

The Claremont City Council held a meeting on Wednesday, October 10, 2007, in the Council Chambers of City Hall.

Members of the Council present were:

Michael Prozzo, Jr.
Deborah Cutts
Heather Bopp
Assistant Mayor Christopher Irish
Mayor Scott Pope
Andrew Austin
William Regan, III
Ralph Swift
William Corey

Also present were:

Guy Santagate, City Manager
Jane Taylor, City Solicitor

The meeting was called to order by Mayor Pope at 6:32 p.m.

MAYOR'S NOTES

Mayor Pope said the Fall Festival/Chili Cookoff was a great event last Saturday. Thousands attended. He thanked Scott Hausler, Parks and Recreation Director, and all who helped (chili cooks, vendors, etc.).

Mrs. Nell Bateman, 101 years old, will be receiving the Boston Post Cane. She lives in the oldest house in Claremont. He will contact her within the next couple of weeks.

Presentation to the City of Claremont by Joseph Fahey, Eagle Scout Candidate

Mayor Pope read a letter recognizing Joseph Fahey's accomplishments.

Joseph Fahey said he is a member of the Boy Scout Troop 38 in Claremont. To become an Eagle Scout, a boy must do a service project. His service project was to restore lost cemetery records of the cemetery behind the Fiske Free Library. In the early 1800s a fire had destroyed the original records. He created a new record of the cemetery. He counted 831 stones. He made a grid of the stones. Other scouts and volunteers helped record information from the stones. One stone notes "First Person Buried in This Yard." It was dated 1792. The work time totaled over 100 hours. Mr. Fahey acknowledged people that helped him: Bruce Edwards, Troop Leader; Louie Millette, Project Advisor; Jim Hanson and Norma Limoges, Public Works.

Mr. Fahey presented a hardcover book of the log of the cemetery to Mayor Pope. Mayor Pope accepted it on behalf of the City of the Claremont with great gratitude. Mayor Pope read the proclamation on the inside cover of the book.

Mayor Pope presented the book to Bruce Temple, Public Works Director to be added to the other cemetery record books.

Mr. Irish congratulated Mr. Fahey and his parents.

The Troop Leaders introduced themselves: Louis Millette, Committee Chairman Troop 38 and Joe Fahey's Advisor; Sharon Edwards, Assistant Scout Master; Bruce Edwards, Scout Master; (this makes 18 or 19 eagle scouts for Mr. Edwards); Ben Sherman, Committee Member; and Frank and Jean Fahey, parents.

Mr. Regan congratulated and gave best wishes to Ms. Bopp and Mr. Irish on their engagement.

REPORT OF THE SECRETARY

A motion was made by Mr. Prozzo and seconded by Ms. Bopp to accept the minutes of the September 6, 12 and 18, 2007, City Council meetings.

Motion carried 9-0.

APPOINTMENT TO BOARDS AND COMMITTEES

Fiske Free Library Board of Trustees

A motion was made by Mr. Prozzo and seconded by Mr. Regan to appoint Martin Davis to Seat #4 on the Fiske Free Library Board of Trustees. It was noted this is the only application.

Motion carried 9-0.

Planning Board

Mayor Pope appointed David T. Roark to Seat #8A on the Planning Board.

Upper Valley-Lake Sunapee Regional Planning Commission

In a letter from Michelle Aiken, Boards and Commissions Coordinator, she wrote: "At the September 12, 2007, City Council meeting, Ms. Carolyn Greenslet Towle was appointed to serve on the Upper Valley Lake Sunapee Regional Planning Commission (UVLSRPC). At the last minute after speaking with the Planning and Development office, Ms. Towle thought she would be better suited to serve on the Zoning Board of Adjustment. Ms. Towle withdrew her application prior to the meeting, although not in time for Council's review. Please accept Ms. Towle's withdrawal from the UVLSRPC as she would like to be considered for appointment to the Zoning Board of Adjustment."

A motion was made by Mr. Prozzo and seconded by Mr. Swift to accept the withdrawal of Carolyn Greenslet Towle from Seat #1 on the Upper Valley-Lake Sunapee Regional Planning Commission.

Motion carried 9-0.

Zoning Board of Adjustment

A motion was made by Mr. Swift and seconded by Ms. Cutts to appoint Carolyn Greenslet Towle to Seat #6A on the Zoning Board of Adjustment.

Motion carried 9-0.

OLD BUSINESS

New Community Center Update

Mayor Pope read a letter from John Napsey, N3C Chairman. They have been meeting with a potential lead donor. They have re-engaged Hartsook Company. Mr. Napsey requested to update the Council in 6 to 8 weeks.

OHRV Crossing on Washington Street Update

Police Chief Alex Scott estimated the cost of lights to be \$9,000 and the engineering review to be \$4,000 to \$5,000 for a total of \$14,000 to \$15,000. All this comes before getting landowner permission. He does not believe there would be a cost associated with that. The roadway directly across from the Market Basket is a private lot. He is looking for direction from the Council. Mr. Prozzo asked if Chief Scott is aware of any grants that might be available. Chief Scott said the Sullivan County ATV Club (SCATV) could check on that. Mr. Prozzo hoped that we could continue to look for state or federal aid. Mr. Irish asked for consensus from the Council to allow Chief Scott, Bruce Temple and Fire Chief Peter Chase and the SCATV to get the "ball park" numbers and to keep moving on. Chief Scott said the next question is whose project is it: City project or SCATV project and who gets landowner permission and who is in charge of the trail system that we are connecting the Sugar River Trail to. Mr. Irish believes it is a City project and we can work in conjunction with the ATV club for the grants. Mr. Irish would like it on the November agenda. Mr. Regan asked about jurisdiction for getting the light. Chief Scott said it would go through the Traffic Advisory Committee, but the question is who spearheads the project and who funds it. If the landowner decides their property cannot be used for the trail, there would be a crossing to nowhere. The City owns the Sugar River Trail side. Ms. Bopp asked if that is the best place to cross. Chief Scott said the consensus is yes, but he is not a traffic engineer. Ms. Bopp would like to see SCATV Club take over. Mr. Regan asked how Dianne Raymond, Trail Administrator, gets the okay to use the trail. She said she gets landowner permission on a yearly form. Mr. Regan agreed SCATV Club should work on it and suggested they get a longer agreement. Ms. Raymond said they will try.

Mayor Pope asked for a consensus to continue and, when ready, to bring it back to the Council. Council said yes.

NEW BUSINESS

Resolution 2007-19 Acceptance of \$3,154.02 from Claremont Lions Club in Trust for Benefit of Fiske Free Library – Public Hearing

Ms. Taylor explained the Lions Club was disbanding their group and they wanted to donate the money to the City to be held in trust for the Library to be used for such things as books.

Mayor Pope read the resolution into the record.

Ms. Taylor said we received the Deed of Gift from the Lions Club. The purpose is for large print books and/or audio books.

Mayor Pope read from the Deed of Gift and noted the Claremont Lions Club has been providing services to our community for over 75 years.

A motion was made by Mr. Austin and seconded by Ms. Bopp to adopt Resolution 2007-19 Acceptance of \$3,154.02 from Claremont Lions Club in Trust for Benefit of Fiske Free Library with thanks to the Lions Club.

Mayor Pope opened the public hearing. No one spoke. He closed the public hearing.

Roll Call Vote: Motion carried 9-0.

Ordinance 490 Cross-Connection Control – First Reading

Ms. Taylor said the State DES (Department of Environmental Services) requested we update our local ordinance to conform to the State regulations.

Bruce Temple, Public Works Director, said if a water connection is not properly hooked up, the water system could be contaminated. This is a housekeeping issue.

Mayor Pope read the Explanation of Proposed Action into the record.

A motion was made by Mr. Regan and seconded by Mr. Prozzo to adopt Ordinance 490 Cross-Connection Control.

Roll Call Vote: Motion carried 9-0.

PUBLIC DISCUSSION & CLARIFICATION OF THE WHEELABRATOR EMINENT DOMAIN SETTLEMENT – PUBLIC HEARING

Mayor Pope stated there has been no “deal with the devil” in reference to Wheelabrator. Tonight is to hear concerns and questions about the settlement agreement. Mayor Pope listed the rules

for the public hearing: Speakers are limited to no more than five minutes. If remarks are a repeat of another, so indicate. Speak only once. State name and street address. After everyone has spoken, the Council will speak and then turn to Mr. Santagate for comments and answers. He will then ask for a motion at the end.

A motion was made by Mayor Pope and seconded by Mr. Swift to request the City Manager or his designees to clarify in writing the intent underlying the Settlement Agreement, dated September 5 and approved by Merrimack County Superior Court on September 6, 2007, between the City and Wheelabrator concerning the eminent domain action by the City of approximately 51 acres of land located at 145 Grissom Lane, Map 187 Lot 5, especially as to Sections 4, 5 and 6 of the Agreement.

Mayor Pope opened the public hearing.

Rebecca MacKenzie, 7 Glenwood Drive, said some people are alarmed at the language. 125 people have signed a petition for clarification. She read the petition into the record. She said there is concern this settlement might allow Wheelabrator to do what they want. She wants, in writing, the intent of the agreement with regard to the City's ability to challenge Wheelabrator. In an October 6th letter she expressed concern about several parts of the agreement. She requested a motion for reconsideration of the September 12th vote and to rescind the vote to withdraw support of the proposed agreement. The letter was signed by her and Cornelia Sargent of Claremont, who also supports this statement.

Cornelia Sargent said she sent a letter to the Council about her concerns. She said she is not an attorney, but this agreement raises serious concerns for the City. She asked if the Councilors were able to read the agreement or if they placed good faith on the City Manager. She believes there are numerous issues that threaten the safety and the rights of the city. She is trained in reading the law. She said there are no rights of appeal beyond 35 days which expires tomorrow. She believes there is time to file an appeal. She wants her representatives to be able to challenge legal permitting of burning medical waste. Believes it can be interpreted that the City is prohibited from challenging the existing operations. She was concerned about stipulation 5 and that all licenses deemed necessary or reasonably desirable will be granted by the City.

Tom Connair, Ward 2, said the intent was not to give the "green light." The intent is not to give away any inherent statutory authority. There will be no harm done in clarifying what the intent was. The intent was not to give Wheelabrator the right to double its capacity or burn tires or medical waste, which is controlled in Concord. Clarification is important. This is a done deal. The appeal period is 30 days from the date of the order. He is concerned and believes that Claremont should retest the soil and test the air.

Jacqueline Elliott, Ward 1, said this public hearing is a "day late and a dollar short." She considers it an insult. She questioned if there is a legal issue under the posting requirements of the law relative to public hearings. She asked if public comment had been allowed at the September meeting, if the Council would have voted differently on the Wheelabrator settlement agreement. She questioned which Mr. Regan was present: the one who voted for the Wheelabrator settlement or the one who signed the petition raising concerns about the agreement. She feels the agreement was written by Wheelabrator's lawyers and the City

Manager signed it. She questioned Mr. Santagate's credentials for negotiations. She disagreed with Mayor Pope's opening statement. The clause that binds the City in the future from interfering with Wheelabrator's "use and quiet enjoyment of their property" ensures the City will end up in court if we raise any questions or objections about Wheelabrator's operations. She believes the City should rethink the settlement agreement. She stated that in 2006, Wheelabrator Claremont Co., LP was granted five 10-year extensions to operate the incinerator by Wheelabrator. In 2005, the City could have controlled all but the four acres the Wheelabrator incinerator sits on and that would likely have included the City's needed access to abutting economic development property. She hopes voters' memories do not fail them in November.

Judith Moriarty, Sugar River Drive, called this a Mrs. O'Leary's syndrome-type of hearing (after the fact). She agreed with Mr. Connair that this is signed, sealed and delivered. She questioned if the Council had voted no on September 12th, would the settlement have been null and void. She doesn't believe that clarification now would be effective. She is concerned about the vagary of complementary businesses (burning tires, dead cows, nuclear fuel rods, etc.) and that we would have nothing to say about them. She is concerned about easements in the contract and that citizens are left out of the discourse. She said we could have had the property for \$285,000 and been able to control the acreage, but now we don't have anything.

Susan Doody, Ward 2, is disappointed with the agreement. She said the City had an opportunity to purchase the land surrounding the incinerator twice and we could have controlled their expansion. There was the ECON deal and then the eminent domain process. The incinerator burns 200 tons of trash a day (not all from New Hampshire). There is no lack of trash. She believes we got legally screwed again. When a zoning ordinance was passed she said the public input was after the fact. She said there was not enough "teeth" in it so it was supposed to come up again in February, but that didn't happen. The signatures on the petition demonstrate citizens are concerned regarding the settlement. She stated a written clarification would have no binding effect. She asked Ms. Taylor if this agreement has tied the City's hands around Wheelabrator's operations.

Mayor Pope recognized Katie Lajoie from Charlestown.

Ms. Lajoie believes the Council can rectify the agreement with a written statement. She urged the Council to rescind the vote. She is a public health nurse and has been involved with the incinerator. She supports efforts to close the incinerator. She referenced a September 19th letter she sent to the City Council. She said compliance with a waste permit does not protect the public because there are no safe levels of dioxin, mercury and lead. The settlement prohibits the City from interfering and that is hard to understand. She doesn't understand about parcel A and parcel B being conforming lots. She referred to an earlier petition to study and develop safe alternatives to the incinerator and a 2006 statement from 35 health care professionals calling for closure of the incinerator. She wants the City to make clear it won't tie the hands of present and future representatives of Claremont. The City must not give Wheelabrator a permanent green light and in her view, the settlement comes dangerously close to doing that.

Bernie Folta, Ward 3, said he is a process guy and he made some observations (political and legal). Political – sometimes people with a passionate desire to see a change, in their passion, become a single issue or groups. Passionate activism is a sign of vitality. However, it

sometimes does diminish from the content of the message. Legal – the City can state what it believes is its interpretation of the settlement, but if Wheelabrator doesn't agree, they will go to court.

James Contois read a statement from Rebecca MacKenzie. It mentioned the Waste Action Collaborative which includes the Sullivan County initiative to look at the feasibility of building a materials recovery facility, an educational campaign to reduce waste, establish a process for organic materials recycling, a plan for creating a reuse project for construction and demolition debris, a permanent household hazardous waste facility and an environmentally friendlier way of managing waste. He stated anytime we can make Wheelabrator unnecessary through recycling we should do it. We need to educate citizens about recycling and make recycling a way of the future. He asked the Council to take a lead position to educate.

Ellen Nielsen, House Representative, said she lives ½ mile from the incinerator. Today she saw a big plume of smoke from the incinerator and doesn't know what was in the smoke. She thinks it's time (in more ways than one) to clear the air.

Mayor Pope closed the public hearing.

Ms. Cutts said she ultimately would have voted for the settlement. She asked Ms. Taylor, in reference to Mr. Connair's letter, have we given up our rights to speak against the incinerator.

Mr. Austin said he was caught up in the excitement of winning the eminent domain case and he may have overlooked some issues. He would like clarification from City staff.

Mr. Regan said he didn't read the agreement, but followed the City Manager's recommendations. The paper was signed on September 6th, but given to the Council on the 12th and that makes him uncomfortable.

Mr. Regan would like to readdress the public forum situation at the next meeting. He agrees with the public that we should have had a more transparent presentation of the document. He questioned if we have a window of opportunity to revisit clarification of the statement; are we bound by what's in front of us; and what are our options.

Mr. Swift said he did read this. Every word in the English language has multiple definitions, so the likelihood of getting a perfect document is zero. He is in favor of clarification. Knowing what he knows now, he wouldn't change his vote of that night.

Mr. Corey noted he has been on the Council only two months. He took his cue from Mr. Santagate. He said Mr. Santagate said he believed we made the best deal that we could make with the circumstances that we have. We are up against a tough competitor and he felt that Mr. Santagate had made the best decision without costing an enormous amount of time, money and resources. He would like clarification. He has a lot of confidence in Mr. Santagate and he would like to believe the efforts made were in the best interest of the City. The Council will do its best for the City of Claremont.

Ms. Bopp said she is not for Wheelabrator. She doesn't want them in the city, but they have a 50-year lease and we can't get them out. Their emissions are below what is allowed. She believes what we got is in the best interest of Claremont. She did read the agreement. She will sign a letter of intent, but she believes that future Councils won't be legally bound by it.

Ms. Taylor addressed language issues and gave background of the negotiation process and Council involvement. Consultation With Legal Counsel is not a meeting as defined by the New Hampshire statutes and is primarily to discuss pending litigation with the Council; no minutes are taken and there is attorney/client privilege so you can have a free-flowing discussion. Since 2005, she has had numerous Consultations with Legal Counsel with the Council on this specific issue. When settlement was broached, the Council was updated in a Consultation session. In August, the Council members were given and discussed the basic proposed settlement terms and gave a consensus to continue negotiations. Certain components of the proposed settlement fell apart, primarily having to do with the PILOT; we wanted 5 years guaranteed payments and Wheelabrator said 3. We went to court and while in recess, Wheelabrator asked the City Manager if he wanted to continue discussions. At the start of the negotiations, Wheelabrator had a list of things they wanted that are not in this agreement and we had very little extra that we wanted that is not in this agreement. In response to questions as to the City Manager's authority to settle the matter, under the Charter and State law, the City Manager does have the authority to negotiate settlements of litigation. It is clear that the Council was kept up to date on all developments as they occurred. The final settlement was in the September 12th Council packets. The Council was asked to vote on whether or not it was willing to convey out land that was one part of the Settlement Agreement. As a result of the eminent domain action, we owned the land. As part of the settlement agreement, the Council needed to vote on whether or not it would authorize the reconveyance of some of the land to Wheelabrator. As far as any appeal rights, under the Superior and Supreme Court rules, when the judge signed, it was entered on September 6th. The clock on appeal rights ran from September 6th for 30 days. That right applies to the City or Wheelabrator or perhaps one of Wheelabrator's bond holders. The right does not extend to an interested Claremont resident. The right to appeal is not automatic. In her opinion, (she double-checked with Attorney Morris) the appeal time has passed. As for the 35 days referenced in the settlement agreement, that refers to the time during which the parties are implementing what is in the agreement. We agreed that Wheelabrator would pay for surveying of the 9.1 acres and we are waiting for that survey.

As to the settlement agreement itself, it was collaborative. She was there and it was not written solely by Wheelabrator's attorneys. Ms. Taylor addressed some of the specific questions raised.

"Quiet enjoyment" is a legal term of art. Violation of quiet enjoyment involves trespass on or creating a nuisance that affects an owner's property. It is not a violation of quiet enjoyment to enforce laws or regulations. It means you have the right to use your property without unlawful interference.

In Section 5 there was concern as to the existing parcel; that we have given up all rights to dispute their use. She believes that is related to the quiet enjoyment issue. It is only if Wheelabrator is in compliance with all licenses, permits and authorizations. We will grant only what is within Claremont's jurisdiction to grant. We have no control over what the State or Federal grants. The City has agreed to grant the license, permits and other authorizations for

their existing facility, subject to their compliance. We have control over things like building permits. Part B, we fought very hard for and Wheelabrator wanted to be excused from complying with our local rules and zoning ordinances, but we said no. She insisted during negotiations that if they build anything new, they have to comply with local zoning, and building codes. We don't have the authority to shut Wheelabrator down. We can't stop them from applying for permits or using the land in a manner for which it is zoned. In the second paragraph of Section 5, we are limited to applications over which the City has jurisdiction.

Conforming lots – this is a legal detail. Currently the 4.1 acres is a conforming lot (grandfathered, pre-existing). However, when the City owns the access road, under State law, RSA 674:41, it becomes a landlocked parcel. Because of that, they would not be able to operate there. So what this does, until we lay the road out as a public way, it is an easement; we have to allow them to exist and to have access to their property. The 51 acres is 1 lot. The City is not required to follow sub-division laws or site plan reviews. Every project the City has undertaken, and what she has had contact with, has followed all local site plan and sub-division rules. To get this settlement done, we are making an exception and are subdividing out the land conveyed back to Wheelabrator. Once the legal work is filed, parcels A and B will be merged.

Waiving the rights of appeal – unless you agree to waive your right of appeal on this litigation, there is no point to do the settlement. This is *not* unusual language. A judge will not approve unless you do include it.

Item 14 was intended to define “city.” It is a standard definition.

Item 15, binding of successors and assigns – that cuts both ways. This language binds Wheelabrator Claremont Company LP and Wheelabrator Claremont Inc., collectively as Wheelabrator, and all future corporate entities that have the right to act on its behalf so they could not get out from under this agreement by conveying it out to a related corporate entity. It does not mean the City cannot revise its zoning or oppose an application. It does mean that if the facility is sold to another corporate entity, they are still bound to pay us the \$375,000 per year for 5 years. They are still bound to come and observe our review processes and our local boards and commissions for anything they might want to build. That provision protects the City.

Mr. Santagate thanked Tom Connair for working pro bono. He has great admiration for Mr. Connair. We are mostly on the “same page.” Mr. Santagate commended local people who were present. They are responsible for what oversight there has been of Wheelabrator. He supports that oversight. He clarified that the City does not have the authority to shut down Wheelabrator. On the public relations side, it is a bad image for us. He reminded the Council of the events leading up to the eminent domain action. ECON, the development arm of Newport, tried to “pick our pockets.” Newport was to receive the 40 acres on Grissom Lane for \$1 and then sell it to Claremont for \$283,000 (at that time, we did not know Wheelabrator had the first right of refusal), so they could use that money for development in Newport. The other part of the deal that no one speaks about is the access road. It's the only access to the 44 acres or to Wheelabrator. If Wheelabrator controlled the access road, they could say no to development of the 150 acres that the City owns behind that land and the 44 acres in question.

\$1.4 million was moved out of the Project to Newport for closing the landfill and then an additional almost \$300,000 nearly had been moved over to Newport. When Newport, the Project and Wheelabrator got through doing business, Wheelabrator owned all 51 acres. We wanted that land for a possible future transfer station and/or city yard. So, we took eminent domain action and we ended up with approximately 39 acres of the 51 and we own the access road. There is a parcel in between that is privately owned and we think we can negotiate with them to reach our 150 acres which gives us access to 200 acres of land with this deal. We proposed Wheelabrator they pay \$375,000 each year for 5 years. They wanted 3 years which led to a negotiation. They wanted language guaranteeing no eminent domain again. We said no and that led to a discussion about the wording which led to the term quiet enjoyment. At a certain point, he said he was concerned the deal was falling apart and he was willing to settle for language less restrictive, but Ms. Taylor wanted stronger language. Wheelabrator wanted the City to agree to support any permit they apply for, but the language in the agreement says they would not be treated any differently than any other business permits. Mr. Santagate wanted it entered as a court ruling so Wheelabrator could not get out of the deal. He thinks it's the best deal we can expect.

Mr. Santagate explained that when the Project sold the property to Wheelabrator, and before we took eminent domain, Wheelabrator owned the property. They negotiated a deal to allow the incinerator to operate for five 10-year extensions.

Ms. Cutts said she did read the agreement before voting on it. This is not an issue with the Mr. Santagate or Ms. Taylor; it is an issue with the rest of the Council. She feels we need more collaboration and input. Her fear is that 20 years ago this city joined with the incinerator because we did not have a say in it. She believes we got a good deal with this agreement. She asked if we learn that the incinerator poses a greater health risk than originally thought, have we waived our legal rights to challenge the plant's continued operation in court. Ms. Taylor said that if the City feels that Wheelabrator is not in compliance with local, State or Federal law, rule or regulation, we have not waived our right to question compliance issues. As to the current facility, we cannot refuse them a building permit or water/sewer permit (whatever we have local control over) as long as they are within compliance with requirements.

Mr. Regan said last fall the Council passed a zoning ordinance referring to the industrial zone. It does not allow smoke stack industries. He asked if that would protect us against the next step of incineration including bio hazards, construction debris and tires. Ms. Taylor said as to the existing facility, if Wheelabrator wants to change what they are burning, that is a State issue. If they want to do something with the current facility, she suspects it would be grandfathered, but if they want to build on the additional 5 acres, it is her opinion that they are not grandfathered and would have to comply with zoning ordinances.

Mr. Regan asked about what is implied by complementary businesses and activities. Ms. Taylor said currently they are using the end of the access road for storage, dumpsters and tractor trailers. Now that we own it, they cannot do it anymore. One issue Wheelabrator mentioned is they need a place to put that stuff and that is the only information they have shared with us. It is clear that whatever they do put on the additional 5 acres would have to comply with the zoning laws.

Mr. Prozzo thanked everyone for their input and commented that it is easy to be an armchair quarterback now. We could have gone to court with an uncertain result. We do not know what would have happened. We got the best deal for the City that we could.

Ms. Cutts asked to add a date to the motion. Mayor Pope asked if it can be done by the next meeting. Ms. Taylor said she will try to have it for the regular November 14th Council meeting.

Ms. Bopp commended the citizens who spoke for standing up.

Roll Call Vote: Motion carried 9-0.

CITIZEN'S FORUM

Cheryl Jones, Ward 2, 130 Maple Avenue, said last month she had asked a question. She said no one contacted her, she is upset and she took it to Governor Lynch. She said the Assessor may be in deep "doo doo." She said Mr. Santagate mentioned he will keep the City budget at zero, but the Council gave him a heck of a raise. She does not think he is worth it. She made a disparaging remark about people from Massachusetts. She said Mr. Santagate has requested an assistant. She believes that asking for an assistant means he cannot do his own job; he needs help. She said right now there are more houses for sale in Claremont than ever and she faults the 2006 revaluation.

Jacqueline Elliott, Ward 1, talked about Ice River Springs coming to Claremont. She said she is for economic development for the community. Ice River Springs is not publicly owned and that removes them from a lot of scrutiny. She is concerned they could "pirate" the municipal water supply and drill into the aquifer. Their proposal to manufacture plastic bottles and caps could result in toxic emissions and she said we do not need that. She asked the Council to do its homework, do the research and represent the City's interest.

Robert Woodman, Ward 3, said the Red Water Brook Bridge has been closed and he had budgeted the jersey barriers so people could walk and ride bikes over Red Water Brook. He got tired of doing it so he asked the Public Works Director about moving the barricades apart enough so people could get through. They did and he thanked the folks at Public Works for doing that.

Susan Doody, Ward 2, commented about Claremont's image. An article in the Valley News tells people what a garbage city Claremont is. This press will not bring families to Claremont. There is a lot of trash and it comes from all over. The health of our community is at stake. She said trash incineration is not healthy. The consequences will be devastating. She said we need to try to ban incineration in New Hampshire. She referred to Bethlehem, New Hampshire, saying that it has been turned into a garbage scow.

NEW BUSINESS Cont'd

Authorize Multi-Year Ambulance Agreement

Fire Chief Peter Chase said he had talked to four companies and two proposals were received: Care Plus for \$110,000 per year and Golden Cross for \$84,000 for the first year and \$76,000 for the next two years. Each year for the last eight years, Golden Cross' price has gone down. They provide emergency medical services. We average 2,700 medical calls a year. They provide excellent service and offer the best value for the City of Claremont.

Mr. Santagate said it is unusual to get superior service and low prices. He thinks this is a great opportunity for the City. Chief Chase said, for comparison, the City of Berlin pays 2.5 times more per capita.

Mr. Regan, Ms. Bopp, Mr. Irish and Mr. Prozzo spoke in favor of Golden Cross Ambulance.

A motion was made by Mr. Prozzo and seconded by Mr. Regan to enter into a multi-year agreement beginning January 1, 2008, with Golden Cross Ambulance Service, Inc. for providing ambulance service, including emergency medical care and transport, for the City of Claremont. The agreement contains a termination clause in the event of non-appropriation of sufficient funds for the agreement.

Motion carried 9-0.

Mr. Santagate introduced Ed Tinker, new Assessor. He said he has great experience and is a good fit. Welcome on board.

Resolution 2007-18 Stop Sign at Intersection of Grandview & North Streets – Public Hearing

Chief Chase was representing the Traffic Advisory Committee. Coming out from the Public Works area on Grandview Street, there is very limited site distance looking down the hill, but there is no stop sign. The Committee feels it is necessary to post a stop sign at that intersection.

A motion was made by Mr. Regan and seconded by Mr. Irish to adopt Resolution 2007-18 Stop Sign at Intersection of Grandview & North Streets.

Ms. Cutts asked if there had been a sign there before, but there was not. Chief Chase said the Chair of the Traffic Advisory Committee will bundle future requests for stop signs and bring them to the council.

Mayor Pope opened the public hearing. No one spoke. He closed it.

Motion carried 9-0.

Planning/Public Works Update

Bruce Temple, Public Works Director, talked about the pedestrian bridge across the Sugar River. It is a 210 foot long, 10 foot wide, steel bridge. It connects Mill Road to down below the Visitors' Center. It will arrive in four pieces starting Thursday, October 18. It is a truss-type bridge. It will be landscaped on each end, will be handicapped accessible and will be fully lit. On the 1st of November, the wooden deck will arrive. They will work until snow flies and then have a winter shut down. The bridge costs \$1.1 million and there is \$1.3 million in the budget. An additive alternate has been added (new retaining wall, grass and park area). This is an 80/20 split (80 state and federal and 20 City).

Mr. Santagate said the credit for this project goes to former City Manager Bob Porter and Ray Gagnon who, at that time, filed the application for the grant. Mr. Santagate said he is proud of this project. He gave them credit for having the foresight and vision to see the value on the North Street side of the Sugar River. We own 11 acres of land there and this connects the downtown to that area. It adds value. He congratulated the people in Ward 3 for this latest enhancement to their ward that adds value both ways across the Sugar River and he hopes it is called the bridge to Ward 3 and to Downtown. Mr. Temple said it will be lit with decorative lights similar to the mill.

Mr. Austin asked for the anticipated opening. Mr. Temple said late spring or early summer.

Mr. Irish asked what year the project first started. Mr. Santagate said they applied in 1999. Mr. Irish thanked the 1999 Council.

Mr. Regan asked about a May 2008 opening for one of the mills. Mr. Temple was not sure. Red River Computer Company and the mill developers will have a meeting October 30th, 5:30 p.m. at the Teal Room to discuss plans and give an update.

Mr. Temple gave a Powerpoint presentation, beginning with the Planning and Development Department.

Crownpoint Cabinet Opening

Major Expansions

National Field Representatives – moved to Maple Avenue

Thermacut – moved from pleasant to Charlestown Road

Davis Frame – 14,000 sq. ft. building addition

NH Community Technical College – Charlie Puksta Library addition

2007-2008 Construction

Ice River Springs Water Co. – 274,000 sq. ft. on River Road

10:20 p.m. – 10:44 p.m. Recessed for a fire alarm.

Yankee Veneer, Ashley's Landing

Valley Regional Hospital, 32,000 sq. ft. new construction

Adaptive Re-Use

Brown Block, LLC

Tyler Mills, LLC (former Coy Paper)
Monadnock Mills
Base paving and granite curb work done end of November/first of December
Downtown
New Businesses
Esscor Electronics
All Around Towne Photo
Off the Truck Store
Farro's Deli
The Board Room
Monte Verde Glass Studio
Eastern Dinnerware
Unicel
Elaini's Greek Cuisine
Other New Retail
E & D Shoes moved to Washington St.
Solar Store
Dollar Tree
Amcom Wireless/Verizon
Water Street Improvements
Sawtooth Parking Facility
Out to bid Winter 2008
Pedestrian Bridge
Building and Code Enforcement
532 Building Permits Issued to Date
Over 700 Inspections
(Building code officials inspect all Public Works projects)
Planning & Zoning
Master Plan Advisory Committee – 3 public forum meetings
First Chapter of the Master Plan is in Draft Form
Zoning Map Recompiled
Forest Stewardship Plan for 1,340 acres of City-owned property has begun
Claremont Boards & Commissions
24 Boards
144 members plus 48 alternates

Ice River Springs approached the City for City-owned property, but Syd Clarke Park did not have enough parcels to put together. They ended up buying property through a private deal.

Mr. Irish asked for the Powerpoint presentation to be put on the website. He asked if Ice River will come before the Council. Mr. Temple said it will be handled at the Planning Board level.

Mr. Santagate said we want water customers to help pay for the water treatment plant improvements. It is a great fit for jobs, real estate taxes and for a product we want to sell (water).

Mr. Irish asked if Ice River will pay for the water they use. Mr. Temple said yes. Mr. Irish asked how much income they will generate. Mr. Santagate said he will bring back some numbers to the council in November. Mr. Temple said there has been a lot of misconception about what they do. They will bring spring water in from Vermont. At times they will make specialty water and for that, they will buy Claremont water and run it through a filtration system in their plant. DES (NH Department of Environmental Services) handles well water and he is not aware of an application for that.

Mr. Austin asked where this will be. Mr. Temple said it is on Route 12, beyond Davis Frame. It backs up next to Bradford Mills.

Mr. Temple said all Public Works contracts will be completed on time around December 1st, except for Winter Street (next year completion) and PVE, Pleasant Valley Estates, (next year completion).

Mr. Austin complimented Mr. Temple on the work done on Mulberry Street.

Mr. Temple said Public Works put down 5,900 tons of asphalt this summer.

CITY MANAGER REPORT

Mr. Santagate talked about the Open Space Ordinance Committee. Since it was appointed by the Council, he thought that Committee would go back to the Council with a presentation and then the Council could refer them to the Planning Board. If the Committee feels the presentation is ready, he suggested taking it to the Council. Mayor Pope said he understands it has gone to legal review. Mr. Santagate said it has been given to Ms. Taylor and asked if it should go to Matt Upton for his input. He wanted to be clear where this should go. Mr. Regan said the intent was for it to go to independent legal review before going for public comment, then to Planning and to the Council. Mayor Pope said he will have the Chair draw up letter. Mr. Regan said he will talk to Mr. Putnam tomorrow for direction.

FUTURE AGENDA ITEMS AND DIRECTIVES

Mr. Irish passed congratulations to Scott Hausler, Parks and Recreation Director, and all who worked on the Fall Festival/Chili Cook-off. He heard talk of moving it to Broad Street Park. He said keep it downtown.

Ms. Bopp said there are some broken lights on Pleasant Street and asked when they can get fixed.

Ms. Bopp said Main Street is selling engraved bricks for downtown. The cost is per line (\$30/1 line, \$50/2 lines).

Ms. Cutts asked about the Sullivan county MRF (material recycling facility). Mr. Irish said nothing was presented. They are waiting for a document. Mr. Santagate will meet with Mr. Gil de Rubio, County Manager, tomorrow and he will check with him.

COMMITTEE REPORTS

Open Space Ordinance Committee

See above.

Master Plan Committee

Mayor Pope said the first two sections have been presented and now have a two-month review period. There will be one more presentation to the Planning Board. In the near future it will be on CCTV (Claremont Community Television).

Mr. Santagate said there was an issue (use and zoning) that came up at the last meeting. The zoning will be toughest issue. He doesn't want to see the zoning issue left out. Visioning is important. He suggested the Open Space Ordinance Committee should have input on the zoning portion. It will be contentious.

Mr. Regan said the first time the land use map was presented was at the last meeting of the Master Plan Public Forum. The Open Space Ordinance Committee worked on the premise of the existing map. His first impression of the map was absolutely "not." He believed the map should be given to the public for input. Mr. Santagate said usually the less contentious part is handled first. So, he does not want to see this let go.

Mr. Regan would like to propose that at the next meeting, the Council reviews our public forum access and the citizens' ability to visit a current subject on the agenda during Citizens' Forum. He thinks it is a better way to handle to let people speak on a posted agenda item.

Mr. Santagate asked for a consensus of the Council and a letter to send the Open Space Ordinance to Matt Upton. Mr. Prozzo is concerned about the budget for this item. He wants people to know if we are going to do that, it will cost money.

Mr. Irish said we will have to pay Matt Upton and then it will go to Ms. Taylor. He said we do not need another paid consultant. Ms. Cutts agreed with Mr. Irish; Ms. Taylor is paid to give the City legal advice. She thinks it was our error to have her develop the first one. It should have been done by the people now doing it. She endorses it going to Matt Upton.

Mr. Swift thinks it is important to have two views. Mr. Santagate said this is what he heard; you have outside people determining what the Open Space Ordinance should be, but they don't live in the City. Those people were Jane Taylor and Anthony Lyons. He asked if after getting outside opinion, if it goes back to the Committee or to Ms. Taylor for her input. Mr. Regan repeated that the original intent was to take advantage of free legal services the State provided. At the last minute, they found out that service is no longer provided. All along it was their intention to have an independent review.

A motion was made by Mr. Prozzo and seconded by Ms. Cutts to send the document to Matt Upton to see if the wording is legal.

Mr. Irish agreed with Mr. Swift that no two lawyers have the same opinions. It has to come to the City attorney and he asked whose opinion we back.

Ms. Bopp asked why Ms. Taylor cannot do the legalese. She asked why pay another lawyer to do that. Mr. Regan said the Committee agreed an independent review would have no bias.

Mr. Irish asked how much and where the money will come from. Mr. Regan said General Fund.

Mr. Prozzo amended the motion to spend no more than \$2,000. Ms. Cutts seconded.

Amended motion: A motion was made by Mr. Prozzo and seconded by Ms. Cutts to send the document to Matt Upton to see if the wording is legal and to spend no more than \$2,000.

Roll Call Vote: Motion carried 7-2 with Ms. Bopp and Mr. Irish voting no.

Mr. Prozzo suggested moving the discussion about handling hearings to after the first of the year instead of the November meeting so that the new Council can vote on it. Mayor Pope said Council Rules are looked at after the election.

School Reinvestment Committee

None

CONSULTATION WITH LEGAL COUNSEL

None

ADJOURNMENT

At 11:43 p.m., a motion was made by Mr. Prozzo and seconded by Ms. Bopp to adjourn.

Motion carried 9-0.

Respectfully Submitted,

Dorée M. Russell
Clerk to the Council