

BOARD OF SELECTMEN
Minutes of July 13, 2015

Site Walk 6:30pm @ 24 First Street - Board of Health Members Present: Al Letizio (Chair), Roger Hohenberger, Bruce Breton, Laura Scott.

The Chair started the site walk at 6:30pm. Laura explained what new information had been provided by the applicant since the June 29th meeting.

The applicant (Joe Chamberlain) and property owner (James Lynch) were present. The applicant showed the locations of the existing holding tank and proposed septic system and explained the difference between the septic system he is proposing (Presby Enviro-Septic) and the neighboring property owner's system (Clean Solutions).

The abutting property wells had been marked and were shown to those in attendance. The applicant stated the depths of the wells based on NH Well Board information.

It was asked about the possibility of locating the septic system on the side of the home, instead of the front. The property owner explained that would put the system in an area where an addition was done years ago on pilings and there was concern about the stability of the structure if excavation was done. As well, the difficulty of getting equipment to that part of the property and the location of the current well was indicated.

Concerns were raised about the soil conditions in the location of the proposed system and what information was used. The system will be flush with the ground, in the same location of the current tank and under the existing parking area.

Questions were asked about how the road integrity would be preserved. The applicant stated that there are OSHA requirements for trenching and that if the slope cannot be maintained that it will be structurally shored up to make sure that it is safe. The property owner also commented that he wanted it to be safe for the workers, himself and the neighborhood.

The applicant explained how the area will be prepared for the system and the inspections that take place.

The site walk ended at 6:50pm

Submitted by Laura Scott

Chairman Letizio reconvened the Board of Health at 7:10 PM at the Community Development Department; explaining that the members had just completed a site walk. After a brief discussion, wherein Mr. Hohenberger expressed concerns regarding the distance of less than 50' to the neighbor's well and that no health hazard exists at this time as the existing system is not in failure. Ms. Scott noted that, as to the latter, it is nice to see such a request before failure occurs; adding that the existing holding tank is within 75' of the two wells in question. She indicated she believed the new system will further protect both the wells and the Pond. Mr. Breton concurred in that he would rather see improvements before there is a problem.

Ms. Scott then moved and Mr. Breton seconded to approve the waiver requests for lot 16-Q-176, from Section 102.2 of the Sewage and Waste Disposal System Ordinance to permit the construction of a septic system approximately 40' to the well at 37 First Street (Lot 16-R-177) and approximately 68' to the well at 33 First Street (Lot 16-R-180) where 75' is required. Mr. Hohenberger noted that, as to Ms. Scott's and Mr. Breton's comments, the current holding tank is actually the best circumstance for the Pond as there is no leakage into the latter.

Mr. Breton inquired as to whether assurances could be put in regarding restoring the road, which is private. Ms. Scott noted that bonds are not required for work on private roads, and Mr. Breton asked if the motion could be amended to require same. Discussion ensued in that the applicant had made assurances regarding restoring the road. Ms. Scott clarified that OSHA requirements govern the safety of the workers during the project.

Motion passed 3-1, with Mr. Hohenberger opposed.

Ms. Gladys McCoy of 35 First Street approached seeking clarification of the applicant's next steps and the State's approval process; which Ms. Scott explained includes pre-approval by the Town, approval by the State, and then it returns to the Town.

Mr. Breton then moved and Mr. Hohenberger seconded to close the Public Hearing and adjourn the Board of Health. Passed 4-0.

Mr. Letizio then called the Board of Selectmen meeting to order at 7:15 PM; noting that Selectmen Hohenberger and Breton were present, along with Assistant Town Administrator-Finance Dana Call. Selectman McLeod was delayed and arrived at approximately 7:50 PM, and Town Administrator David Sullivan and Selectman Joel Desilets were excused. Mr. Letizio opened with the Pledge of Allegiance.

ANNOUNCEMENTS/LIAISON REPORTS: Mr. Breton extended birthday wishes to Ms. Barbara O'Brien, reporter for the Pelham/Windham News.

LEGISLATIVE UPDATE: The Board received updates as follows from our Legislative delegation:

- Senator Regina Birdsell advised that the biggest issue at the moment relates to the vetoing of the budget by the Governor. She noted the budget as passed by the House and Senate would have returned money to the Meals on Wheels Program, ServiceLink, and similar programs; and that \$1.3M in tax increases proposed by the Governor had been removed. Senator Birdsell noted that education funding would have also increased across all areas, and the increased cap would have afforded Windham more funds. She then went on to note the reasons the Governor had vetoed the budget, such as the business tax. Senator Birdsell noted that, as to Medicaid expansion, she would not sign on at this point as the funding from the Federal government is unknown at this time.

Senator Birdsell went on to detail some of the consequences which will result from the Governor's veto, including lack of increased funding for substance abuse programs, health and human services, nursing homes/home health care providers, and for tuition freezes at community colleges. Discussion ensued as to how the State will proceed without an approved budget, and Senator Birdsell noted that the Senate and House finance committees had put together a continuing resolution based on the 2015 spending in preparation for the veto. Senator Birdsell also noted that the perambulation bill has been killed, however, she will be proposing her own bill in the future.

Mr. Hohenberger raised concerns regarding the impacts of the retirement system on towns; rules for which were established by the legislature. Senator Birdsell explained that in 2011-12 a committee had been established to review pension reform, and that related bills had been successfully passed regarding same. She noted that the savings as a result of those reforms would, hopefully, be realized by municipalities. Senator Birdsell indicated that the Governor has not yet chosen to put a Committee in place for further reforms.

Representative Kolodziej approached noting that, while the Legislation does establish the retirement rules, towns must also accept responsibility as they grant raises/increase the contracts each year. He went on to cite an employee of Windham who had retired in his 40's with a pension of \$88,000 +/-; agreeing that reform is needed. Discussion ensued regarding the issue relating to the inclusion of overtime in the calculations and the efforts of the Legislation to curb abuse of the system. Mr. Letizio questioned how such a thing happens as did with the employee cited by Representative Kolodziej, and it was reiterated that in the past overtime was included in the pension calculations. Mr. Breton also noted that currently, as outside details are paid through the payroll system, those hours are also included. Further lengthy discussion ensued regarding the retirement system, changes to same, and grandfathering of individuals prior to changes.

Mr. Bob Coole approached noting the differences between fire/police pensions and those of other local government positions who actually receive very little; adding that the latter is never spoken about in the legislature. Lengthy discussion ensued.

- Representative David Bates also spoke at length regarding the budget, and impacts of the Governor's veto, as well as the number of bills submitted in any given year versus those which make it through. He also discussed some of those items he anticipated would be included once there is a budget, such as pay raises for state workers. In response to a question posed by Mr. Hohenberger regarding educational funding, Rep. Bates indicated that the veto does impact same. He noted however, that, he was fairly certain that when there was a budget, language regarding a cap on the funding would be included. Rep. Bates also noted that the additional language regarding any unexpended funds which lapse being distributed to underfunded towns will also be included; meaning Windham could receive funding in 2016.

Rep. Bates explained that the State is operating under a continuing resolution at 2015 levels; which means money is actually being saved. He indicated, however, that more money is actually funded for education under this resolution than had been included in the vetoed budget, which means there is a potential for an even larger amount of lapsed funds. Rep. Bates noted that the Finance Committee would likely be tracking same and will endeavor to divert that money elsewhere. He advised that he had been working closely with the city of Dover, one of the largest underfunded communities, which was considering filing a lawsuit against the State; adding that he had advised the Windham School Board they may wish to consider doing the same. Rep. Bates noted that a lawsuit to reclaim the un-received funds from the last 5 years would result in an \$80M liability to the State which may be an incentive to the legislature to do the right thing. He indicated he will keep the Board apprised. Brief discussion ensued.

- Ms. Scott approached expressing concerns regarding the lack of funding for state agencies which assist the Town in reviewing/approving proposals for development. She indicated that development is booming in Town, and she supports the regulations in place to protect our environment, etc.; citing the difficulty in enforcing state regulations or garnering permit approvals when the State does not have the staffing to respond in a timely fashion. Ms. Scott noted there have been improvements, such as the ability to obtain permits electronically, however permits themselves are becoming more complicated. She encouraged the delegates to contact staff regarding proposed changes that may impact localities. Discussion ensued, and Senator Birdsell advised that she is intending to host some business forums involving DRED and the Chambers of Commerce to discuss any issues that businesses may have had. She encouraged business owners who may be interested in attending to contact her by email to regina.birdsell@leg.state.nh.us.

- Rep. Charlie McMahon updated the Board regarding the food stamp/public assistance programs, and alleged abuse of the EBT cards. He noted that, after two years of Committee work on same, a bill has been put through to address the abuses. Rep. McMahon explained that the Committee had found the abuse in NH was miniscule given the number participating in the program(s); adding that the new bill signed by the Governor pertained to location limitations versus product limitations. He then cited the importance of collaboration, and urged the Board to let the legislators know, before the fact, of any issues/needs. Rep. McMahon went on to discuss the need for medical cost transparency under Obamacare; noting a committee was started two years ago regarding same that has made available a website, nhhealthcost.nh.gov where residents can research procedure costs in advance.

Rep. McMahon then spoke briefly to the retirement issue, noting that he is a believer that changes to same should apply to new participants going forward; adding that the program is not sustainable as it is. He then noted the successful collaboration between the legislature and the Town regarding Campbell Farm, and that such successes can continue to happen moving forward. Discussion ensued regarding Rep. McMahon's years of service and his efforts on behalf of residents with developmental disabilities and funding for same.

- Rep. Mary Griffin approached noting the hard work, dedication and efforts of the delegates. She also noted that the Town should not hesitate to contact them for assistance, and urged the Board to keep them apprised of what is happening in Town, as well. Discussion ensued, and Mr. Letizio noted the impacts of high business taxes on owners. Rep. Bates also noted that the House filing period begins September 2nd, and the Senate in October, and encouraged the Board and staff to submit any ideas to the legislators.

Q2 FINANCIAL REPORT: Mrs. Call advised the Board of upcoming changes from the NH Retirement System as it pertains to reporting in the Town's financial statements. She noted that the Government Accounting Standards Board is implementing new rules (GASB 68), effective for the 2015 audit year for the Town; adding that other entities such as the school district will be effective for the fiscal year ending June 30, 2015. Mrs. Call explained that the rules require that the unfunded net pension liability, as calculated by NHRS, be proportionately shared by all of the entities that are part of the NH Retirement System; thus, the \$4 billion liability referred to earlier by the representatives, will be partitioned out to the towns/school districts/State, based on our proportionate share of contributions into the system. She noted it is expected that a significant liability will be reflected on our audited financial statements for 2015; adding that this does not change the Town's contributions to NHRS and does not reflect a "bill" that we are required to pay. Rather, it is simply a change in the accounting for the liability, which allows banks and bond agencies to see what every member's individual share of the overall liability would be. Lengthy discussion ensued regarding the calculation of the liability and the fact that we will not have any offsetting assets reflected in our financials. Ms. Call stated that some of the early numbers will be available this week, so we can better estimate the overall effect to the Town.

Mrs. Call then provided the Board with the financial report for the revenues and budget, through June 30, 2015. Highlights of the discussion included:

- Mrs. Call indicated that not much has changed from a revenue perspective from the first quarter; and, generally, we are at 50% received. Mr. Breton noted that the cable franchise fee revenues are already over the estimated amounts, and that the Board should consider expending some of those funds to update the way the Town gets information out to the public. Discussion ensued regarding the franchise fees, with Mrs. Call clarifying that those fees are collected as offsetting revenue, versus those in the special cable fund.

Mrs. Call also noted that building permits fees are lower than expected, while the Planning Board/Zoning Board application fees are much more than anticipated. Discussion ensued regarding the recent increases to the fees, as well as those fees which do not come in until year end, such as the rooms and meals tax.

- Mr. Breton noted that the School District had recently placed their banking services out to RFP and switched banks; adding there are new technologies available we could be using. He asked that Mrs. Call obtain the District's RFP and a future agenda item be scheduled to discuss going out to bid for same. Mrs. Call noted she has the information from the District, and clarified that the Town/School do have different needs. She reminded the Board that we are currently receiving a good interest rate on our investments, which was negotiated with our current bank without incurring any fees. Mrs. Call noted she and the Treasurer have been working together and, although they believe the Town's needs are being met, they can discuss Mr. Breton's request. Discussion ensued regarding the more rate driven nature of the Town, as well as how our funds are invested. Mrs. Call did note that the Town could utilize electronic deposits, however it would need to be paid for on a per item basis, and that she would not want to speak for the Tax Collector/Town Clerk regarding same. She also clarified that the Town is not required to maintain a minimum balance and collateralization is required. Lengthy discussion ensued regarding current vs. potential services and benefits of same.
- Mrs. Call noted that several line items are being monitored which are at risk for going over budget; which hopefully will not force the bottom line budget over. These include fire and assessing departments, however, there is some offsetting revenue coming such as the HealthTrust refunds. Discussion ensued as to whether a public hearing was required to earmark the refunds to offset the overages, and Mrs. Call indicated she believed it would require a public hearing. Mrs. Call also noted that a similar refund is coming in on the Worker's Compensation, and a discussion ensued.
- Mrs. Call advised that the 2013 Federal appropriation for the new Fire Truck had finally been approved, and the new truck should be in service by the end of the year. Brief discussion ensued regarding the status of the 2014 appropriation, as well as Round 4.
- The Conservation Land fund continues to collect current use fees, and Mr. Norman will be issuing additional bills, so the bond payment should be covered.
- Mrs. Call reminded the Board that any donations received which are earmarked for the Searles will be brought to the Board for approval; reiterating that there is no actual "Searles Fund" to hold these monies.
- The Earned-Time trust was discussed, and whether there were enough funds to cover any departures this year. Mrs. Call noted that, given the other shortfalls, they may need to dip further into the Trust should anyone leave; however she is not aware of anyone who is planning on departing. Brief discussion ensued regarding the Town's Earned Time liability and the importance of annual approval of these funds.
- Mr. Breton questioned what the total percentage expended to date was, and Mrs. Call advised we are at approximately 41%; clarifying that there are several expenses which are paid at year end, rather than systematically throughout the year. Discussion ensued regarding front loaded versus back loaded expenses.

OLD/NEW BUSINESS: Mr. Letizio recognized Mr. McMahon who has requested the Board consider having a special town meeting to reinstate the Town's support for affordable elderly housing on Fellows Road. Mr. McMahon noted that previous applications have been submitted by the Windham Housing Authority, however, with no funding the Town meeting approval for the

project has expired. He noted that the rules have changed pertaining to the process and there is new potential to pursue this through both donations and tax credits, however, the process is lengthy and time-sensitive. He reviewed with the Board the various processes required, and a discussion ensued regarding the tax impacts/positives of same; with Mr. McMahon indicating this would be under a PILOT (Payment in Lieu of Taxes) agreement. Further discussion ensued regarding the cost of services study and that this development would not be similar to 55+ development in Town.

The Board asked that Mr. McMahon provide additional information to Mr. Sullivan so that this can be scheduled on a future agenda, as well as that he garner input on the project from the Planning Board and EDC, and from the Town Clerk regarding the costs/logistics of a special town meeting. Mr. McMahon agreed, clarifying that this is not a commercial enterprise, rather it would be overseen by the Town. Mr. Breton suggested that the old documents regarding this project be gathered for the Board's review, as well. Further, brief discussion ensued.

BID AWARD - REAL ESTATE SERVICES: After discussion regarding the one bid received and the lack of response to the RFP's sent out, Mr. McLeod motioned and Mr. Breton seconded to arrange an interview with Platinum Realty Group of NE in for an interview.

After further discussion regarding the other means available by which to dispose of the properties, motion passed 3-1 with Mr. Hohenberger opposed.

DONATION ACCEPTANCE: Mr. McLeod recused himself. Mr. Hohenberger moved and Mr. Breton seconded to accept a donation of \$240 from Windham Soccer for chemical toilets at Golden Brook School. Passed 3-0.

Mr. McLeod rejoined the Board.

Mr. McLeod moved and Mr. Hohenberger seconded to accept the donation of \$550 from Convenient MD for a summer concert band; trash barrels for the fireworks from Stateline Waste Management and ice from Howie Glynn's for Town Day. Passed 4-0.

OLD/NEW BUSINESS CONTINUED: Mrs. Call advised that the lease resolution agenda item was not required, as the Board's motion on June 29th had proven sufficient. Brief discussion ensued.

Town Audit contract: After a brief discussion noting the benefits of Mr. Sullivan's negotiations, Mr. Hohenberger motioned to accept the contract extension for 5 years with Plodzik & Sanderson, based on the terms presented by Mr. Sullivan. Mr. McLeod seconded and the motion passed 4-0.

CORRESPONDENCE: Ms. Call noted she had two correspondence items on behalf of Town Treasurer, Bob Coole. The first was a request to appoint a Deputy Treasurer, per his email that was provided to the Board, which the Board would address in non-public. Discussion ensued and it was the consensus of the Board to support the Treasurer's recommendation.

Mr. McLeod then moved and Mr. Breton seconded to appoint Bob Davis as Deputy Treasurer as recommended by Bob Coole. Motion passed 4-0.

Ms. Call noted that the second item was a standard approval for the Treasurer, under State statute, to delegate certain functions to staff, including making daily bank deposits and preparing bank reconciliations for his review. After brief discussion, it was the consensus of the Board that this be placed on the July 27 agenda.

Ms. Call advised that a request had been received from the Windham Actors Guild for an abatement of the rental fee for the Searles Building; similar to the arrangement that the Board approved last year. She noted WAG is hosting a production of Steel Magnolias on November 13-15, and are requesting the rental fees be waived in favor of 25% of the ticket sales to cover the costs of operating the building.

Mr. McLeod made a motion to approve the request, and further discussion ensued regarding the timing of the request and the Searles Coordinator, as well as their non-profit status. Mr. Breton expressed concerns with correspondence versus action items, and a discussion ensued regarding the box office take versus a rental costs.

Mr. McLeod withdrew his motion, noting that that he would not want the 25% to equate to any amount higher than the actual cost to rent the building; which is approximately \$1,800. Mrs. Call noted that the request had been discussed with Donna Markham and that, in addition to the actual costs of opening the building, it would also not be available for a paid rental for the three days. Further discussion ensued.

Mr. Hohenberger then moved and Mr. McLeod seconded to waive the Searles rental fee as requested and, instead, to collect 25% of WAG's ticket sales; this amount to be capped at the proposed rental cost. Motion passed 4-0.

The Board was presented with multiple Pole License Petitions for utility companies, signed by the Town Clerk. Mr. Hohenberger motioned and Mr. McLeod seconded to approve the licenses as presented. Passed 4-0.

MINUTES: Tabled.

Mr. Hohenberger motioned and Mr. Breton seconded to adjourn at 9:30 pm. Passed 4-0.

Respectfully submitted,

Dana Call, Assistant Town Administrator-Finance
Wendi Devlin, Administrative Assistant

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