

1 **BOARD OF SELECTMEN**

2 **Draft Meeting April 10, 2017**

3
4 **CALL TO ORDER:** Chairman Ross McLeod called the meeting to order at 7:00 PM.
5 Selectmen Joel Desilets, Roger Hohenberger, and Bruce Breton were present, as was
6 Town Administrator David Sullivan. Selectmen Jennifer Simmons was excused.
7 Chairman McLeod opened with the Pledge of Allegiance.

8 Barbara Coish announced that on April 1, 2017 the Pelham/Windham newspaper closed.
9 On April 23, 2017 there will be a reception for Barbara O'Brien at the senior center from
10 1:00-2:30 p.m. to wish her well.

11 Mr. Desilets added that he would hope businesses would now support the Windham
12 Independent.

13
14 Mr. Sullivan announced that Dana Call, former Windham Finance Director, was
15 appointed as Comptroller for the State of New Hampshire and wished her
16 congratulations.

17
18 Mr. Desilets noted that on April 15, 2017 there would be the Styles and Smiles fashion
19 show to raise money for breast cancer. The event will be held at the high school starting
20 at 6:00 pm.

21
22 **Town Council – Town Meeting Results**

23 Mr. Bernard Campbell was present to discuss the town meeting that was scheduled to be
24 held on March 14, 2017 but was postponed due to inclement weather. He noted that, in
25 his opinion, NH RSA 40:4 (II) allowed towns to postpone or reschedule town meetings
26 due to inclement weather. The Municipal Law Bar was unanimous in their opinion that
27 the towns had the ability to postpone the elections.

28
29 Attorney Campbell added there has been considerable discussion in Concord to ratify all
30 the actions that were taken during the postponed elections. All efforts to date have failed.
31 There is currently an amendment to House Bill 329 that would ratify the election of all
32 officers and allow the governing body of the town to have the ability to vote to ratify and
33 confirm all other actions taken by voters at the postponed voting sessions.

34
35 The opinion of the Secretary of State has thrown doubt on securing financial bonds as
36 Bond Counsels, who must issue an opinion on bond financing for a municipality say they
37 could not issue an unqualified opinion. That could impact the school district. It will not
38 impact the warrant article for the Fire Department quint purchase. The town generally
39 works with banks and they only require an opinion from the town attorney, which he is
40 prepared to provide.

41
42 Attorney Campbell noted if House Bill 329 were to become law, the Board of Selectmen
43 could take a vote to ratify the elections and confirm all actions taken by the voters. The
44 Board could choose to do nothing, but he would recommend they take that vote.

45

46 Chairman McLeod noted that in 2013, the town postponed their deliberative session for
47 the same reason, under the same law and there were no repercussions. He added that he
48 confirmed with the Town Clerk, not a single person has come forward to say they were
49 unable to vote because the election date was changed.

50

51 Mr. Sullivan questioned how they should handle the union contracts. Typically pay
52 increases are adjusted immediately following an affirmative vote at town meeting. He
53 questioned if Attorney Campbell thought they should wait to do that or move forward
54 immediately. Attorney Campbell did not believe there would be any risk moving forward
55 immediately to ratify those contracts.

56

57 Mr. Desilets believed the language denigrating the lawyers in the statement by the
58 Secretary of State was disheartening and unprofessional.

59

60 **MOTION:** Mr. Desilets made a motion to move forward with the implementation of the
61 union contracts. Mr. Hohenberger seconded the motion.

62

63 *Discussion:* Mr. Sullivan noted the union was comfortable holding off until the time of
64 tonight's meeting where it could be discussed. All pay increases would be retroactive.

65

66 Mr. Breton suggested waiting for the results of the House Bill 329 since they don't know
67 with certainty if the Bill would pass.

68

69 Vote 3-0-1 Mr. Breton abstained. Motion carried.

70

71 Chairman McLeod added that he would be willing to accept the original decision of the
72 moderators and the opinion of town council to postpone the elections and not vote to
73 ratify the results. Mr. Sullivan suggested waiting until they get the results of the House
74 Bill. Mr. Desilets requested putting the topic on the agenda for the next meeting.

75

76 Mr. Sullivan questioned if "governing body" referred to the Town or the School.
77 Attorney Campbell noted that both the Town and the School Board would need to take
78 individual votes.

79

80 **Water use Regulations**

81 Chairman McLeod noted the drought levels have been decreased; Windham is in both
82 abnormally dry and moderate drought, which is a decrease since the last time they
83 addressed water use regulations.

84

85 Mr. Desilets added that new maps are released once per week with the next update
86 coming on April 4, 2017. He suggested waiting to make a decision until they see the
87 updated reports, which would take into consideration the most recent wet weather.

88

89 *Dale Valvo, 31 West Shore Road*
90 *President of Canobie Lake Association*

91

92 Mr. Valvo applauded the efforts of the Board to consider regulations. There is a lot of
93 surface water from recent wet weather, but they need to consider the recharge level.
94 There is tremendous concern by residents over the level of water in Canobie Lake. They
95 remain concerned over safe yield levels with the increase in demand from Salem. Salem
96 continually draws the lake below the safe yield level and Tuscan Village could demand
97 an additional 10%. Both Windham and NHDES have asked Salem to address the issue
98 and find alternative water supplies.

99

100 Chairman McLeod suggested that Mr. Valvo and anyone concerned attend the next
101 Planning Board meeting where they will be reviewing the draft chapter for Residential
102 and water use would be discussed.

103

104 *Annemarie O’Neal, 7 Blossom Road*

105 Ms. O’Neal suggested the Board look at the drought outlook through June. We are still
106 10-25% below where we should be. She believes it would be beneficial to keep the ban in
107 place and possibly review it every 30 days and make a decision on water usage on a
108 monthly basis.

109

110 Chairman McLeod noted the water ordinance is not enforceable if they are not in a state
111 of drought; both state law and the town ordinance dictate that. He added that when you
112 zoom in on the map and look at the town lines, the moderate drought line cuts through
113 Londonderry and misses Windham. We now have regulations in place to address drought
114 conditions and can address the changes very quickly. He added that the drought reports
115 give the Town legal authority to enforce the ordinance. They cannot legally restrict
116 commercial water usage, only residential usage.

117

118 Mr. Desilets requested that the topic be put on the Board’s agenda once per month so
119 they could review the conditions throughout the year and remain proactive. Based on the
120 current map, they are not in a state of drought.

121

122 **MOTION:** Mr. Desilets made a motion to enact a relief of the water ban and select the
123 level indicating no water ban based on the most recent drought report that the town is no
124 longer in drought conditions. Chairman McLeod seconded the motion.

125

126 Mr. Hohenberger did not agree they were not in a drought. If spring does not continue to
127 be wet, they will end up back in a drought. He suggested waiting until next month to
128 make any changes.

129

130 Mr. Desilets added that they need to consider everyone and the large percentage of
131 homeowners may need to do something different with their landscaping if the water
132 restrictions continue. He wanted to keep unnecessary burden off the community if it
133 wasn’t warranted.

134

135 Vote 2-2. Mr. Hohenberger and Mr. Breton opposed. The motion failed.

136

137 Chairman McLeod noted it's about training your grass to require less watering. He
138 programs his irrigation system accordingly.

139
140 **MOTION:** Mr. Desilets made a motion to implement level 1 (odd numbered addresses
141 water on odd days, even numbered addresses water on even days and not between the
142 hours of 8:00 a.m. and 8:00 p.m.). Chairman McLeod seconded the motion.

143
144 *Discussion:* Mr. Breton questioned what level they were currently at. Mr. Desilets noted
145 they were at a level three—watering is prohibited. Mr. Breton preferred to wait until the
146 May 8, 2017 meeting to change the level.

147
148 Mr. Desilets did his research and firmly believed the maps are accurate. He did not
149 believe they legally have the ability to completely restrict water usage.

150
151 Vote 2-2. Mr. Breton and Mr. Hohenberger opposed. Motion failed.

152
153 Chairman McLeod noted they would leave the total ban in place because the Board didn't
154 take any action. If updated maps come out and we aren't in a drought, they are placing
155 the Police Chief in a difficult place to enforce provisions they cannot legally enforce.

156
157 Mr. Desilets added that he was disappointed in the way the Board has interpreted some of
158 the facts.

159
160 **Police Contracted Detail Rates**

161 Mr. Sullivan noted that the Board is considering amending the police detail contract rates.
162 They are starting to lose money at the current rate of \$50/hour for an officer and \$60/hour
163 for an officer and a cruiser. He did some analysis and the past year they were in a deficit
164 of \$5,600. The increase would bring the rates to \$55/hour for an officer and \$65/hour for
165 an officer and a cruiser. Mr. Sullivan read the public hearing notice into the record.

166
167 Mr. Breton suggested increasing the fee for an officer with a cruiser to \$70. They are
168 using two highly visible vehicles.

169
170 Mr. Sullivan suggested approving the numbers as posted and then repost for that rate for
171 a subsequent meeting.

172
173 **MOTION:** Mr. Desilets made a motion to adopt the amendments to increase the police
174 detail fees to \$55 for a police officer and \$65 for an officer and a cruiser and to increase
175 the fees for officers to \$56 in 2018 and \$57 in 2019. Mr. Hohenberger seconded the
176 motion.

177
178 *Discussion:* Mr. Hohenberger agreed in increasing the rates to build a surplus but does
179 not want see them go higher.

180
181 Chief Lewis noted that the surplus funds go towards vehicle maintenance, fuel and
182 supplies but also allows them to build up a fund to purchase new vehicles.

183

184 Mr. Sullivan added that they currently have a \$45,000 surplus balance. If they don't
185 increase the fees that surplus will go away shortly.

186

187 Mr. Breton noted they did fund the purchase of their current detail vehicles out of that
188 surplus balance.

189

190 Vote 4-0. Motion carried.

191

192 **Cable Advisory Board**

193 Margaret Case presented the proposed renewal contract terms with Comcast Cable.

194 Additional members of the Cable Advisory Board were also present.

195

196 Ms. Case read her letter to the Board with the details of the proposed renewal contract.

197 The Cable Advisory Board unanimously voted to recommend the Selectmen sign and put

198 into effect the new contract. The duration of the contract would be 10 years, which is

199 typical.

200

201 Comcast has agreed to upgrade both studios to fiber optics. The cost of this upgrade will
202 not be a pass-through cost.

203

204 Mr. Desilets noted his main two concerns were the quality of the audio and the picture.

205 Ms. Case believed both of those issues are with their equipment and not the responsibility
206 of Comcast.

207

208 Mr. Desilets noted the current modern aspect ratio is 16:9 and questioned if they would
209 be able to transmit their meetings over their cable channels at that aspect ratio. Ms. Case
210 did not know the answer to that but could find out. She added they would not be able to
211 transmit in HD.

212

213 Ms. Case noted they would continue to receive a \$22,000 grant each year for the next 10
214 years. Comcast would maintain four stations. The contract would not be exclusive, which
215 is compliant with state law. They would continue to provide all town buildings, including
216 the police station and the schools with cable. The Cable Advisory Board and Comcast
217 would meet annually to discuss upgrades and technological advances. The town would
218 also continue to receive the 5% franchise fee.

219

220 Ms. Case noted a public hearing to consider the proposed agreement would be May 5,
221 2017. Generally, the Cable Advisory Board holds that public hearing. Mr. Breton
222 suggested the Board of Selectmen hold that hearing so more of the public would be
223 aware.

224

225 Mr. Desilets requested to see a digital copy of the proposed contract in advance of the
226 hearing. He wants to ensure they have a concrete plan to go from good to great, as well as
227 fixing the audio and improving the quality of the video.

228

229

230

231 *Tim Pitcher*

232 He believed the transmission is currently analog, which is why there are quality issues.

233 The fiber optics being brought in should address those issues.

234

235 **MOTION:** Mr. Breton made a motion to allow the Cable Advisory Committee to hold a
236 public hearing on the new contract with Comcast. Mr. Hohenberger seconded the motion.

237

238 Vote 3-1. Chairman McLeod opposed because he would like the hearing to be held at the

239 Board of Selectmen meeting. Motion carried.

240

241 **Griffin Park Passive Recreation**

242 Mr. Sullivan explained that the town’s contractor, Groundhog, removed the pavement
243 and believed the materials under the pavement were not suitable. They provided an
244 estimate to install fiber mats and additional gravel. The engineers reviewed the site and
245 determined that additional materials were not needed to build what was intended. They
246 will not plow or remove the snow from the area, so there likely would not be a problem
247 with freezing and thawing because the area will be well insulated.

248

249 The engineer does agree that a perimeter drain system should be installed either now or
250 later for the cost of \$4,700. Doing that now, while Groundhog is already mobilized and
251 onsite would be most efficient. The Town has a credit of \$1,500 with the Groundhog so
252 the added cost to the project would net \$3,200. That could come out of the recreation
253 department’s special projects budget or the town’s general bottom line budget.

254

255 **MOTION:** Mr. Desilets made a motion to approve the installation of the perimeter drain
256 for \$4,700 with a net cost of \$3,200. Mr. Breton seconded the motion.

257

258 *Discussion:* Mr. Breton raised concern over the line item in the contract that stated
259 Groundhog would not be responsible for damage to the walkway. He did not want to
260 authorize the contract until that was taken out.

261

262 Mr. Desilets amended his motion to have that language removed from the contract. Mr.
263 Breton seconded the amendment.

264

265 Mr. Sullivan would confirm that the contract does not contain that language. He added
266 that the project is bonded.

267

268 Mr. Hohenberger noted he was in favor of the perimeter drain but questioned why that
269 wasn’t recommended prior. Mr. Sullivan stated that Keach Nordstrom recommended that
270 the asphalt stay in place. The specs provided the contractor the option to remove the
271 asphalt, so now Keach supports the suggestion to install the drains.

272

273 Vote 4-0. Motion carried.

274

275 **Chief McPherson**

276 *Request authorization to utilize the Galveston bid process for purchase of the Quint*

277

278 Chief McPherson explained that the Galveston bid process is a bid consortium that is
279 currently comprised of 16 NH towns, including Derry, Salem and Londonderry. They
280 would like to participate because they feel they could get the best price for the Quint.

281

282 The industry has had two price increases due to the price of steel and are possibly going
283 to have a third increase. The department is trying to stay within the original pricing, but it
284 is getting difficult. They would like to use the HGAC process for the pricing and allow
285 them to award the bid to Pierce for the price not to exceed \$850,000. Pierce will make
286 sure the Quint will be compatible with the department's existing equipment.

287

288 Mr. Hohenberger confirmed that the truck would be the 107' truck that they proposed.

289 Chief McPherson confirmed it would be.

290

291 Chief McPherson added that if they were to go out to bid, there are not a lot of other
292 vendors that would build the 107' truck the way they would prefer, to best suit the
293 community.

294

295 Mr. Sullivan noted the cost Chief McPherson was presenting assumed 100% pre-buy
296 funding. They would get a long-term note and pay up front for significant savings.

297

298 **MOTION:** Mr. Breton made a motion to authorize the utilization of the Galveston bid
299 process for the purchase of the Quint to be manufactured by Pierce. Mr. Desilets
300 seconded the motion.

301

302 Vote 4-0. Motion carried.

303

304 *Request for waiver of the bid process to allow for a sole source purchase of Personal*
305 *Protective Equipment (PPE)*

306

307 Chief McPherson noted it is time for the annual replacement of protective gear. They use
308 Bergeron, a distributor out of Suncook NH, which is the only local distributor of Globe
309 protective gear.

310

311 Mr. Hohenberger wanted to make sure that Bergeron is the only company that could bid
312 on the gear. Chief McPherson noted yes, that the distribution is territorial.

313

314 Chief McPherson added that they did look into doing a contract with Bergeron for the
315 next several years. Bergeron was willing to do that but cautioned it for this year since
316 there will be changes in technology for next year. Chief McPherson plans to come to the
317 next budget cycle with three-year contract pricing. The five sets they are looking to
318 purchase are each \$128.69 less than what they paid last year.

319

320 Mr. Desilets questioned if they should put it out to bid to different manufacturers for
321 single and multi-year contracts. Chief McPherson noted their safety committee has done
322 extensive research into five different lines of gear and they prefer the Globe brand.

323

324 Mr. Desilets questioned if that committee could reaffirm their choice of gear. Chief
325 McPherson noted they could. He would support the brand recommended by the
326 committee.

327

328 Chief McPherson added the benefit of using a local company is that if there was damage
329 to someone’s gear, they could drive up there and wait for it to be repaired that day. All
330 other vendors would have to send the gear off-site.

331

332 **MOTION:** Mr. Desilets made a motion to waive the bid process to allow for a sole
333 source purchase of Personal Protective Equipment, not to exceed \$11,565.

334 Vote 4-0. Motion carried.

335

336 **Employee Satisfaction Survey**

337 The Board will discuss the results at the next meeting when a full Board could be present.

338

339 **Board Liaison Assignments**

340 The Board reviewed the liaison assignments.

341

342 **MOTION:** Mr. Desilets made a motion to move forward with all non-contested liaison
343 assignments. Mr. Hohenberger seconded the motion.

344 Vote 4-0. Motion carried.

345

346 Those appointment are:

347 Planning Board Alternate	– Mr. McLeod
348 Economic Development	– Mr. Desilets
349 Cable TV	– Mr. Hohenberger
350 Cable TV Alt	– Mr. Breton
351 Recreation	– Ms. Simmons
352 Searles Trustees	– Ms. Simmons
353 Historic District	– Ms. Simmons
354 Town Common Beautification	– Mr. Desilets
355 Rte 111 Beautification	– Ms. Simmons
356 Local Energy Committee	– Mr. Desilets
357 Depot Advisory	– Mr. Hohenberger
358 TAC Committee	– Mr. Desilets
359 Haz Mat District	– Mr. Breton
360 Records Retention	– Mr. McLeod
361 Welfare Overseer	– Mr. Desilets
362 Housing Authority	– Mr. Hohenberger
363 Housing Authority Alt	– Mr. Desilets

364

365 Both Mr. Breton and Mr. Desilets requested to be a liaison to the Planning Board.

366

367 Mr. Desilets noted he previously served on the Planning Board and would like to serve
368 again.

369

370 **MOTION:** Mr. Desilets made a motion to nominate himself as primary liaison and Mr.
371 McLeod as the alternate. Mr. Hohenberger seconded the motion.

372

373 *Discussion:* Mr. Hohenberger would like to see liaisons rotate.

374

375 Mr. Breton noted he has not served on the Planning Board in many years.

376

377 Chairman McLeod noted that if Mr. Breton heard a case for the Zoning Board, he would
378 need to step down on the Planning Board, as he is a member of the Zoning Board; he
379 would end up recusing himself often.

380

381 Vote 2-2. Mr. Hohenberger and Mr. Breton opposed.

382

383 Mr. Hohenberger would like to delay the vote until they have a full Board.

384

385 Mr. Hohenberger withdrew his name for consideration of the liaison to the Capital
386 Improvement Plan Committee. Ms. Simmons requested to be appointed.

387

388 **MOTION:** Mr. Desilets made a motion to appoint Ms. Simmons as lead liaison and Mr.
389 McLeod as alternate. Mr. Breton seconded the motion.

390

391 Vote 4-0. Motion carried.

392

393 Joint Loss Committee will be discussed at a later meeting.

394

395 **New Business**
396 Mr. Breton noted they received a thank you note from the local Brownie Troop thanking
397 the Board for their work. He asked the Chairman to send a thank you note back to them
398 for caring.

399

400 **Correspondence**

401 Lewis Engineering PLLC requested permission to go on-site to do yield tests on the wells
402 that are there, as representatives of Tim Pitcher. This is in regards to the recent warrant
403 article which allows the Board to enter into water use agreements for the use of water
404 from town wells located behind the Police Station on Fellows Road. The test findings
405 will be provide to the Board prior to the May 8, 2017 meeting at which the concept of an
406 agreement will be first discussed.

407

408 **MOTION:** Mr. Desilets made a motion to allow the request. Chairman McLeod
409 seconded the motion.

410

411 Vote 4-0. Motion carried.

411 Mr. Sullivan recommended they inform the police department when they are going to be
412 on site.

413
414 Mr. Tim Pitcher requested that the draft agreement from 2008 be released to them
415 contingent upon getting authority from Sue Mesiti. He would like to see the agreement to
416 see what their theory was.

417
418 Mr. Desilets did not believe it was in their purview to release it. Mr. Breton had concerns
419 about releasing Attorney Campbell’s comments on the agreement as well.

420
421 The Board agreed that if Ms. Mesiti provided Mr. Sullivan a letter authorizing the release
422 of the agreement they would.

423
424 **MOTION:** Mr. Breton made a motion to authorize Mr. Sullivan to provide the
425 agreement upon receipt of written authorization from Ms. Mesiti. Mr. Hohenberger
426 seconded the motion.

427 Vote 4-0. Motion carried.

428

429 **Review of the 3/27/17 Minutes**

430 **MOTION:** Mr. Desilets made a motion to approve the 3/27/17 minutes as amended. Mr.
431 Breton seconded the motion.

432 Vote 4-0. Motion carried.

433

434 **NON-PUBLIC SESSION:** Mr. Desilets made a motion to go into non-public session in
435 accordance with RSA 91-A:3 II (a, e) Mr. Hohenberger seconded the motion. Passed
436 unanimously. Roll call vote all “yes”.

437

438 Chief Lewis informed the Board that the union filed a grievance over a decision he made
439 when scheduling an officer for training, and provided his rational for his decision and
440 subsequent denial of the grievance.

441

442 **MOTION:** Mr. Desilets made a motion to deny the grievance and support the decision
443 made by Chief Lewis. Mr. Hohenberger seconded the motion.

444 Vote 4-0. Motion carried.

445

446 Chief Lewis informed the Board regarding a personnel matter.

447

448 Mr. Sullivan informed the Board they received many applications for the HR Coordinator
449 Position and he will begin interviewing candidates soon. The deadline is this Friday,
450 April 15th. He hopes to have a recommendation of hire to the Board by first week in May
451 or sooner.

452

453 **MOTION:** Mr. Breton made a motion to adjourn. Mr. Desilets seconded the motion.

454 Vote 4-0.

455 Motion carried.

456 Meeting adjourned at 9:20 p.m.