

BOARD OF SELECTMEN
Minutes of September 8, 2014

CALL TO ORDER: Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger, Joel Desilets, and Bruce Breton were present, as was Town Administrator David Sullivan. Selectman Al Letizio was delayed and arrived at 7:35 PM. Mr. McLeod opened with the Pledge of Allegiance.

ANNOUNCEMENTS/LIAISON REPORTS: Mr. Sullivan advised that the Board and public were invited to attend the Fire Department's 9/11 memorial service beginning at 8:30 AM at the station; to be followed by light refreshments.

Mr. McLeod reminded all of the State primary the following day; and that polls will be open at the High School from 7A to 8P.

Community Development Director Laura Scott approached noting there is a free business networking event scheduled for 9/11 from 5:30 to 7:30 PM at Medicus. Those interested in attending should contact Ms. Scott for more information.

Ms. Scott advised that the 2nd Annual Foodie Expo was scheduled for September 20th, 10A to 2P at the Searles building. She indicated that the event is free, and over a dozen local, food-based businesses are scheduled to be on hand.

DONATION ACCEPTANCE: Mr. Sullivan read the public hearing notice into the record, as follows: *"In accordance with RSA 31:95-b, the Board of Selectmen will hold a public hearing at 7:00 pm on September 8, 2014 at the Community Development Department for the purpose of considering the acceptance of funds from a private source in the amount of \$10,000.00. These funds will be utilized towards improvements to the Searles School and Chapel."*

Mrs. Margaret Case approached to explain that the donation in question was from the Thompson Group, and will be used towards completion of a brick walkway dedicated to the memory of Bernard J. Thompson, Sr. Mrs. Case also advised that a \$50 donation had been received from Kelly and Michael Yucupicio, and \$200 from Wayne Bailey.

Mr. Hohenberger moved and Mr. Breton seconded to accept these donations with gratitude. Passed 4-0.

Brief discussion ensued, and Mrs. Case advised that, to date, \$40,203 in donations had been received and \$30,846 of same expended. Mr. McLeod extended thanks to Mrs. Case for her efforts.

FORESTRY COMMITTEE: Mr. Sullivan noted that the Forestry Committee has been working with the Conservation Commission to bring about the Forest Management Plan completed in 2011 by Bay State. He indicated that the request at hand was for a waiver of the bid process to allow the Forestry Committee to continue with Bay State under the same contract terms; which he and the Commission supported wholeheartedly. Mr. Sullivan advised that, since 1991, Bay State has reviewed several areas in town (eg, the Gage Lands), and has also worked with the Town of Pelham; adding that their fee represents a portion of any harvesting proceeds.

Mr. Hohenberger noted this was not an insignificant amount of funds, and inquired how to be sure this was a fair price being offered by Bay State. Ms. Wanda Rice, FC Chairperson, approached noting that while she hadn't looked into pricing from others, she would assume the Conservation Commission had fully vetted the company initially. She indicated that she had met with Mr. Powers, the forester from Bay State, and toured several properties the company had handled; adding that the Town of Pelham was very pleased with their service and that Mr. Powers is highly regarded in the industry.

Mr. McLeod queried whether Bay State was the only such vendor, or whether there were others that would bid the service competitively. Mr. Breton noted that he had occasion to speak with Mr. Linden, the Pelham Board Chair, who had also established the Pelham Forestry Committee. He advised that Mr.

Linden indicated that over the years \$1M has been deposited in the Pelham fund, and that the Town of Pelham would be happy to assist Windham with our Forestry Committee.

Discussion ensued as to how long the contract would be with Bay State if approved, and Mr. Sullivan clarified that it would encompass however long a single harvest took. Mr. Hohenberger noted he did not see a need to rush; adding as this has never been done before in Town he had no idea if this were a fair price.

Mr. Hohenberger then moved and Mr. Desilets seconded to put this service out to bid. Discussion then ensued, and Mr. Desilets inquired what the fee to be paid out the proceeds was anticipated to be. Ms. Rice replied that, as the trees had yet to be marked, she did not know.

Mr. Sullivan then noted that, in 2011 the Conservation Commission had agreed to hire Bay State; inquiring whether, as a result, Bay State felt entitled to this work. Discussion ensued regarding the Conservation Commission's motion at the time. Mr. Morris noted that the Commission had executed a contract to hire Bay State to undertake three items; two of which Bay State has already completed.

Mr. McLeod opined that, as the Conservation Commission and Forestry Committee are two distinct entities, this could still be placed out to bid. Discussion ensued as to this being an ethical rather than legal issue, that no payment has been made to Bay State, and the amount of work Bay State has done to date with the Forestry Committee.

Mr. Breton inquired whether the payment funds would be coming from the general fund, and Mr. Sullivan replied in the negative; adding that the harvest revenues will go into the Forest Management Fund and the vendor will be paid from there, with the balance remaining in place until disbursement at Town Meeting.

Mr. Desilets inquired whether Bay State would begin work this fall if the request were approved. Ms. Rice replied in the affirmative; noting that placing it out to bid could delay the project by a year. Mr. Breton inquired what work has been done to date, and Ms. Rice noted that the inventory and Forest Management Plan are completed.

Lengthy discussion ensued regarding how a new vendor may approach the project, what Bay State has received/completed to date, and the Forest Management Plan. Mr. Breton suggested that, as the Management Plan is already in place, just a Harvesting Plan be placed out to bid. Mr. McLeod expressed concerns that then the Town would assume any liabilities for deficiencies that may exist in the Management Plan.

After further discussion, the motion to place this out to bid passed 4-0.

LOCAL ENERGY COMMITTEE: Mr. McLeod noted that the Committee was present relative to electricity supply agreements for the coming year; and deferred to LEC Chairman Mark Kovacs. Mr. Kovacs reviewed with the Board the attached presentation; noting that their recommendation was that the Town purchase its electricity from both Freedom Energy Logistics and PSNH. He indicated the recommendation included nine (9) months of service from FEL, and four (4) from PSNH, at 100% green renewable energy; estimated total cost for same being \$69,770. Mr. Kovacs advised that the rates as shown were good only until the following morning, and a discussion ensued regarding both the proposed contracts and the current one. Mr. Sullivan noted that the Town has been brokering the electric supply in this fashion for approximately five (5) years; reiterating the volatility of the market. He indicated that, historically, the Board has authorized the broker to obtain pricing on behalf of the Town.

Mr. Breton raised concerns that there may be other brokers available who could offer different pricing. Mr. Kovacs confirmed there were other brokers, and a discussion ensued as to whether the brokering should be placed out to bid. Mr. Desilets expressed that he was confident the LEC had shopped around and compiled the most correct data; adding he did not view this as a sole source scenario.

Discussion moved to the percentage of green energy recommended, as well as exploring other brokers. Mr. Kovacs indicated he was willing to do the latter, however, he echoed concerns raised regarding the market volatility. He then indicated that the LEC's recommendation would encompass a one month

contract with FEL, then a four month period with PSNH, followed by another eight month contract with FEL. He clarified no contract was required with PSNH, as it is the default provider.

Discussion ensued, and Mr. Sullivan clarified this is not a sole source scenario, as the broker does obtain multiple prices. He advised that last year the Town had saved approximately \$6,400; adding that he had concerns, logically, with the amount of administrative time needed to complete the switch in providers. He suggested it may not be worth staff time to contract for the one month with FEL. Discussion ensued, and LEC member Neelima Gogumalla approached to confirm the time involved in switching accounts; adding, however, that the Town is already with FEL.

Lengthy discussion ensued regarding the rates as offered versus what they may be in April, the low nature of PSNH's rates over the winter months, and whether to defer a decision until March while exploring other brokers.

Mr. Desilets moved to approve obtaining the Town's electrical supply from FEL/PSNH as recommended, at 100% renewable energy; provided that staff only be required to complete one account switch. There was no second.

Mr. Sullivan expressed concerns that he was unsure what the benefit would be of soliciting other brokers, as all reach out to the same providers for pricing. He inquired of Mr. Kovacs who else was approached by FEL, and Mr. Kovacs indicated that he did not have that information on hand.

Mr. Letizio sought clarification as to whether the Board was discussing a change in brokers, and Mr. Sullivan replied in the negative; adding that if the recommendation were approved the supplier would change from Constellation to First Point Power. Discussion ensued as to possible rate spikes in the spring due to global impacts, the current versus proposed rates, and whether there was a potential for savings on the broker side/rates.

Mr. Sullivan clarified that the Board can either bid out the broker and lose the rates as presented that evening, or stay with FEL and award the contract.

After further discussion, Mr. Breton moved and Mr. Hohenberger seconded that the LEC look into multiple brokers for the March to October, 2015 period. Passed 3-2, with Mr. Desilets and Mr. McLeod opposed.

Brief discussion ensued, and Mr. Kovacs noted he will reach out and inquire as to how the various brokers are paid and their rates. The Board extended thanks to Mr. Kovacs and the Committee for their efforts.

REQUEST FOR REFUND/ZBA FEES: Mr. McLeod noted that this pertained to ZBA case #34-2014, and Mr. Sullivan added that a refund of \$160 was being requested, of which \$100 was the soft cost of application. Discussion ensued, and Mr. Letizio indicated he would prefer refunding the entire \$160, as the hard costs would not have occurred had the applicant received the correct information.

Mr. Letizio then moved and Mr. Hohenberger seconded to approve the refund of \$160 as requested. Passed unanimously.

CONSERVATION EASEMENT DEED APPROVAL: Mr. Sullivan explained that the Planning Board had made the setting aside of a conservation easement on 8 Doiron Road a condition of their approval. He noted that the easement will be managed by the Commission, which has approved same, that the deed itself encompasses standard easement language which was reviewed by alternate Town Counsel, and that the Community Development Department is okay with same. Mr. Sullivan indicated his recommendation would be that the Board approve execution of the deed.

Mr. Desilets moved and Mr. Hohenberger seconded to approve execution of the deed as recommended. Passed unanimously.

PROPOSED AMENDMENTS - BOARD OF HEALTH ROPs: After a brief discussion regarding the availability of the red-line version to the Board prior to meeting, as well as a brief summary of those items proposed to be amended, Mr. Breton moved and Mr. Hohenberger seconded to recess the Board of Selectmen meeting and convene as the Board of Health. Passed unanimously.

The Board then reviewed/discussed proposed amendments to the Rules of Procedure, the results of which were as follows:

- Section I, A: replace “cognizance of” with “precautions to protect”
- Section III, 2, a: replace “State Statute” with “per”
- Section III, A, 3, a, 5: deletion of same (and renumbering of subsequent sections)
- Section III, A, 3, c: deletion of same
- Section IV, A, 2, 4, and 5: deletion of same (and renumbering accordingly)
- Section IV, A, 6 (new #3): addition of “as long as the time and place are announced in the meeting.”
- Section IV, A, 7 (new #4): addition of the words “any applicable” before “plans”. Relocation of “All meetings will be posted in accordance with NH RSA 91-A.” to new subsection (5).
- Section IV, B: deletion of “1.” and the final sentence “Minutes will be approved prior to the next Board of Selectmen’s meeting.”
- Section VII: correction of the term “sitewalk” to “site walk” throughout.
- Section VII, F: removal of “without prior Health Department Notice” and replacement of the word “discouraged” with “disallowed”.
- Section VII, G: addition of “or had any ex parte conversations with the applicant regarding same”.
- Section VIII: removal of “A)”, addition of “and approved by the Board” after “Health Officer”, and deletion of second and third sentences.
- Section IX: removal of “Workshops” in title.
- Section IX, B: replacement of the word “question” with “amendments”
- Section X: removal of “A)”, replacement of “office of Planning and Development” with “Community Development Department”, and replacement of “waiver” with “waiver, appeal, or rehearing”.
- Section XI: addition of “Appeals” to title.
- Section XI, A: insertion of “or appeals” after “waiver”, replacement of “appendix A by the Board” with “Section VIII”, replacement of “presented to the Administrative Secretary to the Planning Development Department who shall receive and date all applications.” with “submitted to the Heath Officer for processing.”, replacement of “and a receipt for same provided to the applicant” with “in accordance with Section XV.”
- Section XI, B: deletion of the words “waivers” and “for”
- Section XI, C: deletion of “for waiver(s)”, deletion of “it/them to be”, amend “scheduled” to “scheduling”, replacement of “discussion” with “public hearing”
- Section XI, D: add “and decide” after “hear”, add “receipt of the” prior to “application”, delete “for waiver”, add “or continuation” after “postponement”
- Section XI, E (new section): “The Health Officer shall present the waiver or appeal requests to the Board of Health for review. At the option of the Board, the applicant’s agent may be allowed to present the plans.”
- Section XI, F (formerly E). delete first sentence, delete “on a form”, replace “Board and shall be sent to the applicant, and the Selectmen’s Office, and the Assessor” with “Health Officer within five (5) business days and provided to the applicant, the Board Chair and posted in the Community Development Department.”

- Section XII, A: replace “Administrative Secretary to the Planning and Development Department or designee of the Board” with “Health Officer”, replace “beginning the next working day the Office of Planning and Development is open to the public following the day the decision is” with “being”, replace “presented to” with “scheduled for” and “Board” with “Board’s”, replace “at the next scheduled meeting” with “and a decision will be made within thirty calendar (30) days of receipt of the properly completed request.”
- Section XIII, A: delete “return receipt required”, delete text after “notice” in second sentence.
- Section XIII, B: delete “tax”, add “and submitting them as part of the application” after “Town hall”
- Section XIV, A: add “notice of decision, approved meeting minutes” after “correspondence”
- Section XV, A: delete second sentence in its entirety
- Section XV, B: delete subsection
- Additional minor grammatical/punctuation errors, as well as insertion of the word “calendar” throughout as it pertains to days.

Ms. Scott also noted that four (4) forms/applications will also be considered as part of the adoption of the amendments; inquiring whether the Board had any concerns regarding same. Brief discussion ensued in that these are new forms.

Ms. Scott then advised that changes to the fee schedule will need to be posted separately for approval; clarifying that only the language is changing and not the fee amounts themselves. Brief discussion ensued.

Mr. Letizio moved and Ms. Scott seconded to exit the Board of Health. Passed unanimously.

ASSESSOR JOB DESCRIPTION: Mr. Sullivan advised that as part of the recruitment process for the Assessor position, the job description had been reviewed by he and Mr. Norman. He indicated there were changes proposed to same, primarily relating to statutory inclusion, shifting of items around, and updated duties such as sale record maintenance and ability to use the CAMA system.

Mr. Breton suggested that the description be amended to remove reference to appearing before the BTLA as a duty in favor of something less specific. Discussion ensued, and it was the consensus that it be changed to reflect “appellate Board or court hearings”. Mr. Sullivan also noted that the certification requirements had been amended per Mr. Norman’s recommendation.

Mr. Desilets inquired whether the sensory requirements could be construed as discriminatory, and a discussion ensued regarding the ADA requirements and the Town’s provision of reasonable accommodations.

Mr. Breton questioned whether the Assessor enforces or administers the Timber Tax, and a brief discussion ensued. It was the consensus that “implement and enforces” was a better description.

Mr. Letizio moved and Mr. Breton seconded to approve the Assessor Job Description as amended. Passed unanimously.

OLD/NEW BUSINESS: Mr. Sullivan noted that the Transfer Station had implemented a new program with a new vendor to recycle books in which Windham’s Helping Hands will receive \$0.03/pound. He advised this will also afford a savings to the Town via avoidance of the related tipping fee. Brief discussion ensued, and thanks were extended to Mr. Poulson for coordinating same.

Mr. Letizio noted that he had attended the recent Selectmen Election Law training session in Rochester which he had found quite interesting. He then indicated that he believed that preservation of the pathway should not be up the Town Moderator alone, and that assistance should be sought from the Police Department to monitor and preserve the corridor which is required by Statute. He also noted that a quorum of the Board is required to be present for the entire time that the polls are open; as without same the vote would not technically be legal.

Mr. Breton noted for the record that he would not be in the voting area, as he appears on the ballot, and a discussion ensued as to who is exempt from this restriction, the prohibitions regarding electioneering within the polling area, and the Selectmen's presence.

Mr. Letizio then noted that the posting of campaign signs on public property is prohibited (eg. signs cannot be left unattended along the candidate corridor). In addition, vehicles such as pickup trucks displaying large-scale signs in the truck bed are illegal, and the Statutes are very specific regarding same. Discussion ensued as to the right-of-way versus town property "proper".

Mr. Breton suggested that the 10' corridor be roped off the entire length, rather than coned, and Sgt. Caron approached to note that he met with the Town Moderator and the janitors regarding same. He indicated that he had requested stakes be provided, and that he has yellow tape for same; adding, however, that only the grass side can be taped off as the other is concrete. Further discussion ensued amongst the members, however, no formal decisions were made.

CORRESPONDENCE: None.

MINUTES: Mr. Hohenberger moved and Mr. Letizio seconded to approve the minutes of August 25, 2014 as written. Passed unanimously.

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

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

The Board discussed the vacant officer position. Mr. Hohenberger moved and Mr. Letizio seconded to hire the recommended candidate. Passed unanimously.

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

Mr. Sullivan updated the Board on the Assessor recruitment process. It was the general (3-2) consensus that Mr. Sullivan arrange to meet with the top four recommended candidates.

Mr. Sullivan updated the Board on a legal matter relative to Town property. No decisions were made.

Mr. Letizio moved and Mr. Desilets seconded to adjourn. Passed unanimously.

Meeting was adjourned at 11:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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

Windham LEC Recommendation for 2014 – 2015 Electrical Service

Prepared by Pat Manzo, LEC member



Windham Local Energy Committee

Recommendation for 2014-2015

- Purchase electricity via by Freedom Energy Logistics and PSNH (9 months FEL and 4 month PSNH) - Oct 1, 2014 thru Oct 31, 2015 at estimated cost of \$69,770 based upon 2013 usage
 - FEL handles all transfers for supplier change
 - Includes 100% "Green" energy
 - NOTE: Proposed FEL-delivered electricity rates good until tomorrow.**

DESCRIPTION	13 MONTHS		2013 USAGE		PSNH/FEL
	Oct-14	60,401.00	\$ 0.08340	\$5,037	
	Nov-14	56,146.00	\$ 0.09870	\$5,542	PSNH
	Dec-14	59,670.00	\$ 0.09870	\$5,889	PSNH
	Jan-15	62,320.00	\$ 0.10720	\$6,681	PSNH
	Feb-15	62,656.00	\$ 0.10720	\$6,717	PSNH
	Mar-15	54,693.00	\$ 0.07910	\$4,326	FEL
	Apr-15	55,386.00	\$ 0.07910	\$4,381	FEL
	May-15	52,690.00	\$ 0.07910	\$4,168	FEL
	Jun-15	60,668.00	\$ 0.07910	\$4,799	FEL
	Jul-15	71,638.00	\$ 0.07910	\$5,667	FEL
	Aug-15	78,864.00	\$ 0.07910	\$6,238	FEL
	Sep-15	70,135.00	\$ 0.07910	\$5,548	FEL
	Oct-15	60,401.00	\$ 0.07910	\$4,778	FEL
TOTAL	805,668.00			\$69,770	

Windham Local Energy Committee



Current Contract

- Electricity provided by Freedom Energy Logistics
- **Contract expires approximately October 1, 2014**
 - 19 Service accounts expiring between 10/01/14 – 10/15/14
- **Current rate: \$0.079/KWH with 50% Wind Renewable Energy Credits**
- **Projected Cost = \$63,648 for 805,668 KWH (Windham 2013 usage)**



Windham Local Energy Committee

“Two-Supplier” Approach Less Costly than Single Supplier*

- PSNH has lowest rates in Winter months (November thru February) since they produce their own electricity
- FEL has significantly lower rates than PSNH for non-Winter months

DESCRIPTION	2013 USAGE	COST/KW-HR COST	PSNH Only	FEL Only	PSNH/FEL	MINIMUM GREEN
			NO GREEN OPTION	MINIMUM GREEN		
Oct-14	60,401.00	\$0.09870	\$5,962	0.10720	\$6,475	
Nov-14	56,146.00	0.09870	\$5,542	0.10720	\$6,019	
Dec-14	59,670.00	0.09870	\$5,889	0.10720	\$6,397	
Jan-15	62,320.00	0.10720	\$6,681	0.10720	\$6,681	
Feb-15	62,656.00	0.10720	\$6,717	0.10720	\$6,717	
Mar-15	54,693.00	0.10720	\$5,863	0.10720	\$5,863	
Apr-15	55,386.00	0.10720	\$5,937	0.10720	\$5,937	
May-15	52,690.00	0.10720	\$5,648	0.10720	\$5,648	
Jun-15	60,668.00	0.10720	\$6,504	0.10720	\$6,504	
Jul-15	71,638.00	0.10720	\$7,680	0.10720	\$7,680	
Aug-15	78,864.00	0.10720	\$8,454	0.10720	\$8,454	
Sep-15	70,135.00	0.10720	\$7,518	0.10720	\$7,518	
Oct-15	60,401.00	0.10720	\$6,475	0.10720	\$6,475	
TOTAL	805,668.00		\$84,870			\$86,368
						\$68,923

* Minimum “green” electricity

Windham Local Energy Committee



LEC Recommends Purchasing 100% “Green” Electricity thru FEL (9 of 13 months*) for 1.2% Higher Cost

DESCRIPTION	13 MONTHS	2013 USAGE	PSNH/FEL		
			MINIMUM GREEN	50% GREEN	100% GREEN
Oct-14	60,401.00	0.081900	\$4,947	\$ 0.08265	\$4,992
Nov-14	56,146.00	0.098700	\$5,542	\$ 0.09870	\$5,542
Dec-14	59,670.00	0.098700	\$5,889	\$ 0.09870	\$5,889
Jan-15	62,320.00	0.107200	\$6,681	\$ 0.10720	\$6,681
Feb-15	62,656.00	0.107200	\$6,717	\$ 0.10720	\$6,717
Mar-15	54,693.00	0.077600	\$4,244	\$ 0.07835	\$4,285
Apr-15	55,386.00	0.077600	\$4,298	\$ 0.07835	\$4,339
May-15	52,690.00	0.077600	\$4,089	\$ 0.07835	\$4,128
Jun-15	60,668.00	0.077600	\$4,708	\$ 0.07835	\$4,753
Jul-15	71,638.00	0.077600	\$5,559	\$ 0.07835	\$5,613
Aug-15	78,864.00	0.077600	\$6,120	\$ 0.07835	\$6,179
Sep-15	70,135.00	0.077600	\$5,442	\$ 0.07835	\$5,495
Oct-15	60,401.00	0.077600	\$4,687	\$ 0.07835	\$4,732
TOTAL	805,668.00		\$68,923		\$69,346
DELTA OPTION 2 GREEN ALT			0		\$424
% DELTA OPT 2 GREEN ALT			0%		0.61%
					\$847
					1.2%

* PSNH offers only minimum “Green” electricity

Town Survey indicates 65% of respondents rate “promote local renewable energy” as medium to high priority

