

~~Unapproved~~ **Approved**
Candia Selectmen's Public Meeting Minutes
Monday, December 1, 2008

Attendance: Chairman Fred Kelley, Vice-Chair Rick Lazott, Selectman Tom Giffen, Selectman Joe Duarte, Selectman Carleton Robie, and Secretary Andria Hansen

7:00 p.m. Chairman Kelley called the Public Meeting to order and immediately followed with the Pledge of Allegiance.

Ed Fowler to discuss the Conservation Commission's proposal to purchase the development rights on Sieminski's property identified as Map 406 Lot 060 and Map 406 Lot 038. CC Chair Fowler stated Neil Sieminski passed in 2004 prior to that he discussed putting his land in a conservation easement. He explained Mrs. Sieminski had recently approached him and was ready to proceed with putting the land in an easement. CC Chair Fowler explained Mrs. Sieminski wanted to put both pieces on North Road in an easement. He told her to get an appraisal to find out the value of the development rights. Mrs. Sieminski used Martha Beasley out of Manchester. CC Chair Fowler was told the land was appraised at \$330,000 to \$350,000. Mrs. Sieminski was willing to sell the development rights for a bargain sale of \$125,000 a 1/3 of what the development rights are worth. He explained the Conservation Commission would like the Town to hold executory interest. He noted the land abuts the Sanders property and backs up to the Deerfield Road parcel. Chairman Kelley asked for the total acres. CC Chair Fowler replied one piece has 28.12 acres and the other has 37 acres approximately 65 acres. Selectman Robie asked how much frontage was on North Road. CC Chair Fowler replied enough for a driveway. Selectman Lazott estimated from looking at the map about 400 to 450 feet. Chairman Kelley asked about the Conservation Committee minutes of the October meeting which stated they were going to wait until after the March vote before proceeding with the Sieminski property. CC Chair Fowler replied it was with the idea we wouldn't hold executory interest (with SB 381). Selectman Lazott stated he had a problem with the land being posted for 25 years and now they want \$125,000 for people to use it. Selectman Duarte asked if the land was in current use. CC Chair Fowler stated yes. Selectman Duarte stated it has been subsidized through out this period and now we want to put an easement on it. He further stated now the Town will never get a chance to recoup that money. The other thing he had a problem with is any time the Town finds a piece of property, the Town should have a chance own it. Selectman Duarte stated he was told deed restrictions were not the same as an easement, however the DES told him different. They told him deed restrictions were the same as an easement. CC Chair Fowler stated he understood that deed restrictions could be broken. Selectman Duarte replied the State told him if the Town owns that property they have more control over what happens with the property. For example, if Bear Paw holds the easement they have no idea what they will do with the property. Selectman Duarte further stated a deed restriction would be more attractive and he would be more inclined to listen to any proposal the Conservation Commission presents. He further stated that he was in favor of deed restrictions and was going with the States advice. CC Chair Fowler replied that Selectman Duarte mentioned taxes and current use does provide the same

level of taxes. However, if you talk about the Town owning the land there are no taxes being paid to the Town. CC Chair Fowler replied if the landowner put an easement on the land and kept it in current use they would pay the taxes on it, if the Town owned it they would not get the taxes. Selectman Duarte stated if we put the land in an easement we take out the ability for the taxpayers to recoup the difference in taxes they have been paying for years. CC Chair Fowler stated there have been many studies done in other Towns that show if you put house lots on a piece of land you will not recover the money from taxes that it will cost you in services. The Town would recover more if the land were in a conservation easement. Selectman Robie felt that statement was false. He further stated especially in Candia, because this community hasn't grown enough. Selectman Robie explained he has built approximately 20 homes in Town in the last 10 years and maybe 8 children have used the school system in Candia. Selectman Robie questioned CC Chair Fowler about the Sanders easement and thought the Selectmen were going to have a say on the language. CC Chair Fowler replied he has not seen a draft of the easement. Selectman Robie stated he has some thoughts and ideas on what he would like in the easement. CC Chair Fowler stated they would hold a public hearing for all who are interested to discuss that conservation easement, when they have a draft. Selectman Robie stated instead of putting 40 acres in an easement put 30 acres and get the current use penalty out of a couple of house lots (approximately \$13,000 per lot). He further stated the last couple of times they have talked about purchasing development rights it has been at a bargain price, but with the economy the way it is \$125,000 was not a bargain price. CC Chair Fowler stated he has to go with what it was appraised for. Selectman Robie replied you could get an appraisal anywhere, anyone can pull a number out of the air. He further stated we are taking a deflation in land value and we should keep that in mind. Selectman Robie thought they should see the draft easement on the Sanders property before they made any decision on the Sieminski property. He asked CC Chair Fowler if this was a done deal. CC Chair Fowler replied no and they still haven't established who the easement holder would be. Mrs. Sieminski was leaning towards Bear Paw. Betsy Kruse of the Conservation Commission explained the difference between a deed restriction and an easement. She explained a deed restriction was just as legal as an easement, but no one will monitor deed-restricted land. Land that is in a conservation easement has to be monitored annually by nature of the contract. Selectman Duarte asked out of all the easements in Town does Bear Paw have the right to transfer them to anyone else. Betsy Kruse replied not unless Bear Paw discontinues being an entity. Selectman Duarte asked if that was yes or no. CC Chair Fowler explained the only time it could be done is if Bear Paw disbanded as an organization. Betsy Kruse further explained it has to go to another qualified organization; it just can't go to any organization. CC Chair Fowler stated if the Town holds executory interest they would be the next easement holder and if they didn't want to monitor the easement they would search for another easement holder. Selectman Duarte stated again that deed restrictions are the same as conservation easements, but with a deed restriction the Town would have more control. Betsy Kruse readdressed the recouping taxes issue. She stated when you have residential development the houses do not pay enough in taxes to send the children to school. It cost \$10,000 to \$12,000 to educate a child. She further stated even though you have land in current use that is taxed at a lower rate, the taxes don't pay for the services (i.e. police, educating children, etc.). The money goes to the general fund which

helps subsidize residential development. So the people who don't have children in Town help subsidize the people whose children go to school. We are not subsidizing the land, because the open space is not taking anything from the Town. Road Agent Lewis explained 25 years ago he bought 70 acres of land in Town and with it came a deed restriction stating it couldn't be developed. In 1991 the Town got revealed, when they did they taxed every bit of his road frontage. At the time he argued his tax bill with the Town and showed his deed restriction to the appraiser. The Town told him that deed restrictions are worthless and any good lawyer could break it. So he was forced to put his land in current use, because he was being taxed for 4 or 5 house lots. Selectman Lazott stated the opinion the Board received from Atty. Mayer was that deed restrictions were very much like an easement. Tom DiMaggio of North Road clarified a number of years ago he, Neil, and their neighbor asked the Town to post some of the land as "shot gun only" and the Selectmen told them no. As a result, they posted their property for safety purposes. The land was always open until the Selectmen told them they couldn't have "shot gun only" in that area. Mr. DiMaggio stated it wasn't their fault for posting the property when it was the Selectmen at the time that forced them to do so. Selectman Lazott replied he was involved when this went to the State Legislator to change the Town of Candia to "shot gun only". First, they never asked the citizens how they felt about it; therefore it was ruled inexpedient at the legislative level. The Selectmen do not have the right to set any regulations (for fish and game, etc.). Mr. DiMaggio stated that's why it's posted and if anyone wants to hunt the property all they have to do is ask. He stated that Selectman Lazott could take the blame. Selectman Lazott stated he had no problem with that, the reason he fought it was because they were trying to do something the Town didn't approve. Mr. DiMaggio replied they were trying to do it for safety sake and weren't trying to shut the property down. Selectman Giffen explained they have a goal in Candia to protect the natural resources in Town through the Conservation Commission. In this particular case their goal is to protect the land and the wildlife. He explained there are a couple of different ways you can do this. The first is to buy the land and put a deed restriction on it and the other is to put an easement on the property. The cheapest way is to buy the easement; it costs less money to buy an easement than to buy the whole property. So the goal is to protect the land and do it the cheapest way possible. The other advantage to an easement is the property remains on the tax rolls. It demands very little in the way of Town services. If the Town takes executory interest in the easement it will gain value in other ways. It maintains the Town's rural character even though you can't put a dollar value on it. You can gain use of the property (i.e. walking the trails, hiking, etc.). Selectman Giffen further explained a deed restriction would impose a burden on the property owner, whatever the deed language may be. It doesn't impose an enforcement mechanism the same way an easement does. An easement has a contractual agreement typically an easement holder (i.e. Bear Paw) has an obligation to monitor the easement language and to make sure the easement is enforced. This has a lot more teeth than having no third party enforcement, as in a deed restriction. Selectman Giffen concluded by saying he felt this was a good proposal. Selectman Lazott stated if the land is put in an easement and it changes hands in 10 or 15 years who's to say the easement can't be broken. He further stated that he didn't believe that an easement could never be broken. CC Chair Fowler replied most Attorneys who deal with easements say they can't be broken. Selectman Lazott stated in 10 to 15 years you don't know what the judges and

courts will bring down. The Supreme Court changes things year after year. Selectman Giffen stated an easement could be broken by eminent domain. For example, if the Town was all built out and they needed to build a school and the only land available was in an easement the Town could take it legally by eminent domain. Selectman Duarte read from RSA 477:45. Selectman Giffen agreed with Selectman Duarte that a deed restriction has the same effective purpose in imposing a restriction, the only problem is that it lacks enforcement. Road Agent Lewis noted he put his land in current use because a deed restriction didn't work for him. Dick Snow of Depot Road stated a deed restriction takes place between a buyer and a seller; the conservation commission is not selling anything. The Conservation Commission is not selling something they can't put a deed restriction on because they are not placing the deed. Selectman Duarte stated we're buying the land. Dick Snow stated the land would still belong to the Sieminski heirs; all the Conservation Committee is doing is putting an easement on the property. Selectman Duarte stated the land use change tax is in place so money comes back to the Town. If you have a piece of property and you change it over you are going to pay a penalty, this was designed to offset what the taxpayers in Town have been paying. Unfortunately, all of that money has been going to the Conservation Commission. Betsy Kruse explained that an easement is like a contract and it is a legal document that's expected to be upheld and if not you then you have recourse. Tom St. Martin of Currier Road asked what the mechanism was to get a deed restriction and is it something that can only be enforced. Selectman Giffen replied it was his understanding that a deed restriction takes place between a buyer and a seller. The seller wishes to have a condition imposed on the land and the buyer has to agree to it, then a restriction is placed upon it at the time of sale. Tom St. Martin asked the Board if they would prefer to buy the land out right instead of putting it in a conservation easement. Selectman Giffen stated he would prefer not because it would take the property off the tax roll permanently. Selectman Lazott stated he would rather see the Town own it, because they would have control over it. Selectman Duarte would like to look into it more possibly talk to the LGC and Atty. Mayer. He would like to do what's in the best interest of the Town. Selectman Lazott stated he didn't think you have to buy or sell a piece of land to put a deed restriction on it. If a person owns a piece of property they have the right to put a deed restriction on it. Elizabeth Sandborn of Chester Road stated she has a piece of land that is in a conservation easement. The Rockingham County Soil Conservation holds their easement. They signed a contract on what they agreed to and Rockingham County Soil Conservation monitors their land yearly. If they have done anything different to the land they are in trouble. Judi Lindsey of the Conservation Commission stated this is a great opportunity to connect a bunch of unfragmented land. She stated some of her land is in current use and some of it is in an easement. Someday when she is gone her house lot will be sold, but the rest of her land will always remain in open space. Tom DiMaggio of North Road stated this is a great opportunity like the Sanders property and we should look at the future. He would give people permission to use the back part of his property. This is an opportunity most Towns don't have. Selectman Giffen noted they have a provisional appraisal, but they may get an appraisal for a lower amount. It would be to the Town's advantage to buy when the market is low. Chairman Kelley asked what the Board would like to do. Selectman Lazott stated he wanted to wait until he saw a draft easement on the Sanders property. Selectman Robie agreed and would like to have some input on the language of

the Sanders easement. He also would like to see a study done on the impact of houses and our families in this Town. He felt a lot of families with young children do not send them to school in Town. Selectman Robie stated the taxpayers do subsidize current use no matter how you look at it. He noted as a Town we haven't developed and we need to provide affordable housing. CC Chair Fowler stated most of the houses being built today are not affordable. Selectman Robie stated he would like to see some facts on taxes from houses being built and the effect on the community. CC Chair Fowler stated they could perform a cost of community services analysis for the Town of Candia. Selectman Robie added he didn't think more homes impact the taxes as much as you would think they do. Selectman Duarte contacted David Preece of Southern New Hampshire Planning Commission to try to get some figures on Candia regarding the tax situation. He stated they weren't able to give him information on how they stacked up from Town to Town. Selectman Duarte noted he agreed with Selectman Lazott and Selectman Robie and would like to wait to see how the Sanders easement was written up. Selectman Giffen stated the stats vary from one Town to another. There was further discussion on about current use penalties, taxes, etc. Selectman Giffen thought the Board was not ready to make a decision and they might be interested in having a motion to establish the next step. *Selectman Duarte moved that CC Chair Fowler send the Selectmen a copy of the Sanders draft easement for review prior to the public hearing and table discussions until the information is received. Seconded by Selectman Robie.* There was some further discussion about the draft easement. Selectman Giffen stated if the Board wanted to look at a sample easement they could look at Liquid Planets. CC Chair Fowler stated he would get the Board a copy of the draft easement before the public hearing. CC Chair Fowler noted the public hearing would not be until after the first of the year. Secretary Hansen read back the motion. *All were in favor. Motion carried.*

Departmental Reports: Highway, Police, Fire, Building, Solid Waste & any other depts.

Highway: Road Agent Lewis read from the attached report.

Police: Selectman Lazott read from the attached report.

Fire: Fire Chief Cartier read from the attached report. Fire Chief Cartier noted the department was working on vaccinations and DOT physicals. Those should be completed by the end of the month. Fire Chief Cartier stated he did a ventilation study at the department. He noted there are no standards for ventilation in fire stations. He will be installing a single fan and do a few things with the doors to segregate the apparatus area from the rest of the station. It will cost approximately \$600. This should satisfy the Department of Labors concerns with the ventilation issues. Selectman Giffen noted they have advised all department heads to avoid any and all expenditures until after the end of the year due to the Highway Departments budget. He explained \$600 doesn't seem like a lot of money but we are scraping for pennies right now. Fire Chief Cartier explained last year they had to supplement the budget and Selectmen did not allow them to spend \$6,000 last year, but they are behind on some things. Selectman Giffen replied we are fully expended and we have a month to go. Fire Chief Cartier stated they have

obligations and he is working with Road Agent Lewis to try to reduce the cost of some projects. Selectman Giffen asked if any of the obligations could be put off. Fire Chief Cartier replied they are behind the eight ball on many obligations and was hoping certain organizations don't audit them. Selectman Giffen stated he was not advising him to do anything unsafe, but try to put off as much as possible until after January 1st. Fire Chief Cartier stated he would try but he is 2 years behind on some things. He added he will not compromise the safety of his fire fighters. Selectman Lazott mentioned there has been fire fighters at the station until the early hours of the morning and would like to set hours. *Selectman Lazott moved to shut down the fire station from 10:00 pm to 6:00 am to save money on the electric and fuel lines.* Fire Chief Cartier stated that would not save any money. He further stated with the guys staffing the fire station last month he was still able to save \$100 on the electric bill and he still had excellent coverage. Fire Chief Cartier explained he was working on a station coverage policy that takes into account cost effectiveness. He noted the fire fighters are mindful of the temperature in the station and there are no visitors after 11:00 pm. Selectman Lazott stated they should check with Primex and the Department of Labor for the overnight coverage issue. Fire Chief Cartier replied he has looked into it and overnight coverage is a very standard practice. Selectman Lazott stated the fire station is a Town building, therefore any kind of hourly schedule needs to be brought to the Board. Selectman Duarte stated he has worked with the Fire Chief on this and they do need to have a procedure. Selectman Giffen asked the Fire Chief if he has any significant expenditures (over \$1,000) to run it by the Board. Fire Chief noted the engine 3 pump will need to be replaced for approximately \$5,000 and he has already signed the contract to have it fixed. Selectman Giffen asked what the time line was on this project. Fire Chief Cartier stated they were sending it off on Wednesday and it should take about 2 weeks. Selectman Giffen asked if the commitment were to be deferred would there be a cost associated with it. Fire Chief Cartier replied he wouldn't sleep well at night; this truck is strictly for water supply. The other big expense is the vaccination and the drivers' physicals. The vaccinations will cost approximately \$1,800. Selectman Giffen asked after the planned expenditures how much money could the fire department contribute to the budget. Fire Chief Cartier replied zero. Selectman Robie asked the Fire Chief where the fire truck was going on Saturday night about 5:00 p.m. He stated the truck was traveling at a high rate of speed and felt this was intolerable. Fire Chief Cartier advised Selectman Robie to call his cell phone the next time this happens. Selectman Robie stated if the fire truck goes down the hill that fast again he'll go other places than his cell phone. Fire Chief Cartier stated he should be informed earlier than 3 days after it happened. He noted the SOP for driving allows a vehicle going to an emergency call to exceed the speed limit by 10 mph with due regard for safety. Selectman Robie replied the truck was going way over 10 mph and on that hill it is very dangerous. Selectman Giffen stated he happen to be leaving his house right around the same time and notice the truck traveling at a high rate of speed and if he had to guess it was 10 mph over the limit. *Selectman Lazott's motion failed due to lack of a second.*

Fire Department Update: Fire Chief Cartier mentioned they have started an orientation manual for all the fire fighters. It's not a standard operating procedure or guideline, but it is what is expected of a professional fire fighter. He noted the AmeriCorp invoice should

be in with in the week and should be taken care of by the end of the month. The HMEP grant should be coming in within the next week or two. There was some more discussion on the ventilation system. Fire Chief Cartier asked the Board to check out the Candia Fire Department website, there is a lot of information on there and it's always changing. He mentioned they will be having quarterly meetings in which Selectman Duarte will be attending.

Building Department: Selectman Lazott read from the attached report. Building Inspector Hall has been working hard on a couple of code enforcement cases. Selectman Lazott mentioned Building Inspector Hallock has agreed to take Fridays off in order to save the tax payers some money, which results in a 10% cut in pay. It works out to be a savings of \$400 per month. Selectman Lazott motioned to change Building Inspector Hallock's hours from 40 hours per week to 36 hours per week (Fridays off) effective as soon as possible and no later than January 1st, 2009. Seconded by Chairman Kelley. All were in favor. Motion carried.

Solid Waste: Selectman Duarte stated they have decided to hold on to recyclables and store it in bins until spring. They are expecting the market will come back up in the spring. Chairman Kelley noted he was offered a trailer for free. It's over 40 ft and the Town would have to haul it. He noted he was sending Facility Operator Chuck Whitcher to look at it. Chairman Kelley mentioned he has received a letter from Al Couch who would like to step in as Chairman, as Paul McHugh has resigned. Selectman Lazott motioned to assign Al Couch as Chairman of the Solid Waste Committee effective December 1st. Seconded by Selectman Robie. All were in favor. Motion carried. Selectman Duarte thanked Paul McHugh for all of the hard work he has done for the community and would like a letter of gratitude sent from the Board. Selectman Giffen thanked Paul for the incredible work he has done.

Heritage Committee appointment: Selectman Robie moved to appoint Carol Howe as an alternate to the Heritage Committee. Seconded by Selectman Lazott. All were in favor. Motion carried.

Approval of Previous Minutes: Public meeting minutes and Non Public minutes of 11/17/08. Selectman Giffen moved to accept the public and non public meeting minutes of November 17th, 2008. Selectman Robie stated he wanted to discuss the vote on some of the articles. **Discussion on vote from prior meeting:** *Selectman Giffen moved to reconsider the vote of November 17th concerning Warrant Article #23 regarding the recommendation by the Board of Selectman and moved for discussion that the Selectmen recommend Article #23. Seconded for discussion by Selectman Duarte.* Selectman Duarte asked why they were discussing this again and was there a discrepancy. Secretary Hansen stated she and Selectmen's Assistant Chabot compared notes and listened to the tape (from the 11/17 meeting). Their notes reflect that the Selectmen were in favor of putting this article by their request on the warrant. Selectman Giffen stated his memory supports the minutes and is fine with the way it is written. Selectman Robie and Selectman Lazott stated they don't remember it that way. Selectman Robie stated we voted to let the Fire Department put this article on the warrant. He thought the Board

may have gotten confused. Selectman Robie stated he has a problem with having to cast his vote 3 months before the election. Fire Chief Cartier noted there was a slight difference; the Board was not recommending the article. It was by the request of, not recommending. Selectman Robie replied he didn't have a problem with the Fire Chief putting that in as an article. He further stated he can't vote yes as a Selectman and go in the booth and vote no, because he is not in favor of it. Selectman Robie stated he was not in favor of putting by the request of the Selectmen. He added we shouldn't have it in two places. Fire Chief Cartier stated it would that be the same as CYAA, where that article is also by the request of the Selectman. Fire Chief Cartier noted he didn't see it as casting a vote. Selectman Robie stated the way the Selectmen voted is written wrong. Selectman Giffen clarified you thought you were voting on something different than what I thought I was voting on. Selectman Robie replied that may be true. Selectman Giffen stated when he votes to make a recommendation; he feels he is making a good management decision for the Town. Selectman Robie felt they shouldn't have to vote in public. Selectman Giffen replied they do it all the time. Selectman Lazott stated sometimes people will vote a certain way because it says by the request of the Selectmen. *Selectman Lazott moved to remove "by the request of the Selectmen" from Article #23.* Todd Allen of Palmer Road stated you should remove "by the request" of on all of them or none of them. Joann Beckwith noted that people do tend to vote with what the Selectmen recommend. Dan Garthwaite of Critchett Road asked if there was any local media outlet and is this the only endorsement the voters get. Selectman Robie clarified this is not televised, Candia is a small Town. There was further lengthy discussion on if the Board recommends this article. Chairman Kelley stated he had no problem with the Fire Chief putting this on the warrant, but he wasn't in favor of recommending it. Sarah Bloom of Island Road stated there are a lot of people who will vote against something because the Selectmen's name is on it. Selectman Robie stated if we don't put our name on it maybe there will be a fair vote. Fire Chief Cartier stated when he submitted this article it was only by his request. He also noted the article to replace the fire station roof was unanimously by the Selectmen. Selectman Robie stated that was wrong. *Selectman Giffen moved to withdraw "by the request of the Board of Selectmen" from Article 23 draft 3. Seconded by Selectman Lazott. All were in favor. Motion carried. In addition to the motion on the floor Selectman Giffen added the following: to treat all of the warrant articles the same with the exception of Warrant Article #24 and Warrant Article #26 from draft 3 (meaning only Articles #24 and #26 would have "by the request of the Board of Selectmen"). Seconded by Selectman Duarte. All were in favor. Motion carried.*

Vote on Approval of Previous Minutes: Public meeting minutes and Non Public minutes of 11/17/08. Selectman Giffen moved to accept the public and non public minutes of 11/17/08 as written. Seconded by Chairman Kelley. All were in favor. Motion carried. Selectman Giffen noted the December 1st Selectmen's minutes will reflect the changes that were made to the warrant articles.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,
Andria Hansen, Recording Secretary