

**BOARD OF SELECTMEN**  
**Minutes of June 2, 2014**

**CALL TO ORDER:** Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger and Bruce Breton were present, as was Town Administrator David Sullivan. Selectman Joel Desilets was delayed and arrived at 7:05 PM. Selectman Al Letizio was excused. Mr. McLeod opened with the Pledge of Allegiance.

**ANNOUNCEMENTS/LIAISON REPORTS:** Mr. McLeod extended congratulations to the WHS 4x100 Boys Relay team, Kenny Dastous, Mike McDade, Sam Kahl, and Brandon Dreyfuss who recently won the Division II State Title.

*Mr. Hohenberger* extended thanks to the Cemetery Trustees for their efforts in preparation for Memorial Day.

*Mr. Sullivan* made several announcements on behalf of the Recreation Coordinator, as follows:

- The Town Beach will be opening for the season, with lifeguards on duty, beginning on Saturday June 14. Residents may obtain a beach pass from the lifeguards by providing proof of residency in the form of a photo ID, or utility/property tax bill.
- Registration for all summer programs, including swim and tennis lessons, is going on now.
- Town Day is scheduled for Saturday, June 28<sup>th</sup>, from noon to 3PM at Griffin Park. Activities include free BBQ, family games, the Windham Community Band, and the Patriotic Parade beginning at 1 PM.
- Fireworks are also scheduled for the 28<sup>th</sup> at dusk at the High School. The B-Street Bombers will perform beginning at 7:15 PM.

*Community Development Director Laura Scott* made several announcements, as follows:

- The Department, in cooperation with Dartmouth, is conducting a well survey over the next month. Survey is available on the Town website or at the Community Development Department.
- The 2015 Master Plan Survey is available on the Town website or in hard copy at the Department, Senior Center, Town Hall and Nesmith Library.
- On June 12<sup>th</sup> at 6:30 PM at the Town Hall, an Economic Development open forum will be held to garner input from residents and business owners for future use by the Economic Development Committee and the Planning Board.
- The Adopt-a-Spot program will officially kick off on June 14<sup>th</sup> at 9AM. Information is available on the Town website, or by contacting Ms. Scott or Meredith Whitaker at the Community Development Department.

*Mr. Breton* extended thanks to Senate Candidate Regina Birdsell for being in attendance that evening; adding he encouraged all candidates to do the same in order to learn the workings of the Town and the issues being faced therein.

*Mr. McLeod* noted that the discussion of the 2014 Board goals would be tabled due to Mr. Letizio's absence.

**DONATION ACCEPTANCE:** Ms. Scott requested that the Board accept the following donations towards the Community Garden program and kick-off event:

- Crossing Life Church – use of land, parking lot and water
- JR Gauthier Inc – site work (employees and equipment) and woodchips
- Boyden's Landscaping – site work (employees and equipment)
- Cyr Lumber and Home Center –lumber for raised beds and plastic lining
- Pentucket Bank - \$250.00 donation
- Top Dog Banners – 2 banners for garden
- Continental Paving, Inc. – recycled asphalt for walkway

- George Cairns & Sons, Inc. – chain link fencing and hardware
- Edward N. Herbert Associates, Inc. – wooden stakes and nylon ribbon
- Rich Parow – manure and construction of compost bins
- John Slavin – rain barrel
- Ken Bergeron – construction and delivery of 10 raised beds
- A Simply Wholesome Life – organic seeds for gardeners
- Shaws – 3 flats of plants
- Cyr Lumber – 40 pairs of gardening gloves
- Heavenly Donuts – 2 dozen donuts and 2 containers of coffee
- B&H Oil – 2 cases of bottled water
- Lowes Home Improvement – 10 watering cans
- John Slavin – 10 watering cans

After a brief discussion, Mr. Hohenberger moved and Mr. Breton seconded to accept the above with gratitude. Passed 4-0.

*Mrs. Margaret Case* approached requesting that the Board accept the following donations received towards the Searles Facility: \$50, Steven & Peggy Orroth; \$1,000, Comcast, and; \$100, Robert & Deborah Sline.

Mrs. Case noted that, to date, \$46,788 in cash/merchandise has been received in total. Of that, \$19,146 has been expended, and the largest donation of merchandise was \$17,755 from Mr. Yennaco. Mrs. Case noted that the grant application previously approved by the Board was still pending and, if approved, the roof work will be completed; adding that quotes are also being obtained to construct a patio.

After a brief discussion, Mr. Breton moved and Mr. Hohenberger seconded to accept the donations with great thanks. Passed 4-0.

**BID AWARDS:** Mr. Sullivan advised that seven (7) bids, as attached, had been received to replace the Transfer Station’s 2006 JCP loader; for which \$80,000 was budgeted. He indicated that one bid had been disqualified for failure to meet the specifications, and that his and Mr. Poulson’s recommendation would be to award the bid to Chappell for the purchase of a used 2013 Takeuchi. Mr. Sullivan noted the loader in question had only 160 hours on it, and there was a \$5,000 difference between that and a new one.

Discussion ensued in that Chappell was not the low bidder, and it was clarified that the Chadwick bid for the Volvo was the one which had been disqualified. Mr. Sullivan also noted that that the Takeuchi is identical in use and form to the Station’s current equipment, and includes an extra full year of warranty.

Mr. Desilets then moved and Mr. Hohenberger seconded to award the bid to Chappell of Milford for the purchase of a 2013 Takeuchi in the amount of \$73,790. Passed 4-0.

*Mr. Sullivan* advised that three (3) bids had been received for resurfacing of the tennis/basketball courts, as attached, and that the recommendation of he and the Recreation Coordinator would be to award the bid to CCR of Vermont for their bid price of \$14,098. Brief discussion ensued regarding the spread across the bid amounts, and CCR’s experience in same. Mr. Sullivan advised they are a highly qualified company, and staff was comfortable with their ability to complete the project for the bid price. Mr. Sullivan also noted that the Recreation budget had included \$20,000 for this and another project and, given these costs would be re-evaluating what they could complete with the remaining monies.

Mr. Hohenberger moved and Mr. Breton seconded to award the bid to CCR Sports of Vermont for their price of \$14,098 to repair/resurface the Nashua Road tennis/basketball courts. Passed 4-0.

**POLICY COMMITTEE:** Mr. Sullivan reviewed with the Board the following proposed amendments to the Personnel Policy:

*ARTICLE II : ADMINISTRATION OF THE PLAN:*

*Paragraph 3 – amend by Deleting the last line:*

*“Departmental policies shall become effective only with the approval of the Board of Selectmen”.*

*and Adding a new line in its place:*

*“In the event that a Departmental Policy conflicts with a Town of Windham Policy, the Town of Windham Policy shall take precedence”.*

Mr. Sullivan noted there had been lengthy conversation regarding this at the previous meeting, and that it had been posted in house for the required fourteen (14) days with no input received from employees. He reminded the Board that, collectively, this amendment is supported by the Department Heads.

Mr. Desilets advised he had reviewed the previous discussion and expressed ongoing concerns regarding this amendment; particularly in that if it is adopted then policies such as the Cell Phone one would not come to the Board for approval. Discussion ensued regarding the intent of the language, that it pertained to internal departmental policies/procedures rather than Town-wide policies, and that the amendment was clear that Town policies take precedent over departmental ones.

Mr. Desilets indicated that he would support the additional language, but not the removal of the existing. Further discussion ensued regarding Standard Operating Procedures for the various Departments, copies of which Mr. Breton suggested could be maintained in the Administrative Offices where the Board members could view them whenever they wished; as well as and the differences between Town-wide and internal policies/procedures. The remaining members concurred with Mr. Breton's suggestion.

Mr. Hohenberger moved and Mr. Desilets seconded to adopt the amendment to the Personnel Policy as proposed by Administration. Passed 4-0.

*Mr. Sullivan* then reviewed with the Board a proposed, Town-wide policy relative to issuance/usage of cell phones by Town employees. He indicated that the policy clarifies who can receive a town phone, who authorizes such issuance, and offers a stipend to those employees eligible for a town phone who choose to use their own for business purposes. He indicated that the latter will offer an approximate savings of \$15/phone to the Town based on current costs.

Mr. McLeod indicated that, while the intent of the policy is good, he believed the language needed tightening up as there was a disconnect in the terms used throughout. Mr. Sullivan indicated any input the members had would be welcomed, and Mr. McLeod noted he would send his suggested changes to Mr. Sullivan. Lengthy discussion ensued regarding the intent of the policy, the Right-to-Know statute as it applies to phone use, the current average cost to the Town of \$50/smart phone, and that the policy encompasses all town issued phones.

It was the consensus of the Board to support the Policy, and the members will forward any suggested amendments to Mr. Sullivan for incorporation for further discussion at the June 16<sup>th</sup> meeting.

**OPERATIONS PLAN:** Mr. Sullivan noted that, given Mr. Letizio's absence, he would simply give a brief review of the Plan and ask that the Board review it at length for in depth discussion on June 30<sup>th</sup>. He then extended thanks to the Committee members who worked on the Plan, who include: Ed Morgan, Ed Fedele, Dana Call, Jack McCartney, and Dave Poulson.

Mr. Sullivan then explained that the document is modeled after the Capital Improvement Plan, and is intended to codify into a Plan those items which are outside the scope of the CIP, such as Fire Department PPEs, Police vests, vehicles, trailers, or infrastructure. He indicated that, on average, \$150-200K is budgeted annually for these items in addition to the funding within the Property Maintenance Trust, and that the document lays out the departmental needs for ten (10) years in a fluid plan much like the CIP.

Mr. Sullivan noted that the Committee is at a critical point in the process of developing the Plan, wherein the Board's input is needed regarding establishment of a monetary threshold for replacement item purchases; adding that the Committee recommended same be set at \$100,000. Mr. Sullivan noted the effectiveness of an Operations Plan as a budgeting tool, and the collective efforts of all involved to prioritize needs in a fiscally prudent manner. Discussion ensued, and Mr. McLeod noted the priority of an Operations Plan on the Board's own goal list.

Mr. Breton indicated that he believed the Town should look into establishing Revolving Trusts, as well, citing ambulance purchases as an example. He indicated that a portion of the billing fees could be set aside to fund replacements; adding that he believed the billing itself should also be put out bid.

Discussion ensued regarding the nature of CIP funds and their being needed for both Town and School, as well as staff support of expendable trust fund establishment. Mr. Hohenberger indicated he disagreed with using trusts, as he felt it would circumvent the CIP and remove the decision making from the voters. After further discussion, Mr. Sullivan indicated a workshop will be scheduled for June 30<sup>th</sup> between staff and the Board.

**SCHOOL IMPACT FEE REQUEST:** Mr. Sullivan advised that a memo had been received from the District, formally requesting release of \$200K in impact fees collected for use toward the High School bond payment. Mr. Breton inquired as to how much money was currently available in the account, and Finance Director Dana Call replied approximately \$340K. Mr. Breton indicated he believed the Town Treasurer needed to be asked to look at the Town's investments, as very little return is being gained; adding that Mrs. Call could explore the rates available while looking at banking facilities. Discussion ensued regarding stagnant funds and the purposes of same, and that these are currently invested at Centrix Bank. Mrs. Call noted that, initially, the Town was receiving 1% on these invested funds, which had over the years dropped to the current 0.2%.

Discussion ensued, and Mr. Desilets indicated he would prefer these funds be looked at for investment in the community by being put to better use. Further discussion ensued regarding the current interest environment and the restrictive nature of town dollars as it pertained to use and the need for collateralization.

Mr. Breton then moved and Mr. Hohenberger seconded to authorize the transfer of \$200K in impact fees to the School District as requested. Passed 4-0.

**OLD BUSINESS:** Mr. Sullivan noted that the Board had previously voted 2-2 on amendments to the Town's Septic ordinance and that, since then, Mr. Hohenberger and Mr. Desilets had submitted comments/suggestion to him and a new redline document created. He noted that the latter would be forwarded to the Board for review at the next meeting.

Ms. Scott approached noting that she would like to have the new revisions reviewed by a full board, and would also like to invite representatives of Keach and the DES, as well Building Inspector Mike McGuire and other experts to the next discussion. She then advised the members that, since the last meeting, three (3) applications had been presented which had been approved despite not meeting Town regulations. Ms. Scott advised that all had met the DES requirements, that she had waived two (2) as per her authority in the existing regulations, and that the third had not met the requirement to depict the driveway on the plan. Discussion ensued regarding Ms. Scott's authority as Health Officer.

Mr. McLeod noted he had reviewed the previous discussion, and queried what was broken with the current ordinance. Discussion ensued regarding the previous meeting's lengthy debate on the proposed amendments. Mr. Desilets then indicated he was surprised to find that it was being pushed to the next meeting, as he had been prepared to make a decision that evening. He then noted that, upon review of Mr. Hohenberger's suggestions, it appeared that they were covered in his proposed changes. Mr. Hohenberger concurred with Mr. Desilets' assessment.

Lengthy discussion ensued regarding in-kind replacements and HB1721 in reference to same. Mr. Desilets noted he would suggest that Section 103.7 be changed to read: *"Existing eligible non-commercial septic systems may be Repaired or Replaced "in kind" without submission of new plans, subject to the NH DES restrictions listed in Env-Wq 1003.10 and also RSA 485-A:38, II-b. A "permit by rule" application shall be submitted per RSA 485-A:35; Private homeowners may elect to submit the application themselves per RSA 485-A:35, II. Construction may proceed once approval has been received from the NH DES. At the time of final inspection the installer shall provide a copy of the previously approved plan and an existing conditions plan.*

*For the purposes of this paragraph, "in kind" means that the size, location, depth and type of design that existed before repair or replacement and that of the proposed future use will not change the flow to increase loading, will be of an equivalent nature and will be in the same location. The replacement system may not be within 75 feet of any surface water, water supply well, or very poorly drained soil unless the existing system received prior construction and operational approval from the NH DES and the replacement system will conform to the provisions of such approval."*

Further discussion ensued regarding Mr. Letizio's absence and Ms. Scott's issuance of the waivers. No decisions were made, and this will be scheduled for the June 16 agenda.

*Tax Anticipation Note:* Mr. Sullivan advised that Mrs. Call had negotiated with Enterprise Bank a Revolving TAN line of credit in the amount of \$2,000,000.00 for cash flow in anticipation of property tax revenues at the following Terms: variable interest rate equal to the taxable equivalent yield of the prevailing WSJ Prime + 1.25%, payable on balances drawn between May 1st and June 30th, and October 1st and November 30<sup>th</sup>; satisfactory opinion by Town Counsel is required.

Mr. Breton moved and Mr. Desilets seconded to approve entering into an agreement with Enterprise Bank as described. Passed 4-0.

*Conservation Bond:* Mr. Sullivan advised that Enterprise Bank had offered financing 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. He advised that the terms of same were as follows: 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 loan with prepayment available without penalty, as long as the loan is not refinanced with another institution in the first five years of the term, and; satisfactory opinion by Town Counsel is required.

Mr. Breton moved and Mr. Hohenberger seconded to approve entering into an agreement with Enterprise Bank as described. Passed 4-0.

*Ambulance/Utility Vehicle Lease:* Mr. Sullivan read the following resolution into the record: "**BE IT RESOLVED** by the Governing Body of Lessee as follows:

1. *Determination of Need.* The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment described on Exhibit A of Schedule No. 01 to the Master Lease Purchase Agreement dated as of June 2, 2014, between Town of Windham (Lessee) and Tax-Exempt Leasing Corp. (Lessor).
2. *Approval and Authorization.* The Governing Body of Lessee has determined that the Agreement and Schedule, substantially in the form presented to this meeting, are in the best interests of the Lessee for the acquisition of such Equipment, and the Governing Body hereby approves the entering into of the Agreement and Schedule by the Lessee and hereby designates and authorizes the following person(s) to execute and deliver the Agreement and Schedule on Lessee's behalf with such changes thereto as such person(s) deem(s) appropriate, and any related documents, including any Escrow Agreement, necessary to the consummation of the transaction contemplated by the Agreement and Schedule."

Mr. Hohenberger moved and Mr. Breton seconded to adopt the resolution as read and authorize Mr. Sullivan to execute the documents. Passed 4-0.

Mr. Sullivan advised that the adoption of this same resolution/authorization was required for the cruiser/SUV leases. Mr. Hohenberger moved and Mr. Breton seconded accordingly. After a brief discussion regarding the DRA/Town Meeting requirement regarding the ambulance lease, and that all include non-appropriation clauses, the motion passed 4-0.

**CORRESPONDENCE:** Notification received from Town Clerk Nicole Bottai that 276 dogs remain unlicensed, and requesting the Board authorize issuance of civil forfeitures in accordance with RSA 466:14. After a brief discussion, Mr. Desilets moved and Mr. Breton seconded to authorize the Town Clerk to proceed as requested. Passed 4-0.

*Request received* from the Windham Actors Guild to be added to the list of non-profit groups eligible to use the Searles facility at no charge for meeting purposes. After a brief discussion, Mr. Breton moved and Mr. Desilets seconded to approve the request. Passed 4-0.

*Right-of-Way Permit:* Request received from CATV Construction/Comcast to allow trenching for cable repairs in the area of 4-8 Grandview Road. Mr. Sullivan advised that Mr. McCartney had reviewed and okayed this request. Mr. Hohenberger moved and Mr. Breton seconded to approve. Passed 4-0.

**MINUTES:** Mr. Breton moved and Mr. Hohenberger seconded to approve the minutes of 5/19 as written. Passed 2-0-2, with Mr. McLeod and Mr. Desilets abstaining.

**OLD BUSINESS CONTINUED:** After a brief discussion, Mr. Breton moved and Mr. Hohenberger seconded to appoint Mr. Desilets as liaison to the Local Energy Committee. 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. Roll call vote - all "yes". The topic of discussion was personnel and the Board, Ms. Scott, Mr. Sullivan and Ms. Devlin were in attendance.

Mr. Breton moved and Mr. Hohenberger seconded to hire the recommended candidate to fill the vacant ZBA/CEO position as discussed; pending successful completion of the required checks. Passed 4-0.

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

Meeting was adjourned at 8:50 PM, and was immediately followed by a non-meeting in accordance with 91-A:2, 1. (a) relative to a pending Municipal Union petition. After lengthy discussion, Mr. Desilets moved and Mr. Hohenberger seconded to accept the recommendation of Town Counsel to settle the case and allow the positions of Town Planner and ZBA/Code Enforcement Administrator to become part of the Union, with the Cable Coordinator remaining as a Town position. Motion passed 3-1, with Mr. Breton opposed.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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

## ***BID OPENING RESULTS***

***May 14, 2014 – Administrative Offices:*** The following bids for the Solid Waste Wheel Loader were publicly opened at 2:00 PM on this date by Assistant Town Administrator, Dana Call.

<b>Vendor</b>	<b>Bid Price</b>	<b>Model – New or Used</b>	<b>Warranty Included</b>
Beauregard Equipment, Concord NH	\$79,800	New 2014 Case 21E	12 months, unlimited hours
Milton Cat, Hopkinton NH	\$88,900	New 2014 Caterpillar 906H2	36 mo/1500 hr full machine + 24 mo/1500 hr powertrain
Chappell Tractor, Milford NH	\$78,790	New 2014 Takeuchi TW65	24 months, 2000 hrs
Chappell Tractor, Milford NH	\$73,790	Demo 2013 Takeuchi TW65 (160 hours); bucket, forks & plow equipment are new	24 months, 2000 hrs
Chadwick-BaRoss, Concord NH	\$83,359	New 2014 Volvo L30GS	12 months, unlimited hours; options for extended at add'l cost
Chadwick-BaRoss, Concord NH	\$67,378	New 2014 Volvo L20F*	12 months, unlimited hours; options for extended at add'l cost
Anderson Equipment Co, Manchester NH	No bid		

*\*Model size does not meet minimum specifications*

## ***BID OPENING RESULTS***

***May 30, 2014 – Administrative Offices:*** The following bids for the repairs to the Nashua Road tennis and basketball courts were publicly opened at 2:00 PM on this date by Recreation Coordinator, Cheryl Haas.

<b>Vendor</b>	<b>Bid Price – Tennis Courts</b>	<b>Bid Price – Basketball Courts</b>	<b>Total for Both</b>
Tate Brothers Paving, Hudson NH	Total only	Total only	\$31,000
NE Sealcoating Inc, Hingham MA	\$16,640	\$4,762	\$21,402
CCR Sports Inc (Vermont Tennis Court Surfacing), St. Johnsbury VT	\$10,557	\$3,541	\$14,098

*\*Bid results are currently under review*