

**Town of Atkinson
Board of Selectmen
Regular Meeting
Monday, December 21, 2009**

Open Public Hearing:

Chairman F. Child opened the public meeting at 6:27 pm, Present were Fred Childs, William Bennett, William Friel, Philip Smith and Joyce Lafrance.

Open Non-Public Meeting:

Motion by Selectman William Bennett for a Non-Public Session under RSA 91-A:3(c) at 6:30 p.m. Seconded by Selectman W. Friel , vote; W. Bennett- yes; F. Childs-yes; W. Friel-yes.

Open Public Hearing:

Chairman F. Childs led those assembled in the Pledge of Allegiance and made a Motion to Open a Public Hearing at 7:31pm. The Motion was seconded by Selectman W. Friel. The Board voted unanimously to open the Public Hearing at 7:31 p.m., (all in Favor)

Members Present:

F. Childs, Chairman
W. Friel
W. Bennett

Others Present:

P. Smith, Town Administrator
E. Stewart, Road Agent
T. Barbera, Chairman, Technology Committee

Chairman F. Childs called Road Agent E. Stewart before the Board. Mr. Stewart explained that the Public Hearing was to have twelve roads declared as emergency lanes for the purpose of snow removal. Mr. Stewart read the list of roads to be declared emergency lanes for those present. They are: Ashford Lane, Boulder Cove Road Extension, Brittany Lane, Brushwood Drive, Carriage Chase Lane, High Hill Road, Lippold Road, Little River Road, Little Rob Road Extension, Rocky Point Lane, and Winslow Drive.

Mr. Stewart explained the Town policy regarding unaccepted roads. The policy set by the Board in the past in older subdivisions, was the road was the developers responsibility until an occupancy permit was accepted and then the Town took over responsibility for plowing, salting and sanding. Now, in order to plow roads that are not accepted, the roads have to be declared emergency lanes by a notice sent to all occupants and a public hearing. Previously, it was the policy of the State of New Hampshire that roads open to the public prior to 1947 could be plowed by prescription. From 1947 until 1961 when Atkinson had its first Planning Board, the developer had to bring the road to the Town Meeting for acceptance, and if the developer did not, then the roads were not accepted. Thus, many roads did not get turned over to the Town. Now, in order to provide police and fire protection, the roads have to be declared emergency lanes to allow the Road Agent to plow, salt and sand so that emergency equipment can respond. In all future subdivisions Town policy will be that the developer will be responsible to bond all winter maintenance. Blackford Drive is the first development since the change at the Planning Board level. Mr. Stewart further stated that he hoped that the Board would declare the roads emergency lanes.

Mr. Childs asked Mr. Stewart his opinion. Mr. Stewart replied that it was his opinion that the Town has an obligation to plow, that the money had already been budgeted and that the Town had plowed these roads last year and the year before. Selectman Bennett asked how long the Town has been plowing unaccepted roads. Mr. Stewart replied that many roads have been plowed since the 1950's. Mr. Stewart further explained that many times in the past, the correct procedures were not followed. According to the RSA's, the correct procedure to declare emergency lanes, is first a public

hearing must be held and second everyone has to be notified by mail. Mr. Stewart was asked about the RSA stating that everyone had to be in agreement. Mr. Stewart explained that if one person objects, then he cannot plow. Mr. Stewart also explained that it is up to the Board of Selectmen to allow him to plow.

Mr. Childs asked if anyone in the audience objected to having the roads declared emergency lanes. There were no objections.

Mr. Brian Boyle, 17 Winslow Drive asked to address the Board. Mr. Boyle remarked that there seemed to be two different types of roads on the list. Some were new roads and some were roads that existed since before 1950. Mr. Boyle then explained that he is the owner of two of the newer roads, and it was his understanding that the purpose of the Hearing was to declare the roads emergency lanes so they could be plowed, but in the past twenty-five years that he has owned land in the Town, the Town had always plowed unaccepted roads without a Hearing. Mr. Boyle also remarked that he owned several house lots on which he paid \$3,000 in taxes for each lot. Mr. Boyle was informed that the Board of Selectmen was looking for a way to expedite unfinished projects.

Mr. Boyle further remarked that in his opinion, the roads had not been turned over to the Town because of economic conditions. He explained that as a contractor, he had always repaired roads that had failed as he had done with Brittany Lane which was paved in 2000 and failed two years later; and it was his intention to go through the same process on Winslow Drive. He also explained that his roads are 100% bonded and suggested that the Planning Board put a limit on the time frame, that a developer sit on a project for two or three winters because in that time any flaws in the roads or the subdivisions would become obvious, and the developer would be obligated to fix any flaws before the roads became a Town asset.

Mr. Boyle then remarked that the Town should continue to plow rather than have the developer plow because there was too great a chance that if the Town left it to the developer to plow, there would be an emergency and the road would not be plowed, causing liability for the Town. Mr. Boyle then suggested that if the residents were not receiving services, they should not have to pay taxes and that perhaps the Town should look at reassessing house lots on roads that had not been accepted. Mr. Bennett remarked that the Board was acting on Town Counsel advice regarding declaring emergency lanes next year. Mr. Boyle replied that 5 years ago, Town Counsel had informed the Board that for the cost, the Town should go ahead and plow the roads.

The Board discussed the subdivisions owned by Mr. Boyle and when the roads would be turned over to the Town. A member of the audience asked if these houses had homes on them. Chairman Childs responded that some of the subdivisions were completed years ago and the developer was gone. Mr. Boyle stated that he is sitting on 15 lots and paying \$45,000 per year in taxes and he felt that he should be receiving service.

Selectman Bennett explained that the real issue was subdivisions that had been completed for years and the roads had never been finished and accepted by the Town. Mr. Boyle stated that he agreed that there were some roads that had been completed for several years but he was before the Board to talk about Brittany Lane and Winslow Drive and suggested that the Town have future developers sign a document stating that the Town did not have any responsibility for damages for roads that it plowed before they were turned over to the Town.

Mr. Boyle reiterated that the Town had always plowed unaccepted roads and that his concern was for residents that have been paying taxes and have been receiving a service. Furthermore, it was his understanding that the Board was just concerned about new roads, and that it was the plan of the Board to notify developers that after this year, the developers would be on their own. Mr. Childs stated that that was one option that the Board was looking at. Mr. Boyle stated that he hoped that the Town did not exercise that option,

The Board again explained that the crux of the issue was unfinished roads with bonds declining to the point that they did not cover the cost to finish them. The Board was trying to push developers into

finishing the roads and paying the bonds. There were several subdivisions with old bonds that were 10% of the value of finishing the roads.

Mr. Boyle remarked that both his roads were covered under performance bonds and suggested that the Board review bonds annually and send a letter to the developers with insufficient bonds. Mr. Bennett asked if the Board should send a letter to the developers stating that if they did not bring the bonds up to date by such and such a date, then the Town would not plow. Mr. Boyle responded that inadequate bonds should be irrelevant to winter maintenance and there was a bigger issue than plowing, that the Town could send a letter stating that the developer was in default. Mr. Childs stated that the Town has made the bonds more stringent than in the past. Mr. Boyle responded that the Board should utilize performance bonds, rather than setting a specific amount and that the overall responsibility lies with the Board of Selectmen.

Mr. John Henry stepped before the Board and stated that he lived on Boulder Cove. Selectman Bennett asked if he was on the public road or on a private way, and it was determined that Mr. Henry lived on a private way. Mr. Henry informed the Board that he had lived there since the late 1940's and asked that as a resident on Boulder Cove was the Town going to be saying goodbye. Chairman Childs asked Mr. Stewart his opinion regarding continued maintenance of that road. Mr. Stewart replied that the Board does have the right to discontinue service if it is not declared an emergency lane, but there were also many Statutes stating that if the service had continued for more than 20 years, then the Town had to continue with it and Mr. Henry would have grounds for a civil suit. Mr. Stewart also stated that having a Public Hearing annually to have the roads declared emergency lanes was the best method.

Mr. Henry asked how a road would be accepted. Mr. Childs stated that the Town Engineer had to check the road and there had to be a Warrant Article. Mr. Stewart explained that there were also problems with nonconforming lots, and that the roads on the list had many problems with becoming Town accepted.

A member of the audience asked about Hog Hill Road, and if there were a record of when it was established. The Board informed him that Hog Hill Road had been established many years and that there were records in the Town Clerk's office.

Selectman Bennett reiterated that the Town needed to find a way to make developers perform. Selectman Friel remarked that there were two issues and the issues before the Board at present was rather or not to accept the roads as emergency lanes.

Selectman Friel made a motion to accept the 12 roads presented by the Road Agent as emergency lanes for the 2009-2010 winter season. Selectman Bennett seconded the Motion and the Board voted all in favor to accept the roads as emergency lane.

Selectman Friel made a motion to close the Public Hearing at 8:07 p.m. Selectman Bennett seconded the Motion. The Board voted all in favor to close the Public Hearing.

Open Regular Session:

Chairman F. Childs opened the Regular Meeting of the Atkinson Board of Selectmen at 8:08 PM on Monday, December 21, 2009.

Approval of Minutes:

Mr. Bennett asked to defer approval of minutes for the December 7, 2009 regular meeting, the December 7, 2009 non public meeting, the December 16, 2009 Special Meeting and the December 16, 2009 Non-Public Meeting.

Chairman Childs stated that he had one correction for the December 7, 2009 meeting, that on the fourth page, at the top where the Town Report was discussed, Mr. Friel should be changed to Mr. Childs.

Scheduled Appearances:

- *Technology Support Committee* – T. Barbera

IT Service Finalist - Mr. Barbera announced that the IT Committee had completed the RFP process and the Committee was unanimous in recommending First Choice Networks of Auburn, New Hampshire. Mr. Barbera explained that First Choice was the network administrator for the library and there had been no problems.

Mr. Barbera also informed the Board that there were several initiatives covered. The first was configuring the email system so that email could be accessed from outside the Town Network. All computers would be installed with antivirus and monitoring; and server migration would be covered. The number of servers for the Town would be cut from 4 to 2, because all Town departments would be on one network, resulting in savings in electricity and future savings in server maintenance of about \$4,500 per server. The cost of the contract would be \$19,800, and would include network services for the all Town departments.

The next issue discussed was standardizing work station operating systems. Mr. Barbera told the Board that the contract did not cover standardizing work station operating systems, the IT Committee wanted to standardize operating systems and the vendor would support the Town equipment. Mr. Barbera informed the Board that most of the computers were running Windows XP, but there were a couple that were running Windows 2000 and the operating systems on future computers purchased could be either Windows XP or Windows 2007.

Mr. Barbera informed the Board that he thought it was a strong RFP, and would position the Town network to where the IT Committee wanted it to be. Mr. Barbera asked if there were more questions. Mr. Bennett asked when he would like to start and Mr. Barbera replied that he would like to have something in place by January 1, 2010. Mr. Bennett replied that would give the Board tonight and next week. Chairman Childs remarked that the Budget Committee would have to approve it first and that there was no line. Mr. Barbera responded that there was the computer line and there was \$37,000 budgeted for that line. Mr. Bennett pointed out that the contract for Adel XT ended December 31st and Mr. Smith stated that Adel was turning in its keys on December 23, 2009.

The Board discussed how much was left in the Adel contract. Mr. Bennett asked about new versions of software and Mr. Barbera responded that there was nothing in the contract for purchase of software except that used for protecting the servers and PC's.

The Board again discussed how to get all Town departments on the network, especially the Community Center. Mr. Barbera stated that opening OWA should solve the issues, because outlying areas would have email service and VPN service or an institutional network would not be necessary. Mr. Barbera also informed the Board that the vendor was recommending a wireless device be placed on the Fire Department to transmit to the garage with a one time charge of \$600.00 to \$700.00.

Mr. Bennett asked if the different ISP providers would be consolidated. Mr. Barbera responded that the Committee was working on redesigning the website so that all departments would be on the same web site. Mr. Bennett asked again if pulling together all ISP providers into one contract was included and Mr. Barbera responded that it was not, but with the changes in email, it might not be necessary. Mr. Friel asked if there were automatic renewals. Mr. Barbera responded that there were none.

The Selectmen agreed to vote on the contract at the present meeting and requested that the final version of the contract be given to Mr. Smith, Town Administrator.

Selectman William Bennett made a Motion to award the contract for Town network services to First Choice Networks of Auburn, NH for the year 2010 beginning January 1, 2010 to

December 31, 2010 for the sum of \$19,800. Selectman William Friel seconded the Motion; and the Board voted all in favor to award the contract as stated in the Motion.

Mr. Barbera requested to bring a three year budget proposal to the Board. Mr. Barbera pointed out that the budget line for 2007 was \$46,010, and for 2008 and 2009 the budgeted amount was \$37,000, but for 2008 the Town spent almost \$41,000 and for 2009 it will be around \$40,000 and that money spent has exceeded the amount budgeted for two years in a row, and that the budgeted amount was too low. Mr. Barbera also pointed out that Comcast internet service has also been added to the line, about \$900.00 per year, that under Bay Ring, the cost was around \$1,700 per year. Mr. Barbera suggested that the \$900.00 amount be shifted from the telecommunications line to the IT line. Mr. Barbera stated that Avatar Software informed him to expect increases of 5% to 8% per year; that the cost of software that Ms. Snicer uses will be going up, as well as the software used by the Town Clerk. Mr. Barbera proposed that these items also be moved to the IT line.

Mr. Barbera has also requested enough money for a dozen PC's in the proposal. Selectman Bennett asked about the age of the computers and Mr. Barbera informed him that there were about a dozen that were 6 or 7 years old. Mr. Barbera also stated that he proposed that additional funds be added for back up software and encryption. This would remove responsibility from the departments for handling backups. Mr. Barbera stated that all these items would make the IT budget around \$62,000 for Fiscal Year 2010 but by moving the line items discussed above to the IT line, the current amount for the IT line would be around \$48,000

Selectman Bennett remarked that it was a good plan, and requested that Mr. Barbera use the electronic Excel template to show how the funds would be moved and give it to the Budget Committee for review, and return to the Board of Selectmen next week. Mr. Barbera added that First Choice would also provide support for the web site. The Board thanked Mr. Barbera and asked about making the IT Committee permanent. Mr. Barbera stated that he submitted a Warrant for the Board's review.

Announcements

Chairman Childs announced that Mr. John Mangini was coming home and that Chief Murphy was out of Massachusetts General Hospital and doing well.

The Board continued to the next scheduled appearance.

Asphalt Bids – Mr. E. Stewart, Road Agent

Mr. Stewart recommended that the Board award the contract for asphalt to Brox Industries, Inc. - \$61.58 per ton by machine and \$105.00 per ton for hand work. Mr. Stewart informed the Board that Brox Industries had done the asphalt work for the Town for ten out of the last fifteen years and he was satisfied with their work and furthermore that the bid matched all the State requirements.

Selectman W. Friel made a motion to award the asphalt paving contract to Brox Industries at \$61.58 per ton and \$105 per ton for hand work. Selectman W. Bennett seconded the Motion and the Board voted all in favor to award the asphalt bid to Brox Industries at \$61.58 per ton and \$105 per ton for handwork.

- *Lawn Care* – Mr. Stewart, Road Agent, informed the Board that he has gotten some bids for lawn care.

CTAP – Mr. Stewart informed the Board that the project was complete, but Keach and Nordstrom had not sent the bill, but it would be in the office before 10:00 a.m. tomorrow. Mr. Friel informed Mr. Stewart that December 22, 2009 was the deadline. Mr. Stewart also informed the Board that Rockingham Planning looked into paying the bill directly but he had not heard from them. Mr. Bennett asked what the amount was and Mr. Stewart replied that he believed that it was \$10,000 for the total

contract. Selectman Friel suggested that the Board could authorize the bookkeeper to write a check as long as the amount matches the previous approval.

Selectman Friel made a Motion to authorize the bookkeeper to pay the Keach and Nordstrom invoice for the CTAP project as long as it matched the approved amount. Selectman W. Bennett seconded the Motion and the Board voted all in favor to authorize payment of the invoice.

Correspondence:

- *Large Water Withdrawal:* Selectman Friel explained that it was preliminary approval for large withdrawal of groundwater and would be available in the Town Administrator's Office for anyone to look at.

Town Administrator's Report – Mr. P. Smith informed the Board that the report was in the packet of material for the Board to review.

Old Business

- *Fire Station Roof RFP* – Mr. Friel has not had a chance to get to the Fire Station.

- *Police Department Generator* – Mr. Friel informed the Board that the generator has been ordered and paid for and Mr. Friel will give the delivery date to Mr. Smith. Chairman Childs informed the Board that a vote was needed to carry over the funds to install the gas lines.

Selectman W. Friel made a Motion to carry over the remaining funds from the \$25,000 allocated for the generator last year, consisting of \$9,000 to 2010. Selectman W. Bennett seconded the Motion and the Board voted all in favor to approve carrying over \$9,000 in remaining funds to finish installing the generator to 2010.

Chairman Childs stated that the Board also had to vote to carry over of \$6,200 from the cemetery fund for the flag pole and other work.

Selectman W. Friel made a Motion to carry over \$6,200 from the Cemetery Committee budget to 2010. Selectman W. Bennett seconded the Motion and the Board voted all in favor to carry over the funds.

Chairman Childs announced that Mr. Friel spoke to Glacial Energy and so far the Town had saved around 6%,

- *Town Report Committee* – Mr. Friel is working on it.

New Business:

Land Use Planner Job Description – Mr. Smith has sent it out.

Future Agenda

January 4, 2010– Lawn Care (fertilization) Bids due
January 14, 2010 – Regional Selectman's Meeting in Atkinson

Mr. Childs asked if there were any more old or new business. Mr. Friel stated that he had two issues. The first was a request from Galloway Trucking regarding the construction at East Road for reduction or release of the Performance Bond. Mr. Friel received a letter from Mr. Dennis Quintal of Civil Construction Management and based on Mr. Quintal's recommendation he would like to make a motion to reduce the bond to 10% of the original amount of \$84,740..

Selectman W. Friel made a Motion to reduce the Performance Bond of Galloway Trucking for the construction on East Road to 10% of the original amount of \$84,740. Second: W. Bennett. The Board voted all in favor to reduce the Bond of Galloway Trucking to 10%.

Mr. Friel informed the Board that he had a second issue, appointment of a Town Deputy Clerk and would like to make a Motion to authorize the Town Clerk to employ Debbie Grazie at 30 hours per week as Deputy Town Clerk for \$13.50 per hour. The Board discussed how much Ms. Grazie should be paid, the probationary period and if the pay should be increased and if so, by how much.

Selectman W. Friel made a Motion to authorize the Town Clerk to employ Debbie Grazie for 30 hours as Deputy Town Clerk at \$13.00 per hour to start with 3 raises of \$.50 each year, occurring over three years with one step per year dependent upon completing each step of State certification. The Motion was seconded by Selectman W. Bennett and the Board voted all in favor for the above Motion.

Chairman Childs asked if there were any more old or new business. There was none. Chairman Childs wished the best to Mr. John Mangini and Chief Murphy and Merry Christmas to Town employees and to all.

Selectman Bennett made a motion to adjourn the December 21, 2009 meeting of the Town of Atkinson Board of Selectmen at 9:13 p.m. Selectman William Friel seconded the motion and Mr. Bennett, Mr. Friel and Chairman Childs voted yes to the motion.

Fred J. Childs, Jr.

William G. Friel

William M. Bennett