

**SELECTMEN'S MEETING  
SEPTEMBER 8, 2003**

**MEMBERS PRESENT:** Galen Stearns, Alan Carpenter, Christopher Doyle, Roger Hohenberger and Bruce Breton. David Sullivan, Town Administrator, was also present. Meeting commenced at 7:00 pm.

**ANNOUNCEMENTS:** Mr. Sullivan announced that the Administrative Offices located in the Bartley House will have new hours, 8:00 am to 4:00 pm, beginning September 15<sup>th</sup>. He noted that the Town Hall is considering changing to these hours also and if they so decide, they will give 30 days notice.

**LIAISON REPORTS:** Bruce Breton stated that the Recreation will hold basketball signups at the Center School on September 15, 22, 24 and October 1 at Center School from 7:00 pm to 9:00 pm. Also, mail in registration forms are available at the Library. Mr. Breton also stated that Recreation is reviewing proposed impact fees.

Mr. Hohenberger reported that the CIP met last week and received all department requests.

**REQUEST TO PLAN TREES AT THE NESMITH LIBRARY:** Letter received from John Barrett, Library Director, stating that he has received two requests to plant trees at the Library in memory of a loved one. Mr. Doyle motioned to authorize the Library Director to accept the donations and to work with David Sullivan, Allan Barlow and Jack McCartney on tree selection and placement at the Library. Mr. Carpenter seconded. Passed unanimously.

**MINUTES:** Mr. Doyle motioned to accept the minutes of August 18, 2003 and to correct the spelling of Mr. Breder's name to Breda. Mr. Breton seconded. Passed unanimously.

**ROAD BOND RELEASE:** Mr. Doyle motioned to approve the partial release of \$19,000 from a road bond at Lot 546 Partridge Road and to retain \$1,000. Mr. Hohenberger seconded. Passed unanimously.

**PUBLIC HEARING – PROPOSED PERSONNEL POLICY CHANGES:** Mr. Stearns read the following notice:

**PROPOSED CHANGES TO WINDHAM PERSONNEL  
POLICIES**

The Board of Selectmen will consider the following amendments/changes to the Town of Windham Personnel Policies at their regular meeting on September 8, 2003 at 7:15 PM. Any comments concerning these proposed changes may be submitted by any employee to their department head who in turn will submit same to the Board of Selectmen.

## **ARTICLE XXXI – AUTHORIZED LEAVE –**

AMEND by ADDING the following new paragraph #6:

“Department Heads shall be authorized to allow a paid leave of absence to an employee who has experienced a traumatic incident while in the performance of their duties and who, in the department head’s view, presents a risk to themselves or to others should they remain on duty. The paid leave shall not exceed the hours remaining in the day or shift which the incident occurs. Any additional time off needed by the employee beyond the one day or shift shall require the use of earned time or other benefit time. For incidents or occurrences of this nature, the Department Head’s decision shall not be arbitrary or capricious, and shall be final and binding and not subject to the Grievance Procedure under Article XXVI.

**The amendment above shall be effective as of September 9, 2003, but shall be retroactive for any incidents that may have arisen after July 28, 2003.**

*Intent of Amendment – To provide some flexibility to department heads to deal with extraordinary on duty incidents which may have placed employees in situations or handling situations that were traumatic in nature and which may cause them difficulty in continuing to perform their duties for the particular day or shift. In these circumstances it may best serve the employee and town to allow the employee time off with pay rather than to place them or their fellow employees and residents in a position in which they could cause harm to themselves or others.*

Mr. Hohenberger stated that he felt earned time should be used in these instances. Mr. Sullivan stated that use of this leave would be for traumatic incidents incurring in the line of duty of the employee and making the employee emotionally unable to perform their duties. Chief Messier explained that he had an employee who was unable to finish a shift after a traumatic event and the Town’s policies did not provide a method for him to release him from duty without charging earned time. He stated that he felt it would be good for morale to allow the employee to leave without being charged.

Chief Messier stressed that this would be granted only at the discretion of the Department Head, allowing him to show compassion and that this would happen very rarely. Some Selectmen stated that they felt witnessing traumatic events were part of their job.

In answer to questions by the Board, Mr. Sullivan stated that he would only support this policy if all employees could be offered it (non-union through personnel policy and union through possible inclusion in contracts), and that it would be used very rarely and be granted at the discretion of the department head and would not be grievable.

The Board discussed possible abuse of this policy, passing it on a trial basis and having the Board review each case.

Mr. Sullivan, Chief Messier and Mr. Turner spoke in favor of the proposed policy, noting that if abuse occurs, the Board could then discipline the department head for possible poor judgment.

Mr. Carpenter moved to approve the change to the Personnel Policy as written above. Mr. Doyle seconded. Mr. Case asked where the department heads were to support this. Mr. Sullivan stated he was here as their spokesman. Motion passed 3-2 with Mr. Stearns and Mr. Hohenberger opposed.

**PUBLIC HEARING – PLANNING BOARD FEES:** Mr. Stearns stated that it is not within the purview of the Selectmen to change the Planning Board fees but rather the Planning Board. Therefore this hearing is closed.

The Board of Selectmen recessed their meeting and convened the Board of Health meeting.

**PUBLIC HEARING WELL ORDINANCE:** Mr. Stearns read the following notice: “Notice is hereby given that a hearing will be held on September 8, 2003 at 7:30 pm at the Planning and Development Office concerning amendments to the Well Ordinance.”

### **Proposed Revisions To The Well Ordinance**

Revisions to Section 2.9 would be:

All wells shall be tested for contaminants from the latest recommended “Standard Analysis” list from the New Hampshire Department of Environmental Services (NHDES). Each well shall be tested ~~at the wellhead prior to issuance of a full building permit and again after the building is complete (at the kitchen faucet) and before occupancy. The copper and the lead test shall only be done during the second water quality test.~~ The required minimum parameters are to be tested; Arsenic, Bacteria, Chloride, Copper (non-flushed), Nitrate, Nitrite, Hardness, Iron, Sodium, Lead (non-leaded), Manganese Fluoride, pH. All ~~drinking water~~ wells used for clean and potable water shall meet the recommended NH DES drinking water standards

Section 2.9 would then read:

2.9 All wells shall be tested for contaminants from the latest recommended “Standard Analysis” list from the New Hampshire Department of Environmental Services (NHDES). Each well shall be tested after the building is complete and before occupancy. The required minimum parameters are to be tested; Arsenic, Bacteria, Chloride, Copper (non-flushed), Nitrate, Nitrite, Hardness, Iron, Sodium, Lead (non-flushed), Manganese Fluoride, pH. All wells used for clean and potable water shall meet the recommended NH DES drinking water standards

Revisions to Section 2.10 would be:

Required, additional Test Parameters (~~NHDES~~)

VOC's (solvents and hydrocarbons) (special bottle required)

Radon (special bottle required)

Analytical Gross (~~screen~~) alpha (AGA),

All drinking water wells shall meet the ~~recommended~~ NHDES  
Drinking water standards.

Section 2.10 would then read:

VOC's (solvents and hydrocarbons) (special bottle required)

Radon (special bottle required)

Analytical Gross alpha (AGA)

All drinking water wells shall meet the recommended NHDES drinking  
water standards for these tests.

Mr. Turner, Deputy Health Officer, explained the changes and reasons for them. He noted that presently two tests for quality and quantity are required – one before the issuance of the building permit and the other prior to the occupancy permit being issued. He stated that after discussions with well companies, he does not feel the first test is necessary and adds costs for the home buyers. He suggested using the DES procedures.

A lengthy discussion followed with the Board, Mr. Sullivan, Mr. Turner and members of the audience. Subjects included: costs of testing, timing of tests, full disclosure to buyers, flaws in the present ordinance, if testing should be required, State requirements, Town requirements, after first test – only retest failed items, community well standards, procedure for failed wells in existing home, etc.

Mr. Hohenberger suggested the following changes:

2.9 All wells shall be tested for contaminants from the latest recommended "Standard Analysis" list for the New Hampshire Department of Environmental Services (NH DES). Each well shall be tested at the wellhead prior to issuance of a full building permit. *If primary contaminants are found to be in excess of the recommended NH DES drinking water standards for primary contaminants, secondary tests shall be required at the kitchen faucet after the building is complete and before occupancy.* The required minimum parameters are to be tested; Arsenic, Bacteria, Chloride, Copper (non-flushed), Nitrate, Nitrite, Hardness, Iron, Sodium, Lead (non-flushed), Manganese Fluoride, pH. All wells used for clean and potable water shall meet the recommended NH DES drinking water standards *for primary contaminants.*

2.10 Required, additional Test Parameters:

VOC's (solvents and hydrocarbons)(special bottle required)

Radon (special bottle required)

Analytical Gross alpha (AGA)

All drinking water wells shall meet the recommended NH DES drinking water standards [for primary contaminants](#).

Mr. Sullivan noted that two letters were received from well companies stating their concerns with the present Well Ordinance.

Board members suggested certain wording changes, however no decision was made as the hearing was continued to obtain more information on standards for community wells.

The Board continued the public hearing and reconvened the Selectmen's Meeting.

**PUBLIC HEARING:** Mr. Stearns read the following notice. "The Board of Selectmen will hold a public hearing at 8:00 pm on September 8, 3002 at the Planning and Development Building to consider the installation of a Stop sign at the intersection of Faith Road and Atlantic Road."

Lewis Zachas expressed his concerns for the residents of Faith Road. He discussed safety issues, speed of cars, signs, speed limits and placement of stop signs.

Mr. Sullivan noted that a speed survey has been completed in that area and the results are being compiled. He noted that cars are sometimes traveling slower than perceived.

Mr. Carpenter motioned to approve the installation of a stop sign at the intersection of Faith and Atlantic Roads. Mr. Doyle seconded. Passed unanimously.

**PUBLIC HEARING – ACCEPTANCE OF EAST STREET:** Mr. Stearns read the following notice. "The Board of Selectmen will hold a public hearing at 8:15 pm on September 8, 2003 at the Planning Department to consider the acceptance of Easy Street from Station 0+00 to 19+00 as a public road."

Mr. Doyle motioned to continue this hearing until September 22, 2003. Mr. Hohenberger seconded. The Board noted that if a road has a cistern they are requiring that the Fire Department acknowledge that the standards had been met. Motion passed unanimously.

**PUBLIC HEARING – GRIFFIN PARK DONATION:** Mr. Stearns read the following notice. "In accordance with RSA 31:95-b, the Board of Selectmen will hold a public hearing on September 8, 2003 at 8:30 pm at the Planning Department for the purpose of considering the

donation to the Town of a monetary contribution from a private source to be used towards specific improvements to Griffin Park.”

Mr. Stearns noted that the donor requested that this hearing be continued until September 22, 2003. Mr. Breton so moved and Mr. Carpenter seconded. Passed unanimously.

**GRIFFIN PARK MULT PURPOSE BUIDLING UPDATE:** Charles McMahon reported that the bulldozer is on site to begin the site work for the multi purpose building at Griffin Park. He stated that safety tape would be in place around the work area. It is estimated that the site work will take a week to 10 days. Conduits will be placed from the building to each of the fields.

He expressed thanks to George Taylor for his donation of labor for the site work. The Board and Mr. McMahon stated that donations for this project are on-going and very welcome. He also invited the Board to view the site anytime during the building process.

Mr. McMahon will update the Board on the progress at their next meeting.

**TOM CASE – TEN YEAR ROAD PLAN AND AMBULANCE FEES:** Ten Year Road Plan -Mr. Case, Representative on the Salem, Plaistow and Windham Transportation Advisory Committee, told the Board that due to a variety of reasons the DOT is discussing delaying or removing a number of projects from the Ten Year Plan. The projects under consideration in the Windham area are listed below noting the original build date and the revised build date.

Widening of I 93 from Mass Line to I-293	2010 to 2011
Brookdale Rd to 111A including 111A Bridge	2009 to 2011
Shared Bicycle lane, So. Lowell Rd	2006 to 2007
Reconstruction & Signalization of N. Policy St.	2006 & 2007
	<b>To</b> 2013 & 2014
Reconstruction of Lake St/Rte 111 Intersection	2005 to 2012

The GACIT hearing will be held at Salem High School on October 29<sup>th</sup> at 7:00 pm.

Mr. Case also stated that the EPA is not contesting the mitigation plan for the I 93 project.

Ambulance Fees: Mr. Case told the Board that he wanted the policy clarified for ambulance billing for residents. Chief Messier gave the Board a copy of the procedure COMSTAR, the Town’s contracting billing service, uses for billing and collection for the Town of Windham. He noted that after insurance payment is received, the residents receive a bill. No collection letters are sent. Anyone with a hardship may call the Fire Department.

Mr. Stearns stated that the Town must send a bill for the balance due to comply with Medicare regulations. The Board ask Chief Messier to provide them with an example of a bill sent to a resident and also to review the procedure with staff. He also noted that employees are billed the same as residents.

**MARK SAMSEL – JOHN MANGAN:** Mr. Samsel and Mr. Mangan spoke with the Board regarding the implementation of HB 420 which will go into effect this week. They expressed concern that the signs posted by the State were confusing and more signs will be needed. They also discussed placement of barriers or gates to permit access for authorized uses. Mr. Sullivan will send letter to and work with DRED on these issues.

They also stated that the parking area is in deplorable condition. Mr. Carpenter noted that DRED will probably not be interested in paving it as the usage for ATVs has been stopped in non-snow covered months. They asked if there was any help possible from the Town. Mr. Sullivan stated that when last asked, the Conservation Commission and Historic Committees were not in favor of paving the lot. Mr. Mangan asked if the pavement could be removed. Mr. Breton asked if the State might give the land to Windham but this is not likely. Mr. Carpenter suggested staff include this issue in their letter to DRED.

**JOB DESCRIPTION – POLICE PROSECUTOR:** Mr. Sullivan stated that this job description has been updated and includes more detail than the previous one. Mr. Carpenter moved to approve the job description as written. Mr. Breton seconded. Passed 4-0-1 with Mr. Hohenberger abstained as he had not reviewed it.

Mr. Sullivan announced that the new Police Prosecutor is Oscar Colvin.

**OLD BUSINESS:** Historic Committee - Peter Griffin, member of the Historic Committee, spoke for the Committee to request that the Board reconsider their decision and waive the bid process for construction management for the renovations to the Searles Building. He told the Board that the value of the building is to generate revenue and they need to complete the project in a timely manner to maintain revenues. He also stated the uniqueness of the project and the firm they wish to hire is very qualified.

Mr. Doyle motioned to allow the request and waiver to sole source the construction manager for the Searles renovations. Mr. Breton seconded. Mr. Hohenberger stated he understands their concern, however the bid policy is in place for expenditures over \$5000. Mr. Carpenter noted that the Committee could have moved forward after the Board's first vote and be well in the process. Fred Linnemann, Sally DeAngelo, Bill Wallace and Marion Dinsmore spoke to the Board urging them to reconsider. Mr. Sullivan also urged the Board to approve the waver based on the company's former performance and knowledge of the building. He

stated that when the renovations first began the full bid process was conducted and this is another phase of the project.

Mr. Carpenter motioned to waive the bid process and award the bid to Fulcrum Associates. Mr. Doyle seconded. Passed 4-1 with Mr. Hohenberger opposed.

Marion Dinsmore stated that the Committee is taking orders for the book "Images of Windham" for \$19.95 of which 50% will go towards the renovations. Prices will be higher in stores.

Farrwood Road Stonewall Damage – Mr. Doyle motioned to approve the expenditure of \$1800 from the highway budget to repair the stonewall at the entrance to Farrwood Road. Mr. Hohenberger seconded. Passed unanimously.

Bartley House – Mr. Carpenter motioned to approve the expenditure of \$2,300 from the Property Maintenance Trust for work in the basement of the Bartley House. Mr. Doyle seconded. Passed unanimously.

Mr. Sullivan told the Board that Tate Brothers had completed paving the walkway at the Bartley House and loam would be spread this week with seeding to follow.

**CORRESPONDENCE:** Letter received from COMSTAR and Chief Messier that ambulance billing rates will increase on October 1<sup>st</sup> from a flat rate of \$14.00 per case to 6.5% of funds collected. The Board asked the Chief to calculate the difference in cost.

**NEW BUSINESS:** Mr. Doyle motioned and Mr. Breton seconded to approve the sandblasting and repainting of the Highway Department dump truck. Passed unanimously.

Mr. Sullivan told the Board that the State will be repairing the retaining wall on Cobbetts Pond Road. The road will be closed for tree cutting September 15 – 17. The town beach will be used as a staging area. The State asked that the Board waive the fee for temporary electric service. Mr. Carpenter so moved. Mr. Hohenberger seconded. Passed unanimously.

Mr. Sullivan stated that he, Mr. Hohenberger and Chief Moeckel met last week with representatives from the State regarding a crosswalk on North Lowell Road in front of the Bartley House. The State will not put in a crosswalk as there is not sufficient site distance. Mr. Sullivan reminded everyone that with no crosswalk, you are crossing at your own risk. He further stated though that the State will install Pedestrian signs on either end of the town center to provide motorists with some prior indication that people may be walking in the area between buildings.

Mr. Sullivan asked the Board if he could work with the present companies doing the town landscaping and negotiate extensions to the

present contracts or if they wanted it put out to bid. The Board wished the work to go out to bid but allowed it could be for a 2 year contact with an option for three years.

**NON-PUBLIC SESSIONS:** Mr. Carpenter motioned and Mr. Breton seconded to go into non-public sessions in accordance with RSA 91-A:3, II a, d and e. Roll call vote – all members – yes. The subjects were personnel, legal and land acquisition.

Personnel – Mr. Hohenberger motioned and Mr. Doyle seconded to removed Dana Call and Ralph Parsons from probationary status. Passed unanimously.

Mr. Doyle motioned and Mr. Breton seconded to re-appoint Bruce Flanders as Health Officer and Alfred Turner as Deputy Health Officer. Passed unanimously.

Legal – Mr. Sullivan updated the Board on a legal matter.

Land Acquisition – Present Selectmen, Mr. Sullivan, Bruce Anderson, Lisa Linowes and Dennis Senibaldi. No decision.

Respectfully submitted,

Kathleen Davis  
Administrative Assistant

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