

BOARD OF SELECTMEN
Minutes of June 30, 2014

CALL TO ORDER: Vice-Chairman Al Letizio called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger, Bruce Breton and Joel Desilets were present, as was Town Administrator David Sullivan. Chairman Ross McLeod was excused. Mr. Letizio opened with the Pledge of Allegiance.

ANNOUNCEMENTS/LIAISON REPORTS: Mr. Hohenberger, on behalf of Recreation Coordinator Cheryl Haas, extended thanks to all who attended/assisted on Town Day; particularly the Fire, Police, and Maintenance Departments. He then congratulated Ms. Haas for an excellent job; noting the attendance this year had far exceeded any other.

Mr. Letizio noted that the Economic Development Land Use Sub-committee is currently looking at all undeveloped parcels around Windham in efforts to determine what may be hindering development. He added they are also looking at State and Town-owned parcels, and that the next meeting of the Sub-committee will take place in Lynnfield, MA, at the "Marketplace". Mr. Letizio then noted the geographic and demographic similarities between Windham and Lynnfield, and briefly described the development of the "Marketplace" location.

Chief McPherson approached and updated the Board on the status of the two (2) grants approved by the voters. He indicated that the OHRV/trailer purchase is nearly complete; 50% of which will be reimbursed to the Town through the grant.

As to the Mobile Data Terminal purchases, Chief McPherson advised one (1) is currently in hand and the remaining eight (8) will be received and installed over the next few weeks. These terminals will be placed in the police and fire department front line vehicles, and will afford wireless communication with Dispatch. Chief McPherson noted that 50% of this purchase will also be reimbursed.

Chief McPherson then advised that several calls had been received relative to the historic property located at 98 Range Road which is being used for training purposes prior to demolition. He explained that the Department is very sensitive and appreciative of the historic properties in Town and, while they would never utilize them for a burn, these types of homes are a valuable training tool given their construction. Chief McPherson encouraged anyone with concerns to call the Station for more information; adding that training will continue on July 7th and the 14th.

Mr. Breton advised that July 3rd is the deadline to complete the 2015 Master Plan Survey; which is available on the Town website or in hard copy at various locations.

COMMITTEE INTERVIEWS: The Board heard from Mr. Alberto Chang, who is interested in serving on the Recreation Committee. After a brief discussion, Mr. Hohenberger moved and Mr. Desilets seconded to appoint Mr. Chang to the Recreation Committee for one year to fill the remaining vacant, Regular position. Passed 4-0.

PUBLIC HEARING/SEPTIC REGULATIONS: Mr. Sullivan read the public hearing notice into record as follows: *"The Board of Selectmen will hold a public hearing on June 30, 2014 at 7:00 pm at the Community Development Department for the purpose of considering amendments to the REGULATIONS GOVERNING SEWAGE OR WASTE DISPOSAL SYSTEMS, and is proposed in accordance with the provisions of RSA 147:1. A copy of the changes being proposed within the new regulations is available for review on the Town website at www.windhamnewhampshire.com as well as at the Administrative Offices, 4 North Lowell Road. Language that is being added is shown in underlined text while deleted language is crossed out."* Mr. Sullivan explained that, given the sheer number of amendments, this would be a full body amendment; adding that staff had received no comments since the amendments had been posted for this hearing.

Community Development Director Laura Scott approached and commented that she believed the amendments, as proposed, would put an undue burden on the applicants; particularly in that all waivers would need to go to the Board of Health. She indicated that the latter would likely involve a month's time

before being heard. Ms. Scott also indicated that Section 108.1, should reflect the language “either or” relative to the Health Officer or Building Inspector; noting that as proposed it both required input from parties who were not involved and was inconsistent with the remainder of the policy. Discussion ensued, and Mr. Desilets clarified that requiring waivers to go to the Board of Health was not actually an amendment to the policy, but rather it was the way it was currently written.

Mr. Desilets then went on to note that, as it pertained to section 108.1, the proposed language actually reflected what had been recommended by staff as an amendment. Discussion ensued, and Mr. Breton sought clarification as to whether the original document included a provision for the Health Officer to grant waivers, and Ms. Scott replied in the affirmative. Mr. Breton sought clarification as to whether Mr. Desilets’ proposed amendments would impose additional costs upon homeowners. Ms. Scott replied that, should an applicant need to go before the Board of Health, fees for abutter notifications, etc., would be required to be paid.

Mr. Letizio sought clarification regarding Mr. Desilets’ statement that the existing regulations require the Board of Health to issue waivers, and Ms. Scott replied in Section 103.1 of the current regulations the Health Officer can reduce the soil requirements from 4’ to 3’. Discussion ensued and Mr. Desilets clarified for the record that the amendments up for consideration were those that were approved by the Board of Selectmen. Further discussion ensued regarding the existing regulations versus the proposed versions.

Mr. Breton indicated he wished to establish what the differences in cost would be to the homeowners between all proposed versions. Mr. Sullivan replied that, comparing the existing regulations to the proposed under consideration, there was no change in costs involved regarding waivers with the exception of going from 4’ to 3’ on the soil depth. He noted that, should the need for a waiver from the soil depth need to go to the Board of Health rather than the Health Officer, additional costs will be involved; adding that staff’s recommendation would not have entailed same.

Mr. Desilets again clarified that he himself was not adding a waiver requirement, as both staff and the Board of Selectmen versions included the same language. Discussion ensued, and Mr. Hohenberger noted it had been stated at the previous meeting that homeowners would need to pay an additional \$2,000 to obtain an engineered drawing for an in-kind replacement, going on to opine that the Board cannot pick the proposal apart paragraph by paragraph as it pertained to costs. Mr. Breton noted he wanted to be sure before voting that no additional costs were being imposed, and a discussion ensued. Ms. Scott clarified that, in the staff’s amendments, it had been proposed to allow the Health Officer and Building Inspector to waive all or part of the regulations for cause with the exception of setback requirements. She then asked that it be clarified that the document under discussion had not yet been “approved” by the Board of Selectmen, but rather moved to Public Hearing.

Mr. Letizio then opened the hearing to the public, and input was received from many regarding the proposed amendments, including:

- Mr. Ken Walsh, who cited concerns regarding all sections; noting that the proposed amendments would outlaw serial distribution, the unavailability of “bank run” sand, and that in-kind replacements were not permitted by the State. In addition, he pointed out that 12” of stone does nothing to treat effluent and only adds to costs, and that the new rules do not address the NH DES 50% rule which allows for the averaging of depth in grade situations. Mr. Walsh also noted that the proposed regulations discourage gravity systems, and add \$5,000 in costs to replacements. He advised he would propose eliminating the regulations entirely, with the exception of having the Building Inspector continue to do bed bottom inspections.
- Building Inspector Michael McGuire approached reiterating his position from the previous discussion on the amendments. He indicated that the waiver from 4’ to 3’ had been going on for years, even prior to his hire. Discussion ensued regarding this, in that he is authorized as Deputy Health Officer to do so, and that the final operational approval for the system is issued by the NH DES, not the Town. Mr. McGuire also clarified that the State does a second inspection, as well. Mr. McGuire also indicated that in-kind replacements are not permitted at the State level.

Discussion ensued regarding this, and Mr. Desilets indicated that RSA 485 does allow for in-kind replacements. Mr. McGuire noted he was not familiar with same. Mr. Letizio expressed concerns that two speakers thus far had stated in-kind replacements were not allowed. Further discussion ensued, and Mr. Desilets noted that feedback from staff regarding this statute indicated an unawareness of same, and that in-kind replacements were not allowed; which he believed was incorrect. Ms. Scott noted that all input she had received on the regulations was that Section 103.7 should be deleted; adding that the current regulations allow Mr. McGuire to waive the 4' requirement to 3'. Further discussion ensued regarding the statute.

- Mr. Bill Evans, former program Administrator at the DES, approached and summarized his written comments on the proposed amendments, as attached. Discussion ensued regarding the DES regulations, which Mr. Hohenberger pointed out were written for the entire State. Mr. Hohenberger noted the two, major bodies of water in Windham need protection and that our regulations were put in place to specifically address the postage-stamp lots in those areas. Discussion ensued regarding the DES regulations, and Mr. Evans noted that NH has a good set of rules that have been tried and tested. He also confirmed that in-kind replacements can be done, however, it is a very involved process.

Mr. Hohenberger noted that former Selectman Kathleen DiFruscia had asked him to note on her behalf that she believed the DES had good rules in place, however, the ponds need protection and thus the current regulations should be maintained.

Mr. Desilets reiterated that the Board of Selectmen proposed amendments are not more stringent than what has existed for years; adding that development has not been crippled thus far. Discussion then resumed with Mr. Evans, who noted that, as proposed, the regulations represent a significant cost increase and serve to inhibit the use of new technology. He added that, as it pertained to concerns regarding the small lots, the State has dealt with that, as well. Mr. Evans advised that the State has been looking at technologies and specifically dealing with small lots; and has built in flexibility regarding same. Discussion ensued as to how the proposed amendments could result in significant cost increases, if they were essentially the same. Mr. Evans clarified that he had not looked at the existing regulations, and that the proposed represented a significant cost increase over the current DES regulations.

- Mr. Tim Zoreski of Westchester Road, approached and expressed concerns regarding the amount of time being wasted discussing this matter if the changes were actually insignificant as proposed.
- Mr. Ralph Valentine, Telo Road, approached noting that Business & Industry had recently put out an Economic Dashboard Report; in which NH had been ranked 47th in the country in land use restriction. He opined that the Town should slow down on regulating, and questioned when it was going to end.
- Mr. Karl Dubay, Telo Road, approached and also expressed concerns about the 50% rule and those other areas cited by Mr. Walsh. He indicated that the State and staff had done the right thing as far as their regulations/recommendation; noting that commercial entities such as Shaws and ConvenientMD that met all State requirements, would not have existed without the embedded Town waiver. Mr. Dubay opined that the Board needed to be realistic, in that if they don't allow staff to waive Section 103.1, then waivers would be presented to the Board of Health every week. Brief discussion ensued regarding protocol, and whether the Board could strike the proposed amendments, to which Mr. Sullivan replied in the affirmative.

Mr. Breton inquired whether Mr. Dubay had an opportunity to look at the staff recommendation, as well, and Mr. Dubay replied he had seen two (2) versions. When asked, Mr. Dubay indicated he would be a proponent of eliminating the Town regulations in their entirety in favor of following the State regulations. Mr. Breton inquired whether the proposed regulations would put a strain on economic growth, and Mr. Dubay replied in the affirmative.

Mr. Desilets pointed out that staff had also recommended removal of the waiver provision in Section 103.1, and Mr. Dubay noted the implied defacto waiver if the plan meets the State requirements. Discussion ensued regarding this statements, and Mr. Sullivan sought clarification for the record as to whether Mr. Dubay was referring to staff waiving the requirement from 4' to 3' as allowed, or if he was speaking of waivers beyond that. Mr. Dubay confirmed he was speaking of the former, allowed waiver.

Discussion ensued, and Mr. Desilets noted that information presented thus far regarding the 50% was good information; adding he wished it had been available from the beginning of these discussions.

- Mr. Steve Keach, KNA and the Town's consultant engineer, approached and noted the testimony provided by Mr. Walsh and Mr. Evans had been good testimony; adding he had seen the evolution of the regulations and the new technologies. He indicated that there is a body of knowledge available regarding this matter that is reviewed by experts at the DES level; adding however that the State does not do bed bottom inspections which he feels are important and we should continue to perform. Mr. Keach suggested that the entire regulation be put aside and that the Board look at ENVQ-1000 to see if it can be enhanced or supplemented to address local concerns regarding our major bodies of water and fragile soils.

Mr. Keach then went on to note, as it pertained to the waiver provisions, that the real cost to those awaiting approval comes in having to continually pump their systems while waiting.

- Mr. Walsh again approached, and noted that he has put no systems in at 4'; rather all were done at 3' 6". Discussion ensued, and Mr. Desilets thanked Mr. Walsh for also bringing forth the information regarding the 50% rule.
- Mr. Shane Gendron, Bridle Bridge Road, approached noting advances in technology and, in particular, the amount of testing which has been done on the Presby systems which are approved around the country. Mr. Hohenberger inquired whether these systems can be installed in town, and Mr. Gendron replied they can, with a waiver; adding that there is no study that indicates 4' is necessary. Discussion ensued regarding previous Board of Health hearings of waiver requests, and that same has not happened in quite some time.

Mr. Desilets pointed out that 4' is required in the ENVQ-1000, as well, along with the ability to reduce same to 3'. He inquired whether Mr. Gendron would support adding back in the previous language, and a discussion ensued regarding the recommendation by staff to remove the regulations entirely in favor of the DES ones.

- Ms. Scott approached to clarify that staff had begun looking at the regulations in response to changes in technology and at the DES level. She noted that staff's proposal had referenced and/or defaulted to the NH DES regulations, which includes the 50% rule. She also noted that staff had wanted to keep some regulation in place to maintain both pre-reviews and bed bottom inspections as currently conducted; going on to suggest that perhaps the Board take a step back as recommended by Mr. Keach.

Discussion ensued, and Mr. Desilets sought clarification as to whether the ENVQ-100 also required 4'. Ms. Scott replied that it did, for some systems, however for others it was less. Further discussion ensued, and Mr. Walsh approached to clarify that the 4' does not pertain to fill, but to a vertical separation between the system and the high water table.

- Ms. Marcy Fink, Westchester Road, approached and inquired of Mr. Desilets what his basis was for wanting to maintain the 4' requirement; asking whether he had experience or research to support same. Discussion ensued, and Mr. Desilets noted that, point by point, the two proposed documents were nearly identical. He felt that new information had been provided that evening, and added that he valued the speakers' judgment; clarifying that it had been 3 of 5 Board members who had voted to bring the proposed amendments to Public Hearing. Mr. Hohenberger then noted that he also wanted to leave the existing regulations in place. Further discussion

ensued, with input from Mr. Valentine, regarding the existence of scientific evidence to support Mr. Desilets' position. Mr. Desilets noted that he didn't believe that to be an applicable question, as the proposal under consideration simply maintained the existing regulations and added reference to the NH DES. Mr. Valentine then noted the time expended by the gentlemen who had come to give their testimony; adding that the message is that the Board needs to take a step back.

Hearing no other commentary, Mr. Letizio closed the public hearing. Mr. Breton moved to strike the proposed amendments to the Sewage regulations; and that further research be done based upon the testimony presented.

Lengthy discussion ensued amongst the members regarding the testimony presented versus whether changes to the existing regulations are necessary. Mr. Sullivan clarified that, until a determination is made by the Board, the Town is operating under the existing Sewage regulations.

After further discussion regarding the differences between proposed zoning amendments and Town ones, as well as the lack of a full Board, no action was taken.

TAX ABATEMENTS: Tax Assessor Rex Norman requested that the Board support his recommendation on the remaining nine (9) abatements for the tax year.

Mr. Breton moved and Mr. Hohenberger seconded to approve the recommendation of the Tax Assessor as per his memo dated June 26, 2014. Passed 4-0.

Mr. Norman then presented an additional gift to the Town from Mr. Wayne Ulaky; this one being a digital rendering of the Armstrong Building. Mr. Norman noted that Mr. Ulaky had suggested the final location for its display could be determined by the Board. Mr. Breton moved and Mr. Desilets seconded to accept with great gratitude the gift as presented from Mr. Ulaky. Passed 4-0.

BID AWARDS: Mr. Sullivan reviewed with the Board the following bid results received in response to a joint bid for heating oil and propane with the School District.

Propane – Palmer Gas/Ermer Oil - \$1.72/gallon
Eastern Propane - \$1.91/gallon

Heating Oil – Dennis K. Burke - \$3.2133/gallon
Palmer Gas/Ermer Oil - \$3.356/gallon
Irving Energy - \$3.349/gallon

Mr. Breton suggested that the Town's current vendor for heating oil be asked to hold their price, as opposed to opting into the School District's bid. Discussion ensued in that the current vendor had not bid, and that the Town only utilizes a small amount of heating oil.

Mr. Sullivan noted that it was clear in the District's bid specification that the Town's usage was included. Mr. Breton noted the Town has always bid their own for competitive pricing, and expressed continued concern at the lack of a bid from the current vendor. Further discussion ensued regarding previous bids put out by the Town and restrictions thereon, and the ongoing cooperative effort between the current vendor and Windham's Helping Hands to provide oil to residents. Mr. Hohenberger suggested that the heating oil could be rebid to all respondents and that staff could reach out to the existing vendor; however he expressed concerns regarding same as the bids had already been opened and the pricing made public. Further discussion ensued as to whether the low bidder would deliver to homes as the existing one does, and Mr. Sullivan indicated he did not believe so.

Mr. Breton moved and Mr. Hohenberger seconded to reject the bids as received and to rebid same with revised bid specifications encompassing the residential service discussed. Mr. Sullivan indicated that if the Board did not wish to opt in on the School's bid, then his recommendation would be to go with Mr. Breton's earlier suggestion. Further discussion ensued before the motion passed 4-0.

Mr. Bob Coole, Morrison Road, approached noting that the Board has, over the last several years, discussed working with the District to save money. He suggested that the Board discuss same annually and perhaps develop a sub-committee regarding same. Mr. Letizio noted that these conversations do occur via Town and School district administrative staff. Discussion ensued, and Mr. Coole suggested that the Board go with the School District's bid and that Helping Hands bid their own heating oil needs.

Propane: Mr. Desilets moved and Mr. Hohenberger seconded to approve award of the bid for propane to Palmer Gas/Ermer Oil for their bid price of \$1.72/gal. Passed 4-0.

FORESTRY COMMITTEE: Mr. Letizio noted that the Board had received the proposed Rules of Procedure for the newly established Forestry Committee, and inquired whether there were any questions. Hearing none, Mr. Hohenberger moved and Mr. Breton seconded to approve the Rules of Procedure as written. Passed 4-0.

SEARLES REQUEST: Mr. Sullivan advised that a request had been received from the Historic Committee and Mrs. Margaret Case that the Board authorize Mr. Karl Dubay of The Dubay Group to serve as a volunteer agent of the Town. Mr. Sullivan explained that, in that capacity, Mr. Dubay will bring forth conceptual design ideas for parking and landscape design at the Searles facility. Mrs. Case approached and added that the goal is to work to establish a plan to construct two (2) parking areas and a bride's entrance. She noted that quotes are being solicited for the latter, with two (2) received thus far which are under the bid requirements. Brief discussion ensued.

Mr. Breton moved and Mr. Hohenberger seconded to authorize Mr. Karl Dubay of the Dubay Group to act as a volunteer agent on behalf of the Town before the Planning Board; to accept the plan as presented, and; and to waive any related fees. Brief discussion ensued regarding the Planning Board schedule before the motion passed 4-0.

OPERATIONS PLAN: Mr. Sullivan noted that Planning Board, in preparation for the CIP, was seeking a better understanding of the intent behind this plan. Mr. Letizio added that he and Mr. Sullivan had spoken regarding a more appropriate nomenclature for the Plan, as it is not an operational plan in the true sense, and both felt it should be referred to as the "Vehicle, Equipment, and Infrastructure Plan (VEIP)". The remaining members concurred.

Mr. Sullivan then reminded the Board that this had been reviewed approximately four (4) weeks ago, and that input had been sought from the members regarding monetary levels. He reiterated that the intent of the VEIP is to formalize the procedures undertaken annually by the Department Heads over the last 7-10 years; adding that it is intended to act in concert with the Capital Improvements Plan. Mr. Sullivan also clarified that the VEIP had been drafted based upon the Planning Board's intent to increase the CIP submission threshold from \$40K to \$75K. He then reviewed the draft plan summary, which reflected the total \$250K in funding built into the annual budget for these items; adding that if the Planning Board's recommendation of \$75K for the CIP is affirmed, then nothing in the summary would exceed that threshold. Discussion ensued regarding the Planning Board vote on the CIP threshold, and that same was coming up at the Planning Board meeting in Wednesday, 7/2.

Mr. Hohenberger expressed concerns that the CIP threshold should be set at \$50K, and that implementation of the VEIP would hide large purchases within the operating budget. Discussion ensued, and Mr. Sullivan again clarified that purchases such as these are collectively prioritized now by the Department Heads and he, and that projects must fit within a limited pool of money each year. Further discussion ensued.

Mr. Desilets expressed concerns regarding Statutory requirements that capital items be placed into the CIP if the latter exists, and questioned both why there is a threshold and what constitutes a "capital item". Mr. Sullivan replied that the latter is typically one that has a life expectancy over five (5) years. Further discussion ensued regarding the CIP versus the VEIP and thresholds. Mr. Letizio noted that the latter applies to replacement of existing items.

Mr. Sullivan again reiterated that the VEIP simply serves to make official what staff has done for years through the budget process; adding that the Plan will work in concert with the CIP regardless of what the threshold is set at. He then clarified that the VEIP as presented encompasses all departments, not just larger ones such as police or fire; adding that the recommendation of staff would be that the Board move to advise the Planning Board that they are in support of their vote to establish the CIP threshold at \$75K. Discussion ensued.

Ms. Kristie St. Laurent, Planning Board Chairman, approached and noted that the Planning Board's discussion this year regarding the threshold had centered on the need to protect against spikes in the tax rate; whereas they had previously lowered it in an attempt to encompass some of the smaller budgets. Ms. St. Laurent noted that there is also an option to increase the \$0.75/1000 collected to garner more CIP funding; rather than having two (2) separate plans.

Discussion ensued, and Ms. St. Laurent noted that a bump in the CIP funding would also allow for the establishment of Capital Reserve Funds for larger purchases/needs. Further discussion ensued regarding the "no means no" statute, budgetary versus operational spikes, the differing thresholds of the CIP versus the VEIP, and that bonded items go to through the CIP.

Mr. Letizio noted that monies reflected in the VEIP summary represent a very small percentage of the overall town budget, and discussion ensued regarding the annual budget process/department head efforts.

Ms. St. Laurent sought clarification regarding a VEIP item that may be found to exceed that Plan's threshold and whether it would then be kicked up to the CIP. Mr. Sullivan noted that if they were truly capital items then they would be submitted to the CIP. Discussion ensued, and Mr. Desilets expressed concerns that the Town's CIP document mandates that vehicles with a life expectancy of five (5) years must go into the CIP. Mr. Sullivan disagreed, noting that while such item would qualify as a capital item, ultimately it would be up to the Selectmen whether to submit same to the CIP.

Lengthy discussion ensued regarding the purposes of the CIP Plan, goals of the Planning Board in setting the threshold, and the intent of the VEIP.

Mr. Breton then moved and Mr. Desilets seconded to draft a letter to the Planning Board supporting their voting to establish the CIP threshold as \$75,000. Passed 2-1-1, with Mr. Hohenberger opposed and Mr. Desilets abstaining.

OLD/NEW BUSINESS: Mr. Sullivan advised that, in response to the Board's previous discussion, the Finance Director had reached out to Enterprise Bank and the latter had removed the requirement for a pre-pay penalty on the Conservation Bond. He then asked that the Board to approve the following: *"to accept the terms of financing, with Enterprise Bank, in the amount of \$700,000.00 for the Town of Windham's acquisition of Lot 1-C-100, known as the Campbell Farm property. Terms are: Fixed interest rate of 3.91%; total principal of \$700,000.00, interest of \$159,299.78 and payments of \$859,299.78. Ten-year, unsecured loan with prepayment available without penalty. Satisfactory opinion by Town Counsel is required. The Board authorizes Town Administrator David Sullivan to sign all loan and closing documents on behalf of the Board of Selectmen of the Town of Windham."*

Mr. Desilets moved and Mr. Hohenberger seconded accordingly. Motion passed 4-0.

CORRESPONDENCE: Bond release/Whelan Subdivision – Mr. Breton moved and Mr. Hohenberger seconded to approve the release of \$2,500 plus interest to Mr. & Mrs. Granahan. Passed 4-0.

Right-of-way Permit/Lot 2808 Londonbridge Road: Mr. Sullivan advised that this pertained to a driveway, that a bond was in place, and that the Highway Agent has signed off on the permit. Mr. Breton moved and Mr. Desilets seconded to approve the permit as presented. Passed 4-0.

MINUTES: Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of 6/16 as written. Mr. Desilets asked that the minutes be amended to reflect that, in response to Mr. Breton expressing "concerns, for the record, that this matter had all been done online...", "Mr. Desilets replied that the amendments were public at the June 2nd meeting." After a brief discussion, the original motion and second were withdrawn.

Mr. Hohenberger moved and Mr. Desilets seconded to approve the minutes of 6/16 as amended by Mr. Desilets. Passed 4-0.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Breton seconded to enter into a nonpublic session in accordance with RSA 91-A:3 II a and c. Roll call vote - all "yes". The topics of discussion were personnel and reputations.

The Board, Mr. Sullivan, and Ms. Devlin were in attendance in the first session.

Mr. Hohenberger moved and Mr. Breton seconded to appoint Jason Rogers as an Alternate to the Conservation Commission. Passed 4-0.

The Board, Chief Lewis, Mr. Sullivan and Ms. Devlin were in attendance in the second session.

After discussion the vacant Record Clerk position, Mr. Breton moved and Mr. Hohenberger seconded to hire the recommended candidate as discussion. Passed 4-0.

The Board, Mr. Sullivan and Ms. Devlin were in attendance in the final sessions.

Mr. Sullivan updated the Board on a reputations matter relative to tax deeding. No decisions were made.

Mr. Sullivan updated the Board on a union matter. Mr. Sullivan will handle the matter.

Mr. Breton moved and all seconded to adjourn. Passed unanimously.

Meeting was adjourned at 11:10 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have not been submitted to the Board for approval.



1967

W M EVANS ENGINEERING, LLC
CIVIL & ENVIRONMENTAL ENGINEERS

June 30, 2014

Office of the Selectmen and Town Administrator
P.O. Box 120
3 North Lowell Road, Windham, NH 03087-0120

RE: Proposed septic system rule changes

Dear Selectmen:

I have been asked to comment on the proposed septic system rule changes. Specifically, I would like to provide the Board of Selectmen with my perspective and experience with similar rules and regulations adopted pursuant to RSA 485-A:29-40 while working for the New Hampshire Department of Environmental Services over the past 30 years. I have also attached a copy of my biographical overview for your reference.

While at the department, a few of my responsibilities could be summarized as follows:

- Administration/Engineering - Department of Environmental Services, 1979 to present.

Administrator/Engineer, Subsurface Systems Bureau

Exercised supervision over a staff of professional and technical personnel in the analysis and evaluation of thousands of permit applications per year for subdivision and wastewater disposal systems. Direct and supervise the operation of eight regional offices located throughout the state. Established liaison with other governmental agencies, private engineering and contracting firms, planning agencies and various indirect groups. Responsible for the development and revision of administrative rules and helped with the drafting of proposed related legislation. Represented the department's position and testified before legislative committees on related legislation. Worked with related subcommittees and other interested groups on resolution of pending legislative issues. Worked closely with the NH Department of Justice on department related enforcement and legislative issues.

Administrator/Engineer, Groundwater Protection Bureau

Exercised supervision over a staff of professional and technical personnel dealing specifically with hydrogeologic investigations of groundwater resources as they relate to water supplies and/or groundwater pollution programs. Administered the federal Underground Injection Control Program (UIC) and was instrumental in developing administrative rules for Underground Storage Tanks (UST) for petroleum products in the state. Involved with the creation of the state's groundwater protection rules (Ws 410). Supervised the review and approval of groundwater discharge permits for industries, landfills, and large wastewater disposal systems.



W M EVANS ENGINEERING, LLC
CIVIL & ENVIRONMENTAL ENGINEERS

Based on the foregoing experience with similar rule making and related legislation I offer the following comments based in particular on the following proposed rules:

Rule 103.1 which will require a 4' separation distance between the bottom of the EDA (effluent disposal system) and the ESHWT (Estimated seasonal high water table). The current and proposed rule speak to a vertical separation but not specifically to the ESHWT. The adoption of this rule is not necessary from a technical viewpoint. The literature, as well as my many years of experience in dealing with this issue, has shown that all that is necessary is an honest 24" of unsaturated soil to allow for the aerobic treatment processes to occur. This 24" separation also allows for any hydraulic mounding that occurs given a wide range of soil conditions. Any more separation is not necessary to accomplish aerobic biological treatment. This rule will result in a significant increase in installation cost for the home and business owner by requiring raised/mounded systems in most instances. In conjunction with this there will be more environmental impact to the existing natural landscape on the subject lot. Furthermore, it will negate the innovative steps made to date in the on-site wastewater treatment and disposal industry, by not allowing the installation of systems approved in accordance with the NHDES Administrative rule Env-Wq 1024 (Innovative/Alternative Technology).

Rule 105.2 which will require 12" of stone below the pipe in pipe and stone systems. Again, this is not necessary. There is plenty of storage with the current requirement of 6" of septic stone in a pipe and stone field. The effects of this rule will be to further exacerbate any mound created by Rule 103.1 by forcing the bed to be 6" higher than is currently required.

Furthermore, in order to obtain relief from these more onerous rules, variances would need to be granted at a significant time loss and cost to home and business owners. As we all know, like tax rates, once these rules are adopted, they are much harder to remove than they are to adopt. That is why it is important that we have this discussion now. I may sound bias, but after more than 30 years in the regulatory field, and before that as Director of the University of Massachusetts Research Wastewater Treatment Pilot Plant Facility, my experience has shown me that the rules and regulations I helped to create at the NH Department of Environmental Services, serve the environment and the people of this state well. While municipalities in this state have a right to adopt more stringent regulations, there is no technical reason or justification to further embellish upon the existing rules and regulations of the NHDES.

In summary, while I have given my specific opinion on two (2) of the proposed rule changes, I would strongly recommend that you adopt and enforce the existing Administrative Rules and Regulations adopted pursuant to RSA 485-A by the Department of Environmental Services. They have been the result of years of technical scrutiny, and professional and legislative review since the adoption of the statute effective July 1, 1967. They will serve this town, its residents, and the environment well.

Sincerely,

William E. Evans, P.E., CWS

William E. Evans, P.E., CWS

William Evans, P.E., C.W.S, currently owns and manages his own civil and environmental engineering consulting company, WM Evans Engineering, LLC. A licensed professional engineer in the state of New Hampshire and Massachusetts, he holds a B.S. degree in Civil Engineering from New England College and a M.S. degree in Civil and Environmental Engineering from the University of Massachusetts. He is also a licensed septic system designer and a certified wetland scientist in the state of New Hampshire.

He was the former Director of the New Hampshire Department of Environmental Services, Subsurface Systems Bureau. Under his direction, he was responsible for the administration of the comprehensive statewide program that regulated both the subdivision of land and on-site wastewater treatment system design and installation. He was also responsible for administering the program to license both system designers and installers. Prior to assuming this position, he directed the State's Groundwater Protection Division and was a senior engineer with the Industrial Waste Division of the Water Supply and Pollution Control Commission.

Prior to his government service, he served as a Research Associate at the University of Massachusetts. He was the Director of the UMass Research Wastewater Treatment Pilot Plant Facility and was responsible for carrying out research in the areas of chemical and biochemical kinetics, transport phenomena as it applies to biological wastewater treatment schemes, application of fluidization technology to wastewater treatment, reactor analysis and design. He was also involved for many years in construction management, acting as a project engineer responsible for the construction of several water and wastewater treatment plants in several locations including: the Springfield Water Treatment Plant, Westfield, Mass., the Annapolis WWTP, Annapolis, Maryland, the Irondequoit-Cross Pump Station, Rochester, New York, and the Boise Cascade WWTP, Rumford, Maine.