

TOWN OF WEBSTER
Office of Selectmen
945 Battle Street/Rte. 127
Webster, NH 03303

Webster Board of Selectmen's Meeting – June 29, 2009.

7:00 P.M. Roll Call – Present: Chairman Thomas Mullins, Selectman David Klumb and Selectman George Hashem.

The Board signed the payroll check and vendor manifests. Selectman Klumb made a motion to accept the minutes of June 15, 2009 as written; seconded by Selectman Klumb and approved

Warner Board of Selectmen David Karrick, David Hartman and Clyde Carson and Town Administrator Laura Buono met with the Board to discuss possible zoning violations at property owned by Gamil Azmy, which straddles the Town Line on Route 103. The Warner Board has visited the site to inspect the portion of the home on the Warner side. The home is believed to have a single family residence in Webster as well as Warner though there may be some apartments involved. Other concerns are the number of vehicles in the yard, the amount of other metal items (ie trailers, truck bodies, etc which could possibly be considered a zoning issue. He noted that the number of unregistered vehicles could be handled by the Police; trash might be handled by the Fire Department and that DES might be involved with some of these issues because of the proximity of the property to the Warner River. The Warner Board advised that when complaints have been brought to Mr. Azmy's attention, he simply moves whatever items to the other side of the Town Line. Ms. Buono expressed the importance that both Boards work towards a resolution. It was explained that Webster is zoned Agricultural/Residential so normally the animals would not be an issue in Webster. Police Chief Brian Milano indicated that he would work with Warner Police Chief William Chandler regarding the unregistered vehicles. Selectman Klumb requested information regarding the property from Warner, which Ms. Buono will provide. Fire Chief Adam Pouliot pointed out that if there were apartments that were rented to family members then the owners would be exempt from the fire safety codes (it is uncertain how many apartments there might be or who might occupy them). Chairman Mullins inquired of Conservation Commissioner Mary Jo MacGowan as to whether there had been any shoreline protection issues. She advised that there had been an issue when logging had been done on the property a few years ago, but there were no orders issued to be in compliance with that she was aware of. Ms. Buono will draft a letter for the Board's review, which will then be signed by both Boards and sent to DES explaining the issue of trash, etc on the property, thereby putting DES on alert. Selectman Hashem noted that Mr. Azmy has a Commercial Exception for a restaurant, though it is believed that it is not being used as such at this time.

Jean Eldridge, Michael Evans and Keith Badger, abutters to the Azmy property expressed their concerns regarding the Azmy property, noting that it was offensive and was devaluing the abutting property. They were also concerned regarding the animal excrement and the proximity to the river. As they were not present for the above discussion, Chairman Mullins explained the discussion and decisions made earlier with the Warner Board regarding the abundance of vehicles, the trash on the property and possible problems regarding the animals and the proximity of the River.

The Board signed the following for Administrative Assistant Judith Jones:

- Acknowledged a 2008 abatement which was withdrawn and will be returned to applicant and the last 2008 abatement was approved;
- Two Timber Tax Levy's; and
- Acknowledged two bids received for the repairs of the fence to Riverdale Cemetery, which Cemetery Commissioner Brenda Silver had advised that the intention was to accept the lowest bid. One of the bidders provided a cost for repairs to the Corser Hill Cemetery Fence. Mrs. Silver will be requested to obtain a second bid for that project.

Police Chief Milano presented his semi-monthly report. He advised that as the person responsible for the broken window in the cruiser was found guilty, he was able to get reimbursed in full for the damage.

Chairman Mullins inquired about the meaning of misuse of 911 on a recent Police Report. Chief Milano gave examples such as a lost dog, or non-emergency use of the 911 call-box. He would have to review the date and incident for specifics on the one in question and will do so for the next meeting.

Bruce Johnson inquired about any feed back from the public that the Board may have had now that the Town has had only two full-time officers on duty for about eight weeks with assistance from the State Police when no officer is on duty. He had heard some negative reports regarding the lack of response by the State for gun shots fired in the Pillsbury Lake District. Chairman Mullins indicated that he has heard only positive reports, but if there were specific incidents reported it could be reviewed. Se-

lectman Hashem inquired if the State would refuse. Chief Milano noted that the State can refuse if the call is considered not urgent. Selectman Klumb noted he would not be surprised if the State refused to respond regarding shots fired in the PL District as there are often reports of gun shots in the area, when in fact it was fireworks or a hunter in the hunting preserve. Again Mr. Johnson urged the Selectmen to find the funds to continue two officers throughout the year.

Robert Drown, Sr. advised that if the issue were important the State would respond. He had called for the police and the State responded immediately. He indicated that the local police were not always available on the weekend. Chief Milano advised that recently there was a lost fisherman reported at the Tyler Bridge and the State refused to respond so he was called and responded from his home. He advised Fish & Game, but fortunately the fisherman appeared before any action was required. Chief Milano advised that if there are large events such as the races going on the State Police are less likely to respond. He is concerned about when there is inclement weather and everyone is busy as to whether the State will be quick to say they are sorry but they are not available. He also hopes that the Town will choose to rebuild the Police Department at the next Annual Meeting. Mr. Drown expressed that he felt two officers were sufficient for a town our size, giving examples of Salisbury's adequate coverage with less than what Webster has. He expressed concerns over his personal experience with the local Police. Selectman Hashem referred to the timesheets provided by the Police, expressing concern over the apparent lack of coverage on the weekend.

Chairman Mullins referred to the use of the cruiser assigned to Lieutenant Mitchell for on-call time, referring to Lt. Mitchell's statement that he was typically on-call Tuesday, Wednesday and Thursday. Chairman Mullins recommended that the car only go home with an officer when that officer is on duty or on-call. Selectman Hashem noted that the time sheets did not indicate that average, it was less than three nights of on-call time. He noted that some nights listed on the time sheets indicated only an hour of on-call time. Lt. Mitchell advised that when he was called out, then the time accounted for was moved up into the regular working hours. Chief Milano suggested that rather than argue about the issue, perhaps Lt. Mitchell should be taken off the on-call schedule totally. Selectman Hashem inquired as to whether this meant that there would be no on-call time if the cruiser were not available every day. Chief Milano responded that he only recommended no on-call time to solve the problem, he indicated that the Board was tying the Departments hands. He noted that Lt. Mitchell had been on call for 53 hours over the last two week period, adding that those hours were not compensated. Chairman Mullins indicated that he was referring to the statement made by Lt. Mitchell about typically three nights a week and that the time frame from Town Meeting until this last pay period, where that statement had not held true even once. Chairman Hashem indicated that he was frustrated that it appeared that the on-call time would not be done by an officer if he couldn't have the car at all times, wondering if this was in the best interest of the Town. Chief Milano indicated that if the Board made it difficult for the officer to do on-call time, then it won't be done. Several scenarios of how the time was tracked were discussed. Donna Frost suggested that it might benefit all if there was a better timesheet more accurately depicting regular time worked, on-call time served and time worked after called-out. There was additional discussion on the time cards. Chairman Mullins again stated that his issue was that the on-call time represented as typical by Lt. Mitchell was actually contrary to the time-sheets provided. Selectman Hashem noted that the real issue was the cruiser being used as a commuter vehicle, though he approved of the use of the cruiser for on-call time, citing the solution of no on-call time as not being a good response to the issue. Selectman Klumb noted that he has observed State Police, Sheriff Department cars, etc. at private residences all around the State. Chairman Mullins made a motion that the cruiser be available when the officer is on-call or on duty; seconded by Selectman Hashem and approved.

John Clark agreed that most Departments did allow officers to take cars home, noting that it didn't make sense to have a cruiser sitting in a garage when needed by an officer. He also has observed that officers that take cars home have respect for and take good care of the cars and that the practice only made good common sense.

Lt. Mitchell stated that he would be leaving the car in Town and will not be on-call as it is not convenient. He advised that the Town has now lost 15-25 hours of on-call coverage per week as he is not willing to leave his private vehicle 2-3 days a week and not have a personal vehicle at home. Selectman Hashem indicated that this confirmed the point that if it were not convenient, then the officer will not do it at all indicating that this spoke volumes. Mr. Johnson again recommended that the Board make things easier for our Public Safety Department.

Fire Chief Pouliot advised that call volume was at 75 for this year, the same as last year's numbers.

Roy Fanjoy inquired about the "Town Vehicle Policy" recently adopted that did not require a CDL license by firefighters, which is required by the Fire Department's Policy. Selectman Hashem noted that the Town's Policy indicated that the Department Policy can be more stringent than the Town's. Chief Pouliot advised that firefighters are exempt from the requirement, but that Webster requires it and feels that it is a good policy to follow. Mrs. Jones will verify what the policy states.

Road Agent Emmett Bean advised that he will begin the Pearson Hill project tomorrow.

Vickie Branch, Sue Shoemake, Dave Buttrick and Virginia and Russ Wright, owners of property on Frost Lane, expressed concerns that they have regarding use by ATV or large 4-wheel type vehicles using a trail system and the parking of trucks and trailers on property owned by Ronald Frost on Frost Lane. Their concerns are the noise, possible wetlands violation, the parking of vehicles on abutting property sublet by Don Nason, the mud and destruction of the roadway, both Frost Lane and Clothespin Bridge Road and an apparent placement of an outhouse building. Chairman Mullins outlined the issues as follows:

- Vehicles on the Public Road causing any nuisance would be a Police issue and the Police should be called. Chief Milano advised that he had not had any calls regarding this issue noting that the vehicles would need to be registered and inspected to be legal to run on the road;
- Any disturbance of Frost Lane, as it is a private road, would be a civil issue;
- Any placement of an outhouse would require a DES sub-surface permit;
- Determine the use of the property to see if there were any zoning violations;
- This property is in Current Use and the Town should check to see if this activity is proper use of CU land;
- Follow up on any wetlands violations thought to have been already filed; and
- High noise levels.

Mr. Buttrick advised that the parked vehicles with trailers were an issue noting that they were parked on land owned by Ron Finlayson, Jr. which he thought was against the Zoning Ordinance and might be against the Current Use Regulations.

Owner Ron Frost advised that he and his son belong to an off-road club. The vehicles are full sized vehicles, i.e.: jeeps, four-wheeled vehicles, etc. The club(s) are very responsible groups that stress safety, respect for property, and the club(s) even clean up property they use and actually do charitable activities. His family has owned the property for many years. He and his son cut trails on old logging roads for use by the vehicles and made an agreement with Don Nason for parking. The club(s) meet usually between 9:00 a.m. and 4:00 p.m. about seven times a year. The club(s) do trail swaps by inviting other groups to their respective trails for activities. They have a drivers meeting prior to any event regarding being respectful, no spinning of tires, etc. Prior to starting this activity on his property, Mr. Frost advised that he checked with his attorney, his insurance company, spoke with the Police and Fire Departments, secured a seasonal permit for an outdoors camp fire; talked with the Society for the Protection of NH Forests even asking if this activity on his property were contrary should he want to put it into a conservation easement, which he is considering. He noted that this activity was much less invasive than a logging operation. He is not conducting any commercial business, no money changes hands and the property is open only by invitation. There are usually only 5 or 6 vehicles at a time using the property and as far as he knew everyone had acted responsibly and respectfully. He noted that he has the recreational adjustment on his Current Use property. Chairman Mullins summed up the discussion as follows:

- Vehicles on the road causing issues should be referred to the Police;
- Disturbance of Frost Lane would be a civil issue;
- The noise would only be an issue if conducting an activity at inconvenient hours;
- Zoning Ordinance and Current Use issues would be checked by the office; and
- The portable outhouse (Mr. Frost advised that this was a 4x6 shed type which had previously been used as an outhouse, but now intended for storage on this property when there was occasional camping at the site).

Mr. Frost advised that he had reviewed the entire Zoning Ordinance, finding nothing that would prohibit his use of the property for the above purpose. Mr. Buttrick inquired as to whether Mr. Frost would consider not using Frost Lane as an access out of consideration for the neighbors. It was noted that Mr. Frost owned frontage on Frost Lane. Mrs. Shoemake suggested that the vehicles and trailers using the abutting lot for parking enter at the access point from Clothespin Bridge Road, which Mr. Frost thought might be a possibility. Donna Frost felt that the neighbors had enjoyed the 75 acre vacant lot for years and didn't feel that this use was an improper use. Chairman Mullins advised that there was nothing much the Board could do as there did not appear to be any Zoning Violations as the activity was not a commercial use, though they still wanted to verify whether there were any Current Use issues. Mr. Frost admitted that there was a muddy area at the trail head, noting that all other swampy areas were avoided, and that the club wanted to use the property responsibly as they wanted to continue with the use indefinitely and have a bit of fun.

The Board reviewed six bids received for heating oil used by the Town Hall and the proposed propane price from Rymes for the Public Safety Building and Town Hall. Chairman Mullins made a motion to accept the price for propane from Rymes and the lowest bidder for heating oil was Huckleberry Oil; seconded by Selectman Hashem and approved. (It was discovered after the meeting that one bid was inadvertently not reviewed and will be discussed and the bid re-voted at the next meeting).

8:48 P.M. Selectman Hashem made a motion to go into non-public session per RSA 91-A:3 II (a) to discuss personnel issues; seconded by Selectman Klumb. Roll call: Chairman Mullins – yes; Selectman Klumb – yes and Selectman Hashem – yes. Mrs. Jones and Police Chief Milano were requested to attend. Chief Milano inquired as to what it concerned as he may not want to go into non-public session if it involved just him. Chairman Mullins and Selectman Hashem were uncertain if this was proper procedure. Chief Milano questioned whether the subject was that listed on the agenda related to the vacation letter. Chairman Mullins replied that that was one of the issues as well as the question of a statement made at the last meeting. Selectman Hashem recommended that no more comments be made and to call Town Counsel to see what was proper or not. As personnel issues are not usually public, Selectman Hashem inquired whether he could withdraw the motion, noting he felt he was being trapped. Chairman Mullins recommended that he call Town Counsel for advice. Chairman Mullins made the motion to delegate Selectman Hashem to call Bart and take whatever action is deemed appropriate; seconded by Selectman Klumb and approved. Selectman Hashem withdrew his motion to go into non-public session. Chief Milano wanted it clarified that he was not refusing to talk, only that if involved only him, he had the right to not have a non-public session and have the discussion in public session for all to hear. Chairman Mullins noted that he had said that it did not involve only the Chief. Selectman Hashem recommended finding out what the rules were, noting that it was within a persons right to request a public session as opposed to a non-public session if it only involved that person.

Gordon Welch referred to an earlier reference at a Selectmen's Meeting regarding damage to the front end of the Dare vehicle because someone backed into it, noting he thought it was said at the meeting that the damage was going to be repaired. He noted that the damage has not been repaired, thereby lessening the value of the vehicle and now that the vehicle has been put up for sale by sealed bid, he inquired as to whether the Town would now be compensated for the damage. He inquired as to whether there had been an accident report filed. Chief Milano advised that he had been told by Selectman Hashem to not do anything to the vehicle. Selectman Hashem replied that he had recommended getting a quote for the damage but not to repair it or spend any money on it. It was noted that there was a fuel pump issue unrelated to the accident and the Board was reluctant to spend any additional Town funds on the vehicle at this time. Chief Milano advised that the damage was done at the location where the vehicle was to have the fuel pump fixed and that they were willing to fix any damage regarding backing into the vehicle at no cost. He also advised that a Selectman had told the folks at the garage to not do any repairs to the vehicle. Selectman Hashem again noted that he said not to spend any money, though he thought a quote for the damage would be reasonable. Chief Milano again noted he was requested to please not spend any money. Selectman Hashem did not recall the statement that the damage would be fixed at no cost to the Town, but would review e-mail correspondence regarding this issue. Mr. Welch indicated that he remembered that statement being made by the Chief and still wanted to know if the Town would still be eligible for reimbursement, with any funds going at least into the General Fund. It was agreed that the issue of damage to the front end of the vehicle should be revisited.

8:57 PM. Selectman Hashem made a motion to adjourn, seconded by Selectman Klumb and approved.

Thomas S. Mullins-Chairman

David E. Klumb

George K. Hashem

BOS/jj