

**Board of Selectmen  
May 13, 2015**

**Present:** Richard C. Edwards, Chairperson (joined the session in progress); Kenneth S. Paul; Connie Twombley; Teresa A. Williams, Town Administrator; and Toni Bodah, Secretary.

Mr. Paul called the session to order at 6:20 p.m. **Ms. Twombley moved to enter Non Public Session under RSA 91-A:3, II (a) & (b). Mr. Paul seconded the motion. Roll call vote: Ms. Twombley – ‘aye’; Mr. Paul – ‘aye’. The motion passed 2-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 7:02 p.m. Mr. Edwards led all present in the Pledge of Allegiance. Those present at this time included Tom Beeler, *The Granite State News*; Chief Ken Fifield; Dave Lee; Barry Ellis; Donna Martin (videotaping); and Ed Comeau (videotaping). Jim Miller and Lino Avellani joined the session in progress.

**1. Appointments** – None scheduled.

**2. Unscheduled Matters/Public Comment #1**

--Mr. Ellis commended the Board on rescinding its vote to require clear bags at the Transfer Station, stressing the need to educate the public regarding the benefits of recycling. Mr. Ellis also referred to the Board's recent decision not to support the DWI checkpoint, which decision he personally supports. He would be interested in hearing whether the 2014 arrests resulted in convictions, the number of drunk driving deaths in Town each year, etc. Mr. Edwards stated that the Chief will be allowed to make his presentation, following which Mr. Ellis will have an opportunity to ask questions. He added that many lives have been given to protect our rights, and this check point takes away those rights for a day.

--Mr. Comeau received confirmation from Ms. Williams that one can sign up for email notifications on the Town's website. However, up until recently it was not working efficiently. Mr. Comeau noted this would be another vehicle to provide information to the public and added that it should be explained to the public that by entering their email address, they are not making that address available to any individual.

--Mr. Miller referred to his great respect for the Chief of Police of Wakefield. He assumes that the Chief plans to conduct this check point anyway. However, the Chief could choose another method to try to keep drunk drivers off the road. Many other towns do not choose this method and seem to be getting along ok. We should not be stopping hundreds of people who should be allowed to go about their business if they are not under suspicion of committing a crime.

**3. Unfinished Business**

**a) Highway Safety Grant for Sobriety Checkpoint – Chief Fifield** – Chief Fifield clarified that the Board made the decision not to accept grant funds to reimburse the cost of the checkpoint; however, it did not make the decision whether to conduct the check point. Mr. Edwards stated that he does not condone drunk driving; however, sometimes the Board needs to review a decision made or needs to have additional discussion. Chief Fifield advised that the Town has been approved by the State for 2 more grants—for spike strips and DWI patrols—both of which were part of the approved budget. The Board accepted grant funds for speed patrols at the last meeting.

Highway Safety money comes from the tax paid at the gas pumps. The money goes to highway improvements and highway safety and is given to the State, who must disburse to municipalities/cities that request funds via pre-defined ways.

**Board of Selectmen**  
**May 13, 2015**  
**Page 2**

Purchase of equipment that meets established criteria—such as radar speed trailers, spike strips, etc.—are funded 50%. Enforcement patrol is funded at 100%. The Town provides the car and gas, but the grant pays for all costs of the officer. This allows for more patrols on the road during times that studies show are most important. The Chief stated that we have already paid for these patrols at the gas pump. The useful way to get some of this money back is via highway safety grants. Each of these grants was brought to the Board of Selectmen and Budget Committee during the budget process. They were discussed again at Deliberative Session and were approved by the voters. Everyone seems to be in favor of the other 3 grants, but some have issues with the check point, which brings up debate every year. How much government intrusion is too much? The Chief respects this concern and is a firm believer in constitutional rights. One might question whether the check point is a justifiable intrusion or whether it is unconstitutional. He distributed written material which indicates that it has been determined that the check point is not unconstitutional and is an effective deterrent. The check point is not a search without a warrant—the officers do not search the vehicles. However, the Chief must obtain a warrant from the Superior Court in order to conduct the check point. He strongly believes that this type of program has helped to reduce fatalities. While it is not the only method, it is one of the methods.

The Chief stressed that the check point is well-advertised on Facebook, newspapers and on signs. This alone results in a large deterrent factor. He believes it has saved a number of lives. It is not about the 6-10 arrests made. It is about the 500 or so people who are deterred from driving drunk. Once a vehicle is stopped, the officer has 3 minutes with the driver. 100 surveys are handed out. The officer is trying to get an impression as to whether the driver is impaired. Most stops average 1.5 minutes. If the officer is concerned that the driver is impaired, the driver will be asked if he/she has been drinking and things will go from there. The Chief is confident that some people are happy with the check point, even though they are not present this evening. Out of all the surveys returned regarding the check point, generally 1-2 complaints are received, a few suggest we do it more often and 30-40 state they are ok with the process. The Chief respects the opinion of those who have spoken this evening; however, this is a non-intrusive method that has good results, and it should be continued. He noted that the State of NH requires more documentation to run a check point than any other state. This Chief stressed his belief that this check point is an important part of the endeavor to save lives.

The Chief advised that grant funds were not received for the check point in 2014, but by the time he received that notification, he had already committed to the check point and had coordinated with other organizations to have it accomplished. The check point occurred but no reimbursement funds were received. He could continue with the 2015 check point without the expectation of offsetting grant funds.

Ms. Twombly questioned whether drivers are asked where they have been or where they are going. Chief Fifield advised they are only asked those questions if the officer is suspicious of impairment. 90% of the drivers are not asked those questions. Ms. Twombly questioned whether those questions are asked during a regular traffic stop. Chief Fifield stated that it comes up fairly often, but it depends on the circumstances.

Chief Fifield advised Mr. Edwards that a vehicle will be pulled over during the check point if the officer smells beer, or sees beer cans sitting in the front seat cup holders, but not if the officer merely sees a case of beer in the backseat. Mr. Edwards believes that an officer looking in the car windows is actually a search and would result in the vehicle being pulled over. He asked the actual cost of the 6-hour check point. Chief Fifield stated that the officer does walk around the vehicle. Everything done is on video. No one will be pulled over without some indication of impairment. Mr. Edwards is not certain that all officers conduct themselves in the same manner as the Chief would. A brief discussion of profiling ensued, including whether it occurs in Wakefield.

Mr. Edwards stated that we may have removed a number of drunk drivers on that particular night, but it is likely that many more were on the road the next night. Chief Fifield stated this can be said of most patrol efforts. He stated that although a driver will not be pulled over for turning around to avoid a check point, the vehicle may be followed for a short time. He stressed that the police will not catch every drunk driver, but we should continue to do all we reasonably can to reduce the number of drunk drivers. Mr. Edwards stated that the cost of one check point would be better spent doing a larger number of regular patrols. Additionally, he would prefer our police department keep the community safe by patrolling Town roads, leaving the highway for the State police. Chief Fifield explained that this specific grant is not available for additional patrols; it is being offered strictly for check points.

Mr. Ellis stated that a search is being conducted if the vehicle is stopped at the check point. A warrant would not be obtained if a search is not expected. He believes the warrant is actually unlawful as no individual name is on it. Chief Fifield described a scenario during which a vehicle is stopped for a burned out taillight and the officer sees 2 open containers. This is not a search. The containers are in plain view. If an open container is seen during a check point, it is not a search. Regarding an unlawful warrant, the Chief stated that the Court has found that it is constitutional, although it may be inconvenient. He does not believe it is too much to ask of citizens to stop at the check point in order to make Wakefield roads safer. In response to a question from Mr. Paul, Chief Fifield estimated that there have been less than 50 drunk driving related deaths in Wakefield during his tenure. He added that there is a balance between coverage on Route 16, which is an integral part of this community, and the back roads in Town.

Mr. Miller asked what would happen if someone exercised his right not to answer questions, did not roll down his window, during a check point stop. Chief Fifield clarified that the officer will ask for a license, but does not run it. When an individual reaches for something, they are exhibiting motor skills. If a driver resists the transaction with the officer, that will raise questions for the officer as to why this is occurring. The objective is to make sure the individual is not impaired. It is hoped the officer can determine that the driver is ok. Mr. Miller stressed that the individual has the right not to respond. Chief Fifield stated that the driver should be polite and will move along faster.

Chief Fifield advised he will not go through this process again if the Board of Selectmen should decide not to accept the funds. He would expect, however, that the Board would hear from residents who are in favor of this check point. Ms. Twombly supports the check point. If one is not doing anything wrong, one should not mind participating. If it saves a life or gets a drunk driver off the road, it is worth 3 minutes of her time.

**Mr. Paul moved to accept the Highway Safety Grant funds for the 2015 Sobriety Check Point, in the amount of \$936. Ms. Twombly seconded the motion.** Mr. Paul would like to spend the funds elsewhere, but this is another tool for the Police Department. **The motion then passed 2-1.**

Chief Fifield has 2 other applications for Highway Safety Grant funds—one for spike strips, the other for DWI patrols. **Mr. Edwards moved to approve the application for spike strips in the amount of \$1950. Ms. Twombly seconded the motion, which passed 3-0.**

**Mr. Edwards moved to approve the application for DWI patrols in the amount of \$5542.68. Ms. Twombly seconded the motion, which passed 3-0.**

**b) USDA Loan for Sewer Construction** - Ms. Williams advised that the outstanding principal balance is around \$44,600. If the loan were paid off this year, the Town would save around \$6700 in interest payments; however, it would lose an estimated \$3000 in interest income from the Sewer Fund, resulting in a net gain of about \$3700. The current balance in the Sewer Fund is \$188,000, which would still leave sufficient funds in the event of an emergency. **Mr. Paul moved to pay off the USDA loan out of the Sewer Fund. Ms. Twombly seconded the motion, which passed 3-0.**

#### **4. New Business**

**a) MS 535** – Ms. Williams presented this financial report for 2014, prepared by our auditors. The Board executed this document as presented.

#### **5. Proposed Capital Reserve Fund Expenditures**

**a) Police Vehicles CRF \$2020** – This reflects the cost of an overhead console and GPS for the new cruiser. **Ms. Twombly moved to approve this expenditure as presented. Mr. Edwards seconded the motion, which passed 3-0.**

**b) Police Vehicles CRF \$535.96** – This represents the cost of a graphic kit for the new cruiser. **Mr. Edwards moved to approve this expenditure as presented. Ms. Twombly seconded the motion, which passed 3-0.**

**c) Transfer Station Facility CRF \$29,750** – This represents the cost of the 2015 Caterpillar Skid Steer. **Mr. Edwards moved to approve this expenditure as presented. Ms. Twombly seconded the motion, which passed 3-0.**

**d) Town Hall Improvements CRF \$854** – This represents the cost to sand and finish the front entry floor. **Mr. Edwards moved to approve this expenditure as presented. Ms. Twombly seconded the motion, which passed 3-0.**

#### **6. Correspondence**

**a) United Methodist Church** – The Church hopes to have a streetlight installed on an existing pole and is under the impression that Eversource requires the Town's permission to accomplish this. Chief Fifield noted there is already a light across the street. The pole nearest the Church has a transformer, and it may not be permissible to have a light on a pole with a transformer.

Otherwise, the Chief has no problem with their installation of a streetlight. **Ms. Twombley moved to advise the United Methodist Church that the Board is in agreement with their plan to have a streetlight installed, with the understanding that there will be no cost incurred by the Town (either for installation or operation). Mr. Edwards seconded the motion, which passed 3-0.**

**b) BTLA Hearing Notice** – Two hearings are scheduled with the BTLA for September 30, 2015, relating to appeals for property tax assessments—one for Stewart Realty Trust, the other for Donna Dodge.

### **7. Unscheduled Matters/Public Comment #2**

--Mr. Miller stated the previous discussion regarding the sobriety check point was great and he appreciates the Chief presenting his views. He noted, however, that even a stop lasting 1.5 minutes is still an intrusion. If a vehicle is stopped and is not let go until the police officer says it can go, to Mr. Miller that constitutes a seizure. He questioned whether shining a flashlight around in a car is a search, or whether having a dog trained to detect drugs is a search. Mr. Miller understands that the Chief can do this if he chooses. Although the check point will be advertised, he is not posting the rights of the citizens, who do not have to answer questions, walk a line or touch their nose. He questioned why, if you are stopped and are exercising your right not to answer questions, do you now become a suspicious person. Mr. Miller wonders when those not speaking up will do so.

--Mr. Ellis is disappointed with the Board's decision.

--Ms. Twombley referred to her liaison report at the April 22 meeting. She clarified that there will be no apartment at the new Dunkin Donuts building; rather the apartment approved by the ZBA will be at the Abundant Blessings Homecare building on Cosmar Drive.

--Mr. Comeau believes the sobriety check point is completely unconstitutional. Now that he is a legislator he hopes to effect a change in this regard. He added that he strongly believes it is important to get drunk drivers off the road.

### **8. Administrative Matters**

#### **a) Administrator's Update**

--The Annual Facility Report for the Transfer Station & Recycling Center is submitted every year by Warren Winn, Manager. The report for 2014 was returned, however, as the rules for submission have changed. The report must now be signed by an elected officer (or a Town Manager). Mr. Edwards executed the 2014 report for resubmission to NH DES.

--The information session with NRRRA regarding use of PGA was well-attended, with representatives present from several towns. The material stockpiled at the Transfer Station was viewed, and it is anticipated that at least one town will utilize an amount of that material. It cannot be used at the Dunkin Donuts project as its use was not part of their original engineering plan. Municipalities can use the material without an engineering plan. It is hoped that smaller contractors will be allowed to use the material for culvert work.

--The Governor proclaimed May 3-9 as Municipal Clerks Week. Yippee to our Town Clerk, Valerie Ward! Her evening hours are proving popular.

--Ms. Williams has ordered hallway signs to assist the public in locating appropriate offices and is considering purchase of a sign for the entry of Town Hall. The Board agreed and suggested a sign to direct the public to the elevator.

--An **old** key with a tag reading "Selectmen's Room Town Hall" has been given to Ms. Williams from Dave Schweitzer. It originally belonged to Ralph Hansen. Perhaps it can eventually be displayed with framed photos or the Boston Post Cane.

--Mr. Paul referred to the proposal to require use of clear bags at the Transfer Station. The proposal was made to the Board, who scheduled a public hearing, which was attended by the relevant department head, and at which the Board made a decision. However, the Board voted to change that decision at its next meeting. Mr. Paul noted that the Board can only change the ordinance following a public hearing. Ms. Williams will check to determine whether it will be necessary to schedule another public hearing on this issue.

**b) Building Permit Releases – Mr. Edwards moved to approve the building permit release for Delphi Realty (Dunkin Donuts) on Access Road, as presented. Ms. Twombly seconded the motion, which passed 3-0.**

**c) Petition and Pole License – Mr. Edwards moved to approve the Petition and Pole License for the pole on Witchtrot Road, as presented. Ms. Twombly seconded the motion, which passed 3-0.**

**d) Payment Manifests – Ms. Twombly moved to approve PR #10 in the amount of \$91,162. Mr. Edwards seconded the motion, which passed 3-0.**

**Ms. Twombly moved to approve AP #14 in the amount of \$405,801.37. Mr. Edwards seconded the motion, which passed 3-0.**

**e) Minutes – Mr. Edwards moved to approve the minutes of April 22, 2015, as presented. Ms. Twombly seconded the motion, which passed 3-0.**

**Mr. Edwards moved to approve the minutes of May 6, 2015, as presented. Ms. Twombly seconded the motion, which passed 3-0.**

There being no further business, the meeting adjourned at 9:05 p.m.

Respectfully submitted,  
Toni Bodah, Secretary

Approval of Minutes:

---

Richard C. Edwards, Chairperson

---

Kenneth S. Paul

---

Connie Twombly