

**BOARD OF SELECTMEN**  
**Minutes of November 22, 2010**

**MEMBERS PRESENT:** Chairman Charles McMahon called the meeting to order at 7:05 PM. Selectmen Bruce Breton, Ross McLeod, and Roger Hohenberger were present, as were Town Administrator David Sullivan and Assistant Town Administrator Dana Call. Selectman Galen Stearns was delayed and arrived at 7:15 PM. Mr. McMahon opened with the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. McLeod extended congratulations to the Central Catholic Girls' Soccer team, of which seven are Windham students, who recently won the Division 1 State Championships. He noted that this team is the first ever CC team to do so. Mr. McLeod also noted that Derryfield Girls' Soccer had recently won their tournament playoffs, as well.

**LIAISON REPORTS:** Mr. McLeod noted that the Christmas Tree Lighting would be held on December 11<sup>th</sup>, from 3 -5 PM at Town Hall.

**MINUTES:** None.

**CORRESPONDENCE:** Letter received from the Mayor of Nashua regarding the City's potential purchase of Pennichuck Waterworks, in which it was noted that service to Windham residents will not be impacted by the change in ownership and that operations will still be regulated by the Public Utilities Commission. The Mayor also noted that a public informational meeting in Windham will be scheduled in the future regarding same.

**2011 BUDGET WORKSHOP:** Mr. Sullivan opened the discussion by noting the following:

- Staff had developed their budgets with the goal of a 0% increase over 2010. This goal had been accomplished based upon assumptions such as a level funded CIP allocation.
- The final, draft budget, represented a \$13K decrease over last year, and included no salary increases for non-union employees. The various unions are currently in negotiations.
- The last three annual budgets as presented/approved have represented decreases over the previous year.
- Percentage-wise, Public Safety continues to represent the largest budget item, followed by General Government and Highways. For the proposed budget, Public Safety represents the largest increase, with the majority of that being related to retirement costs.
- Overall, salaries have increased \$66,105, while operating expenses/benefits have decreased \$79,590. Overall, the retirement increase impacts represent \$74K.
- To date, there have been no citizen petitions received.

- Last year's CIP recommendation was \$720K net, with \$300K representing road improvements and the balance earmarked for the Salt Shed project. Mr. Sullivan noted, however, that the Board had not opted to spread the latter over the recommended two year period, and had instead taken \$190K out of the operating budget. He noted that, for purposes of the 2011 budget, if the Board chose to spend the entire recommended CIP allocation of \$1.8M, then the budget will increase and adjustments will have to be made to departmental items to stay level funded.
- Items removed from the global budgeting process in order to attain a 0% increase included, among other things: \$40K to hire a utility appraisal specialist; \$15,530 in training expenses for an additional Paramedic; and \$99,800 for two new patrol officers including a K-9 program.

Mr. Sullivan then reviewed several proposed dates with the Board relative to departmental budget discussions. Mr. McMahon thanked staff for their efforts during this difficult economic time, and asked that the Board advise Mr. Sullivan of any conflicts with the proposed meeting dates as soon as possible.

Mr. Rob Gustafson, Chairman of the CIP Committee, approached noting that the CIP program is based upon \$0.75 on the Town tax rate. He indicated that the Committee had reviewed all requests submitted for 2011, and that their recommendation did exceed the \$720K allocation from last year. Mr. Gustafson stressed, however, that the Committee endeavors to address the needs of the Town and Departments, and he expressed concerns with arbitrarily reducing the allocation to \$720 noting that if cuts continue to be made it will catch up with the Town eventually with large expenses being faced in the future. Mr. Gustafson then requested that the Board look closely at the requests and the final plan and not just "level" fund the program.

Mr. Stearns agreed, noting that the CIP has worked well over the last 20-25 years; however he added that he believed it had strayed from its original intent to avoid bonding large projects. Discussion ensued regarding operating the CIP on a percentage scale versus a flat rate dollar figure, the Town's efforts to lessen the burden on tax payers, when the CIP allocation had been dropped \$1.50 to \$0.75, and the impacts of the High School bond.

Mr. McLeod then moved and Mr. Hohenberger seconded to strike the Board's salaries from the 2011 proposed budget. Passed 4-1, with Mr. McMahon opposed.

**OLD/NEW BUSINESS:** Mr. Sullivan sought the Board's direction regarding the various options available relative to the issue of the Town performing winter maintenance on unaccepted roads. Mr. Sullivan noted that the Board could take no action, or could add language to the existing Emergency Lane requirements and begin the process of declaring these roadways, of which there are 25, as such. He explained that the latter would require a public hearing process and notification to all abutters.

Discussion ensued regarding the liability to the Town, if any, of continuing to plow/sand these unaccepted roads, and which had certificates of occupancy issued. Mr. Sullivan noted that the liability had yet to be determined, as it had never been an issue, however, any resident could raise concerns regarding the Town's activity. In addition, he noted that all of the roads save McIntosh have at least one occupied home.

Mr. Hohenberger expressed hopes that the list of unaccepted roadways could be reduced in a short time, as he felt it represented an excessive number. He added that, if everyone were uncomfortable enough with continuing status quo, then he would support the emergency lane process. Mr. Hohenberger stressed, however, that these are not private roads but rather, per subdivision approval, they are to be town roads.

Mr. Hohenberger then moved and Mr. Breton seconded that staff draft additional language for addition to the Emergency Lane criteria to address roads that are in progress. Further discussion ensued regarding the length of the list and subdivision completion requirements. Mr. Breton expressed concerns regarding the subdivision requirements and related bonding, and impacts to the taxpayer if the bonds are inadequate to complete the process after such a lengthy time period. Mr. Hohenberger concurred, and noted that there needs to be a process in place to ensure such circumstance does not happen moving forward.

Community Development Director Laura Scott approached advising that the Planning Board is currently drafting new regulations relative to the collection of funds specifically to plow new roads. She also noted that staff is moving forward in efforts to reduce the list. Mr. McLeod noted that, if that were the case, then the list should not increase beyond what it is now, and will work itself out. He then indicated that he felt the status quo should be maintained, citing the amount of work required to declare, then undeclared upon completion, these roads as emergency lanes. Discussion ensued. Mr. Sullivan noted that the declaration as an emergency lane could be made for a one year period, only, and that each could be declared as such individually.

Mr. Stearns noted that he would prefer not to add the proposed language to the criteria, and that plowing/sanding by the Town should be halted which will force the developers to finish the roads as they should be. Ms. Scott countered that the developers could argue that the Town has effectively taken over the roads and walk away from completing the roadway with their remaining bond monies.

Mr. McLeod felt that, if the plowing/sanding operations were going to be placed upon the developer, then some form of tax credit would need to be provided to the residents currently living on the unaccepted roads who were not receiving the services of the Highway Department. Discussion ensued, and Mr. Sullivan indicated that Town services are not a consideration of property assessment.

Mr. McMahan indicated his support of emergency lane declaration for the roads currently on the list, noting that all citizens should receive the benefit of town services. He added that these are de facto public roads, despite not having been accepted as yet.

Discussion ensued regarding the number of roadways that are complete save for finish pavement and if their acceptance could be completed before the start of the year. Ms. Scott agreed that there were several that were nearly ready to be accepted, however, staff needed time to locate their files/plans, etc. and they should not be submitted to the Planning Board before that information is compiled. Further discussion ensued.

Motion failed 2-3, with Mr. McLeod, Mr. Breton, and Mr. Stearns opposed.

Mr. Breton indicated that he would like staff to make these roadways a priority over the next sixty days, with the goal being to reduce the list. Also, he asked that the bonds be analyzed to ensure that they are adequate to cover the work remaining should revocation be required, and that in the interim the Town continue plowing/sanding operations. Discussion ensued regarding the Town's inability to raise the existing bonds, if inadequate, and establishing the deltas if any.

Ms. Scott approached, noting that it was not the intent of herself or the Planning Board to place the responsibility on the developer to provide winter maintenance; nor did the Highway Safety Committee concur with doing so for safety/consistency reasons. Discussion ensued.

Mr. McMahon requested that the Board re-consider their vote, as he desired the roads to be plowed as they have been. Mr. Breton indicated he wanted assurance that staff will work on reducing the list and the bond information compiled. Mrs. Call replied that the bond analysis is available, and the only bond amount that may be a concern is the one in place for Wall Street.

After further discussion, Mr. Breton moved and Mr. Hohenberger seconded that a public hearing be scheduled to declare the roads in question as emergency lanes and, that they continue to be plowed by the Town, and that it made a priority by staff that they be completed by 2011. Discussion ensued.

Mr. Sullivan stated that, in his opinion, the Board should take no action beyond making the list a priority. He noted that the liability, if any, had existed for over 20 years with no issues.

Motion passed 3-2, with Mr. McLeod and Mr. Stearns opposed.

**SQUIRE ARMOUR ROAD:** Ms. Sheri Weeks of 27 Squire Armour approached indicating the area residents were in attendance to request the Board's assistance with the Department of Transportation relative to the I-93 impacts on the residents' quality of life due to the lack of a sound barrier. Ms. Weeks noted that the residents were seeking a compromise, indicating that per the criteria in place the neighborhood had qualified for a sound barrier on one level; but had been disqualified due to cost effects. Ms. Weeks noted that the criteria in place dated to the 1970's, and the DOT was now seeking individual assessments which the neighborhood did not wish to do.

Mr. McMahon inquired whether additional sound studies had been done in the area since the recent tree removal at Route 93, and the reply was in the negative. Squire Armour resident Suzanne Deshaies advised that Project Manager Pete Stamnas had been asked for new studies, and he had replied no further tests would be conducted. Discussion ensued regarding the recent, significant changes in the landscape and the timing of the first sound test. Mr. McMahon noted that four homes had initially met the criteria for construction of a sound wall, but that the criteria also required the cost impacts not be more than \$32K per home. He noted that to construct a barrier in this area the cost estimate was \$600K, thus the disqualification.

Discussion ensued, and the following residents approached citing concerns regarding increased noise levels, an increased number of homes impacted which they believe has risen to 10-14, detrimental effects on quality of life and property values, and blasting concerns: Mr. Derek Coles, Mr. Frank Stone, Ms. Donna Gogas, Mr. John Lucinkas, Mr. Rich Deshaies, and Mr. Robert Ruggiero.

It was the consensus of the Board that a letter be drafted to the Commissioner of the DOT and copied to Mr. Stamnas, Ms. Weeks, and Windham's State Representatives and Senators, requesting that the DOT meet with the Board of Selectmen to discuss an additional/expanded sound study of Squire Armour Road. Further, that the previous study results be provided to the Town, including placement of the meters, along with comparative information relative to the sound barrier installed at Exit 1 and costs/proposals for mitigation.

*The Chairman* called for a five minute recess.

**SPRUCE POND:** Mr. Dennis Senibaldi approached to advise the Board that the fill previously discussed was no longer available and he would therefore not be requesting any funding. He added that there are other options available for fill, and asked the Board's support to allow him to continue to pursue options.

Mr. Hohenberger inquired whether there were a way to utilize the site without fill. Mr. Joe Maynard, Benchmark Engineering, replied that fill would be required for any type of field, it would just depend on how much.

Mr. McLeod suggested that perhaps there was a way for the Town and School to work together strategically to complete the area. Mr. Senibaldi noted that the property will be deeded to the Town in May, and he would still like to look at other sources for fill. Discussion ensued that the Board did not take issue with fill being brought in but with having to budget for it, and the possible expense of up to \$2,500 for fuel costs to spread the fill.

Mr. Senibaldi noted that the Recreation Committee was unanimously in support of the expense of the aforementioned funds, and Mr. Breton suggested that an agreement be put into place with H & B Homes regarding their expense in case the spreading takes into the next year. Discussion ensued.

Mr. Stearns indicated he was uncomfortable encumbering funds into 2011 without a definitive proposal. He felt if the spreading were not going to take place until next year then it should come out of the 2011 CIP funding. Discussion ensued.

Mr. Sullivan sought clarification regarding the estimated value of the spreading minus the fill costs. Mr. Maynard replied that the excavator costs \$2,000/day, and it should take approximately one week to strip/spread the area.

Mr. Sullivan noted he believed it would be money well spent if H & B will hold the price until next year. Mr. Hohenberger expressed concerns that the fill would not come in a single load, thus leaving the land exposed, and that it was unknown whether completion of the field would even be supported in 2011. Mr. Senibaldi noted that the project has been supported thus far, on all levels, and reiterated that the field is needed.

Discussion ensued regarding the conditions of approval, specifically “natural state” versus fill and/or a field, and the potential loss of the 40K yards of fill currently on site.

Mr. McLeod recused himself from the Board, as he did not feel it appropriate he remain seated in light of his affiliation with the Windham Soccer Association.

Further discussion ensued regarding the field design plans and related permitting completed by Benchmark Engineering on behalf of Recreation. Mr. Senibaldi noted that the plan was designed to address all organizations, including lacrosse, football, and soccer. Discussion ensued.

Mr. Stearns then moved and Mr. Breton seconded that, in the event fill becomes available before December 31<sup>st</sup>, up to \$3,000 may be expended out of the total Recreation budget to cover the costs of fuel to have said material spread in preparation for the fields. Passed 3-1, with Mr. Hohenberger opposed.

Brief discussion ensued regarding the original topography of the lot and the fill currently at the upper level.

Mr. McLeod resumed his seat with the Board.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that, per the Board’s request, staff had researched putting the Town’s property liability insurance out to bid. He then requested that the Board execute the current LGC contract to lock in the rates, otherwise they will increase 25% in the interim. Mr. Hohenberger moved and Mr. McLeod seconded to authorize Mr. Sullivan to execute the contract accordingly. Passed unanimously.

Mr. Sullivan then explained that staff would not recommend going out to bid, but a cost could be obtained from Primex to provide coverage. Mr. Sullivan explained that that 220 of the 221 NH towns are currently insured with either the LGC or Primex, and that some liability coverages will be lost if the Town went to an insurer in the private market.

Brief discussion ensued, and Mr. Breton moved and Mr. Hohenberger seconded that staff explore the costs for the Town's property liability insurance with both LGC and Primex. Passed unanimously.

*Mrs. Call* advised the Board that the Town had applied for, and been granted participation in, a new Federal program offering municipalities reimbursement relative to retirees between the ages of 50 and 65 that are part of the Town's Health Trust. She noted that the Town would need to execute an agreement with the LGC to provide claims data to the program to establish whether Windham was eligible for any reimbursements. Discussion ensued regarding the potential funds that may be returned, and that they would be required to be used to offset employee costs. Mr. Sullivan noted it would not represent a large amount of funds, if any, but it is a program that should be taken advantage of.

Mr. Stearns inquired whether there were indirect costs involved to the Town, to which Mr. Sullivan replied that the LGC would handle 90-95% of the work involved and the Town's cost of \$1,000 would fund the LGC's administration of the program and data collection. Discussion ensued regarding the length of the agreement with the LGC and potential for gain.

Mr. Stearns then moved and Mr. McLeod seconded to authorize the expense of \$1,000 toward the program as described for a period of one year. Passed unanimously.

*Mr. Sullivan* advised the Board that the current fertilizer vendor had advised they would not hold their price into 2011, as they had mis-bid their costs last year. He inquired whether the Board wished to re-bid the service or if they would like staff to approach the previous vendor who had agreed to hold last year's price. After a brief discussion, it was the consensus of the Board to re-bid the fertilizer service.

**NON-PUBLIC SESSION:** Mr. McLeod moved and Mr. Hohenberger seconded to enter into non-public session in accordance with RSA 91-A:3 II c. Roll call vote all "yes". The topic of discussion was reputations, and the Board, Mr. Sullivan and Ms. Devlin were in attendance.

Mr. Sullivan discussed a possible donation of land with the Board. Mr. Hohenberger moved and Mr. Stearns seconded that the donation as discussed be moved to public hearing before the Conservation Commission; with all related legal costs to be paid from Conservation Funds. Passed unanimously.

Mr. McLeod moved and Mr. Hohenberger seconded to adjourn. Passed unanimously. The meeting was adjourned at 10:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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