. Mr. Henson stated that it was not long lasting because the boiler comes on, heats up and then shuts down. It also depends on the day. Chairman Fortier then asked how long it has been since Mr. Henson noticed the smoke. Mr. Henson stated that the biodiesel plant was originally burning glycerin, a by-product of the process and there were times when there was black smoke. This summer, there has been more blue smoke. He didn't know if they were trying to burn the biodiesel in addition to the #2 oil. Rick Ladd stated that this was the first time that he had heard about the blue smoke. He was the one that mentioned Covenants and also mentioned that the ZBA doesn't have the authority to enforce the Covenants; it's the Selectboard's responsibility. It was the ZBA's feeling that this issue be brought to the Selectboard's attention. He moved that the Board should take some action and work with the Department of Environmental Services (DES) to determine what the hazardous potential is of this and how they can filter this out possibly. At the ZBA meeting, as a condition of approval, when hazardous material is transferred from a vehicle to the facility that it be done on an impervious slab and there was some question of whether that was happening. There was also another condition concerning the drainage from one of those slabs. If there was some kind of overflow, it goes down a drain hole out into the soil area. The ZBA had suggested that there be a valve put on so that when there was an overflow, it could be cleaned up

internally. There were several conditions placed on the application which came forward, but this issue couldn't be addressed at the ZBA meeting so that is why it was now at the Selectboard meeting. Tom Friel stated that he agreed with Mr. Henson and if there was a problem, the Board needed to address it. The Covenants were enforced by the Selectboard or its appointed agent and someone with experience in the field needed to investigate. Robert Roudebush stated that he and Mr. Henson had spoken, informally, on several occasions and Mr. Henson had stated that the blue smoke was a problem for him. Robert told Mr. Henson that the next time it happened, Robert wanted to see it. Mr. Henson had called him and he did, indeed, see the blue smoke. Robert then stated that air-quality control is a State function and they are the ones best able to look at that smoke, analyze it, and decide if it is a hazard or not. He saw the smoke and knows that it is unpleasant. Mr. Roudebush then read Article III, Section 2 of the Covenants, which state the "Maximum height of any building or structure (including towers, antennas, or poles) shall be 35'" and he wondered how tall the height of the existing stack was and how much taller it could go. Lynn Wheeler then read Article V, Section 2 that "no hazardous material may be vented into the air or discharged onto or into the ground from any facility. Standards for determining air pollution shall be those of the State of New Hampshire and/or the United States Environmental Protection Agency." These are two entities that could go out and inspect that sight for the Town and give them a report. Mr. Henson stated that the oil and glycerin were relatively harmless. The methanol is stored in a tank and that was a concern. Lynn asked Mr. Henson if there was a possibility that they weren't doing the process properly and that was why he was getting the smoke and smell. Mr. Henson stated that as much grease, oil and fat that was handled, it was like living next door to McDonalds. There were some days when Mr. Henson could see the blue smoke around the school and thought that it might be a concern for the kids. Robert stated that if it was hazardous, it was a concern. Tom stated that an expert was needed to evaluate this. Chairman Fortier stated that the Board had identified two of them and his question was the predominance of the blue smoke. He didn't want to call someone from either agency if the smoke wasn't there. He again asked Mr. Henson when he saw the smoke, was it day to day or was it different from day to day. Mr. Henson stated that lately it has been blue and he thinks that there are several different processes in running the boiler. He has inquired about the blue smoke and has been told that there shouldn't be any. Chairman Fortier commented that he has heard about some of the complaints from the public that had to do with the loading and unloading. He wasn't aware of the diesels running all night and Mr. Henson stated that that had been taken care of. TM English stated that the smoke had nothing to do with the Covenants; it had to do with the DES. The site is unsightly and he has addressed that with the owner on several occasions. He further commented that the smoke may not smell good, but that doesn't mean it's hazardous or dangerous, but that's up to the DES to decide. Rick Ladd commented that he agreed that was where the Board needed to go. Rick Ladd made the motion to communicate with the DES to have them come out and look at this, according to Article V, Section 2 of the Covenants, whether this is hazardous; seconded by Robert Roudebush and carried unanimously. Mr. Henson thanked the Board for their time. As a follow-up, Rick stated that when the Covenants were written and then amended, putting some of the language in that wasn't there. There needed to be some sort of process in place where the Board is overseeing what's going on at the Business Park as they do for the gravel pits. Chairman Fortier stated that their designated agent was the Town Manager and if he sees something, he needs to bring it to the Board and the Board needs to make a decision on what they are going to do with it. It was the consensus of the Board to send a letter to the Biodiesel plant owner concerning the issues that were discussed. Rick quoted Article VIII of the Covenants, which say: "These Protective Covenants may be amended from time to time by the Haverhill Board of Selectmen after a properly advertised public hearing." His question to counsel was if, in fact, the Board has some recommendations coming before them, such as odor, it would mean amending these Covenants and would anything they did be retroactive or is it just for anything new coming in. Town Attorney Steven Whitley responded that the Board could certainly amend to take into consideration some of the concerns brought to it by residents of the Town and since these are not zoning ordinances or building codes, it seems to be more related to public health and safety. An argument could be made that any new amendments that address public safety and health issues could be retroactive. Chairman Fortier stated that he would draft a letter with TM English's help and have the Board review it before it is sent.

**Public Hearing:** None

**Town Manager's Report:** TM English wanted to advise the Board that he and AA Lacaillade had checked with the DRA and the SAU had not filed any paperwork for the tax setting. The Town information is in and the Precinct information is in. When the SAU gets their paperwork in, they will get a tax rate. As of 10-5-15, it still wasn't in.

TM English then did a brief update on the Page Road bridge project. The Town's partners, the Connecticut River Watershed Council and Trout Unlimited, who are providing 2/3 of the funding for an eventual project, have also provided the Town with engineering at no cost to the Town. The engineering plans and the wetland permit have been approved and the engineering plans have been put out to selected contractors who the engineers felt could do the job. This included 2 local contractors. There was a meeting on Friday, October 2, 2015 on site and three contractors were there so they are waiting for proposals on the project. Funding is limited and the bids may come in and exceed funding. The Watershed Council may come up with a few extra dollars, but they won't know that until they get the proposals. Lynn asked when they were thinking of starting a project like this and TM English stated that they were actually ready to go. October and November were good months for a project like this. Tom Friel asked if the road would be shut down during construction and TM English stated that it would be open and there will be a temporary bridge installed downstream on an abutter's property. Robert stated that he was glad to see the progress made.

**Pending (Old) Business:**

- **Mountain Lakes-Town of Haverhill Lot:** Chairman Fortier asked TM English for an update. TM English handed out some new information that he had received from Mr. Jeff Page. The information obtained were copies of two surveys, which sort of matched up with the Town tax maps. Unfortunately, the Town's tax maps split this lot in two and it's on two different maps with two different scales. The Board has never been able to see a good view of the lot in question. AA Lacaillade got in touch with the Town's cartographers, Cartographics, and was able to get the Town's tax maps with a snapshot picture of the lot. It did not have boundaries yet. TM English stated that the benefit of the information that Jeff brought in was that between the two surveys, they cover almost the entire boundary of the lot in question. The northern boundary is not totally covered, but it's a straight line and shouldn't be an issue. The surveys show the adjacent lots as surveyed lots so this shows that the boundaries of the Town's lot on the tax maps are pretty good. He commented that that was the new information and the discussion was back to the issue of ownership of the lot and how to deal with the timber cut that has occurred. Town Attorney Steven Whitley was there and fully briefed on where they have been to date and give the Board any advice that they may need. Chairman Fortier stated that it was the Board's understanding that the Town owns the lot. TM English stated that all of the legal evidence that has been found to date, the testimony of Robert Rutherford and an e-mail from Gary Wood, who was a Selectman at the time, who agreed with everything that Robert testified to, points to the fact that the Town owns the lot. The District made the argument that this lot was the same lot as referred to on one of the attachments to the conveyance as land between Lots 1 and 2. Mr. Rutherford refuted that and said that that reference is two other lots and the reason there was land between 1 and 2 was because the boundaries were not clearly defined so that, in his opinion, that is not the lot in question. The lot in question based on the documentation was conveyed to the Town by the Tax Collector. Chairman Fortier stated that, recently, TM English had sent an e-mail that the Town Assessor had looked at the lot in question and had done a sales analysis and had put a value of approximately \$125,000 on it. Chairman Fortier then asked if the value of the wood could reach a market value of \$75,000 and was told that was so. David Long commented that this was a very small percentage of the wood on the property. It is supposed to be a selective cut for a trail system; definitely not a clear cut. Tom Friel stated that he had looked at the site and his basic estimation was that it was selective cutting. TM English added that the Town Attorney verified that the 1987 Town Meeting Article 11 gave the Selectmen authority to sell real estate taken by tax sale through advertising and sealed bids. The statutory reference is RSA 80:42, which gives Town Meeting authority to give the Selectboard the authority, which they have. Any lots taken anywhere in Town by tax deed can be conveyed by sealed bids. Chairman Fortier stated that Mr. Rutherford was clear in recollection that this was a large parcel of land not intended to be greenbelt, but an undivided parcel and TM English

said that was so. Lynn commented that the Board was not going to be able to satisfy everyone. She has heard comments one way or the other, but nothing in the middle. She was wondering if there was some kind of compromise. TM English stated that he would refer to counsel on the Town's options. The other issue is the timber cut; by law, the Board could demand a penalty of 3 times the value of the cut because it was done on the Town's land. TM English stated that he didn't believe there was any ill intent because the District thought that they owned the lot and he didn't know if a penalty was appropriate or not. Mr. Whitley told the Board that one option was to convey by advertised, sealed bids. If they were going to consider conveying it to a specific purchaser, such as the village district and not go through the advertised, sealed bid process, the Board did not have that authority. They would have to go back to Town Meeting, get a Warrant put on, get approval from the voters and get authority to convey the property to a particular buyer, such as the village district. In terms of trying to reach some sort of compromise on the uses of the property, some sort of deed covenants could be put on to how the lot could be used, but then, the question is how to enforce them. There was a brief discussion of who would be responsible for court fees if enforcement means court. Robert commented that he thought Lynn put her finger on the word "compromise". He thought that both parties involved could be made good in terms of the timber sale. Lynn stated that there was a bigger picture than the timber tax; they needed to resolve the land issue. Tom stated that the Board also needs to deal with the issue of the loggers, who were just trying to make a living.

Chairman Fortier commented that it was either Town Meeting or sealed bids and Mr. Whitley stated that was correct. Rick stated that if the Board knows the value of the property and they sell it for less, there will be people in Town who will be upset with the Town for selling at a loss. Lynn stated that the Board has set a precedent because they have had bids come in too low and the Board has rejected them. Tom stated that they could put a minimum bid on it. Tom was told that the timber was not factored into the value. David Long commented that looking at the property now compared to six months ago, it looks "leaps and bounds" better at this point. There was a lot of land that hadn't seen daylight in a lot of years. It was his feeling that the lot in question was set aside by Town & Country as greenbelt. It was basically set there as recreation area. He was still confused as to how Cartographics put Mountain Lakes as the owner. TM English stated that they were perplexed as well. Mr. Long stated that the Forestry Committee thought they had done all of their homework that they could possibly do and done way above board. Mr. Arend Tensen, attorney for Mr. Page, had a few comments about the ownership. He didn't think there was any confusion as to ownership because looking at the Town-approved survey this was approved by the Town in 1974. It is stated that there is a greenbelt between Lots 1 and 2. Both Lynn and Tom stated that the Board was aware of that. Mr. Tensen commented that there was discussion about restrictions because of the confusion but he doesn't feel there was any confusion. He and his client just wanted to see this property put up for bid without restriction as is the normal practice. He also commented that it seemed pretty fundamental for the foresters to assign a value to the lumber cut on the land and Mountain Lakes could work it out with the Town with no penalty. Rick wanted to know if the Board put the lot up for sealed bid if they could put any kind of covenants on the bid. Lynn wanted to look at all of the options. Mr. Whitley stated that since the lot was taken by tax deed, the Town does have the ability to keep the parcel for some public purpose but it does require the vote of Town Meeting and the voters have to approve the Town keeping it for that purpose. He strongly suggested that if the Town wanted to keep the parcel that they needed to go to Town Meeting and tie up the loose end. Tom Harris, the logger, asked if the Board wanted to stop the logging altogether. Chairman Fortier stated that the Board hadn't been there yet. Tom then commented that "it looked better where they had been rather than where they were going". He said that the stumpage goes into a "kitty" at Mountain Lakes. Chairman Fortier told Mr. Harris that the Board needed to settle the land issue first. Chairman Fortier said that the cutting was secondary to the land issue. He stated that what they do with the land will determine what the Board wants to do with the cut. Robert Roudebush asked Tom how he was paid for what he did. Tom explained that he sold the wood, by the cord or ton, to the mill and then he gets a percentage of what he cuts.

Rick Ladd asked if the funds shouldn't go into a Town fund rather than a Mountain Lakes fund. TM English deferred to counsel on that question. Chairman Fortier explained to Mr. Whitley that the funds go into a separate Mountain Lakes fund, specifically for the timber cut. Mr. Whitley stated that it was pretty

clear that the lot was Town property and if there is any further value to come from the land, it's the Town's to do with what they wish. TM English stated that it could be taken in as unanticipated revenue. Rick commented that he would feel more comfortable from this point forward if all revenue that comes from that property comes to the Town. AA Lacaillade commented that if it comes into the Town as revenue, it doesn't carry over. It is part of the ending fund balance at the end of the year. The Board had to figure out a mechanism to set the money aside if things changed down the road. Tom Friel asked Tom Harris if he had a contract to do the cutting and Mr. Harris said that he did. Tom Friel felt that the Town should honor the contract with Mr. Harris to do what he was contracted to do and funds then be put into the Town of Haverhill some way. Tom Friel wanted to make sure Tom's contractual obligation was honored by the Town. Chairman Fortier asked if the Town could encumber that from year to year and AA Lacaillade stated that she didn't believe so. Chairman Fortier commented that he wanted the Board to focus on the options given to them by Mr. Whitley. He then asked if the Board was ready to make a decision or did they need to think about the options further. Mr. Whitley commented that it has been brought to the Town's attention that it has been established that there was some question of ownership. He further commented that it is undisputed that the lot came to the Town via a tax deed and the safest way for the Town to proceed if they were going to retain the parcel is to go to Town Meeting and get approval. Tom Friel asked Mr. Whitley if the Town had been put on notice and Mr. Whitley replied that it was pretty safe to say that. Chairman Fortier commented that Rick Ladd had asked about the possibility of a Work Session to discuss the options presented by Mr. Whitley. He then commented that the Board wasn't comfortable with making a snap decision at the meeting. Rick brought up some questions about covenants and what they would put into it. Chairman Fortier commented that the Board has three options. There was a brief discussion between Mr. Whitley and Mr. Tensen about whether Town Meeting was necessary for covenants. TM English stated that he had an issue with discussing the options in a Work Session as he felt it wasn't appropriate. He felt that any further deliberations should be done in a regular meeting and Mr. Whitley agreed with that. Lynn felt it was not necessary for a Work Session as everything was laid on the table and they needed time to digest it. The Board decided to talk about this again at the next meeting on October 19, 2015. Lynn asked what the logger was going to do in the meantime and Tom Friel stated that "he cuts". Chairman Fortier stated that the Board had made a previous decision with the contractor, Mr. Harris, that a minimal amount would be cut. Lynn asked Mr. Whitley if the Board could continue letting the logger cut and Mr. Whitley stated that he could, but he strongly recommended the Board take a vote and affirmatively decide to honor the contract. Lynn Wheeler made the motion to let the timber project continue for the next two weeks; seconded by Tom Friel and carried unanimously. David Long also wanted to let the Board know that the Forestry Committee project was intended for the whole Town, not just for the residents of Mountain Lakes. They were looking at it as a community area to benefit everyone. It was also decided that the Board would not have a Work Session.

- **Mr. Wayne Presby, White Mountain Biodiesel:** TM English noted that Mr. Wayne Presby of White Mountain Biodiesel was now in attendance. There had already been a discussion but the Board might want to revisit. Chairman Fortier explained to Mr. Presby that the Board had received a complaint from Mr. Henson, specifically about Mr. Presby's operation at the Business Park. The issue was the presence and odor of blue smoke. There were other complaints that it was an unsightly and cluttered operation. The Board reviewed the covenants and they have not been the best enforcers of landscaping issues and other articles of agreement that were included in the Covenants ordinance. They have, more or less, let the property owners run their business without the Board overseeing the Covenants. Specifically, blue smoke was addressed and the odor and frequency of it. They had also discussed the burning of glycerin and other substances, such as methanol. The Board had decided to draft Mr. Presby a letter formally advising him of the nature of the complaint and asking him to address how this issue can be mitigated. Chairman Fortier asked Mr. Presby if he was ready to address the issue and Mr. Presby stated that he was. Mr. Presby stated that they did not burn any methanol in their boiler. All of the methanol that they use in the process is consumed in the chemical reaction itself and is all recovered and used again. He commented that if that wasn't the case, they would be hit with huge fines from the EPA. He further stated that they no longer burn glycerin in the boiler, although they did attempt to do that when they first started production. They are

currently burning what is called MONG (Material Organic Non-Glycerin), and this is, basically, leftover vegetable oil that hasn't been turned into biodiesel. The reason for the blue smoke is they are using an older boiler that gets out of adjustment and someone has to go in and adjust it. He agrees about the outside of the plant. When they first started making biodiesel, they did have outlets for the glycerin byproduct and they were using the totes to put the glycerin in. They actually sell the glycerin and it's being shipped out. The rest of the totes will be gone before winter and a lot of them are actually empty. The yard is populated by a number of tanks, which are supposed to go into the new addition. It is their intent to have nothing but nice, green lawn around the entire premises with no storage outside. Eventually, they will pave the parking lot and the roadways and access ways done as well. They want the building to look as nice as possible. They have had Senator Shaheen, Congresswoman Kuster and Senator Ayotte visit the plant. Mr. Presby went on to say that his plant is the largest biodiesel producing facility in New England and they turn out some of the best biodiesel in the country. Biodiesel is the only EPA-designated, advanced biofuel commercially available in the United States. He went on to explain that they use waste vegetable oil from restaurants where it gets collected. Most of their waste material that comes out, specifically, glycerin is actually going to digesters. Glycerin is a form of sugar and they put that in the digesters and it actually increases the production of methane by about 30%. Chairman Fortier asked Mr. Presby what the status was of his expansion plans. Mr. Presby stated that they would still like to get their building permit and get started with the pouring of concrete this winter and get all of the tanks set. They won't start the actual building process until the spring when it warms up. TM English told Mr. Presby that his permit was done and waiting for pick up. Chairman Fortier stated that Mr. Presby had mentioned that he saw blue smoke and Chairman Fortier asked him if that was supposed to happen. Mr. Presby stated that if things were running well, there should be virtually no smoke. Lynn asked Mr. Presby if the company was looking at buying a new boiler when they expanded. Mr. Presby responded that that was another phase of their project. They would love to take the old boiler out, put a new one in and put in a steam turbine at the same time to produce electricity. Chairman Fortier asked how far away they were from having that happen and Mr. Presby stated probably the next 2 or 3 years. Robert Roudebush stated that Mr. Presby had addressed some of the issues that were discussed earlier. Robert asked Mr. Presby how he could keep Mr. Henson from being bothered by the blue smoke. Mr. Presby responded that he would have a specific conversation about that and would write back to the Board and let them know what they find. Lynn asked about the stack going higher and TM English thought that the stack was at the maximum height. The other thing Mr. Presby wanted to mention was that they had been experimenting with a number of different things. They are using the same fuel all the time to manufacture their heat. On previous occasions when they were testing different things, such as part glycerin and part something else, maybe they weren't as good about separating and this may have caused some of the smoke. He feels that what is causing the blue smoke now is being out of adjustment. Chairman Fortier asked Mr. Presby about the odor and Mr. Presby stated that he didn't notice an odor. Mr. Presby felt that filling a truck up with diesel fuel was worse than smelling the biodiesel. Chairman Fortier asked if there were hazardous materials on the site and Mr. Presby said that no, not that he was aware of. He said that there may be small amounts in their lab for testing, but other than that, there were no large quantities. Chairman Fortier stated to Mr. Presby that the Board had made the motion to notify the State and DES to take a look at the smoke and odor. The Board then wanted Chairman Fortier to write a letter to Mr. Presby concerning the complaint of the blue smoke and odor. Chairman Fortier then stated that Mr. Presby had explained his processes and they seemed to be in a dichotomy to a couple of individuals who are nearby. The blue smoke seemed to be the core issue and Chairman Fortier was hoping that Mr. Presby would address that. Mr. Presby stated that he would certainly address the blue smoke with Mr. Bruce Lamarre, who is the company's chemical engineer as well as chemist. He also mentioned that the plant had been inspected by the EPA already and everything they have is registered with the EPA. Every three years and they just finished one last year, they have to have an independent engineer come in and review the entire plant to send a letter to the EPA certifying that it meets requirements. He apologized for the blue smoke, but they were in touch with the EPA frequently. TM English stated that he needed direction of whether he was to contact the DES or the EPA. Rick Ladd stated that one of the concerns that the Board had pertained to Article V, section 2, which he then read again. The word that was bothering him was "hazardous"

material in polluting the air. Mr. Presby commented that the State has inspected the boiler and they have a permit to operate it. The EPA also has that information and signed off on it. Mr. Presby stated that he would bring to the Board a recent engineering report. Rick again commented that he wanted to see something done about the blue smoke. Mr. Presby said that he agreed with that and he was going to take a serious look at it with Mr. Lamarre and just wanted some time to address it. Lynn Wheeler made the motion to put the Board's direction to TM English on hold for a couple of weeks; seconded by Robert Roudebush and carried unanimously.

- **Cindy Efinger:** Cindy is the Director for Student Life at the Oliverian School in Pike. She stated that they are in desperate need of some crosswalks. They have separated from the Mountain Valley School about a year or so ago; the Mountain Valley School does have a crosswalk about a mile down the road. She had maps to show the Board. TM English stated that the process, since this was a State road, was to first get State approval for the crosswalk and then it is encumbered by the Town to maintain the crosswalk. If the State agrees to initially install them, which means the painting and signs, then the Town has to agree to continue maintenance. Chairman Fortier asked Cindy what the name of her school was and Cindy told him that it was the Oliverian School. Cindy then went over the maps with the Board and explained where they were looking to have the crosswalks installed. TM English stated that before the State will improve and install the crosswalks, the State will need the Town to commit to maintaining it in the future and that was a good reason for Cindy to come before the Board so that the Board is comfortable with owning this once the State puts them in. TM English stated that maintaining the crosswalks included two signs and two posts, plus the painting. Tom Friel was concerned about the lighting in that area. Cindy stated that there was a light on the west side near Becket Street and Route 25, but what they will need is another light farther on east campus. TM English stated that the signs are reflective and the paint is reflective on the pavement, so that will respond to vehicle lights. Chairman Fortier asked who maintained the signs and painting and TM English told him it was the Highway Department. Cindy had a letter to give the Board and Chairman Fortier told her that the Board would file it. TM English stated that he would work with Cindy to get an application into the State.

The Board recessed at 8:00 for a short break. The meeting was back in session at 8:09.

- **Update of Fire Inspection Form:** Chairman Fortier stated that at the last meeting the Woodsville Precinct Commissioner was in for the Woodsville Fire Chief concerning the fire inspection form that the Chief felt was incorrect. Originally, when the Board came up with a form proposal, Rick Ladd had spoken with an Assistant State Fire Marshal, who helped him develop the form. The form that the Board received from the Woodsville Precinct at the last meeting was nondescript. Since that time, Chairman Fortier stated that he had spoken with the Woodsville Fire Chief and he asked the Chief about the form and the Chief was quite concerned that a checklist wasn't needed and he was concerned that the property owner had a right to an appeal, which is written into the statute. It was left that Rick was going to speak to State Fire Marshal Bill Degnan. Mr. Degnan looked at the Town's form and revised it somewhat. Rick stated that he had met with Mr. Degnan and Mr. Degnan was in possession of the form submitted by the Woodsville Fire Department and he had a copy of the Town's form. Mr. Degnan sent the forms back to Rick with recommendations. One thing that needed to be made crystal clear when the form was dropped off, was that the form must have the appeal process option available in writing so the person knows that if they appeal the inspection, there is a process they can take. The new policy section of the form references RSA 153:5 (State Fire Code; Rules), RSA 47:22 and RSA-A:3, which are statutory language that reference the inspections. The State Fire Marshal wrote the sentence: "For the purposes of new construction, additions, and alterations". Rick then read the bottom note: "All new construction or substantially rehabilitated structures shall be constructed in accordance with the NH State Building Code as adopted pursuant to RSA 155-A and the NH State Fire Code adopted pursuant to RSA 153:5. When there is a difference between the two codes the code that provides the greater degree of safety takes precedence." This is established by the inspector and the person being inspected sees this. The comments section doesn't really change. It was mentioned to Rick by AA Lacaillade that there needed to be something signed by the person being inspected. The most important

things recommended by Mr. Degnan were the rules and RSAs that are referenced. A Notice of Violation also needed to be included on the form. Rick was very pleased with the new form. Robert Roudebush asked when someone made an appeal, do they make it to or of the State Fire Marshal. Rick stated that it was to the State Fire Marshal and they could also appeal further to the Court. TM English stated they would be appealing a local decision so that would go to the State Fire Marshal. TM English stated that the Board needed to address on the form itself to the local inspector. AA Lacaillade commented that it did so at the bottom of page 2. Lynn suggested putting a little block somewhere on the form for the person being inspected to sign. It was decided that there would be a place on the bottom of page 3 for the person to sign off on and to acknowledge that they had received a copy of the inspection form. Lynn suggested taking this new form to the Precinct Commissioners at their meeting on Tuesday, October 6. TM English stated that the Board needed to get the backing of the Commissioners regarding the form. It was decided that some Board members would attend the Woodsville Precinct Commissioners' meeting and present the revised life safety and fire inspection form to the Commissioners.

- **Capital Improvement Plan Review:** Chairman Fortier asked TM English if he had an update on the Capital Improvement Plan. TM English responded that he was fine-tuning the Plan but he didn't have good solid numbers on the sewer line replacement or the Stonecrest culvert project.

As part of his budget request, he wanted to suggest that instead of asking for \$100,000 in Tar next year, he would like to take \$50,000 and apply it to the Capital Reserve Fund. This would leave \$50,000 in Tar for crack-sealing or a patch job that may have to be done.

#### **New Business:**

- **Pole License:** AA Lacaillade presented a pole license that had been reviewed by Road Agent Stuart McDanolds for Route 10 and Clark Pond Road. Rick Ladd made the motion to accept the pole license; seconded by Robert Roudebush and carried unanimously.

**Commission/Committee Reports:** Lynn reported that the repairs on the pool roof had been done over the weekend and she wanted to recognize Foggs who had given them a contractor's discount. Timberwolf Rubbish also donated their truck and hauled everything away for free. She had another idea that was passed on to her from a citizen. Cable companies in other towns are having to pay for the rights to operate their cable in their towns. TM English cautioned that if an administrative fee is charged, the cable companies will raise their prices, which will be passed on to their users. Lynn also reported that Haunted Happenings was on October 24, 2015.

**Correspondence:** Chairman Fortier reported that there was correspondence from the University of New Hampshire indicating that Stuart McDanolds was a Roads Scholar 1 - kudos to Stuart. Chairman Fortier also reported that there would be a NH Pollinator Summit on November 2, 2015. He also reminded the Board that there would be a meeting with HealthTrust on October 13, 2015 at 2:00 and 6:00 to explain the health benefits to employees.

**Comments of the Public:** None

**Comments of the Town Manager/Administrative Assistant-Finance Officer:** None

**Comments of Selectboard Members:** None

**Adjourn Meeting:** Robert Roudebush made a motion to adjourn; seconded by Lynn Wheeler and all approved. Chairman Fortier adjourned at 8:38 pm.

Minutes transcribed by Karen Hyde