

**BOARD OF SELECTMEN**  
**Minutes of December 20, 2010**

**MEMBERS PRESENT:** Chairman Charles McMahon called the meeting to order at 7:00 PM. Selectmen Galen Stearns and Roger Hohenberger were present, as was Town Administrator David Sullivan. Selectman Bruce Breton was excused, and Selectman Ross McLeod was delayed and arrived at 7:10 PM. Mr. McMahon opened with the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. Hohenberger wished Mr. Breton, who recently had surgery, well; noting he is now home and recovering.

**MINUTES:** None.

**LIAISON REPORTS:** None.

**BOARD OF HEALTH:** Mr. McMahon read the public hearing notice into the record. Health Officer David Poulson gave a brief history of the case to date, noting that he had been contacted by Mr. Ryan Bedard of Felix Septic and advised that the system at 31 Sawyer Road was in failure. He added that the plans had been approved by the DES to replace the system within the existing footprint, and that by doing so the leach bed was now less than 75' from the existing well; thus a waiver was needed. Mr. Poulson noted that this hearing was relative to a post-conditional approval. Discussion ensued.

Mr. Bedard approached to explain that the system installed in 1995 had failed and the issue with its replacement was the setback from the existing well, which was 68'. He indicated he had applied for a waiver for that, as well as two other waivers from the State relative to the property line/foundations setbacks, which were 5' as opposed to the required 10'. Mr. Bedard noted that the same size system was installed, and stressed that time was an issue in the replacement as the failed system was surfacing and effluent coming out of the ground.

Mr. Stearns inquired whether waivers were in place from 1995 for the setback issues, etc., that existed then. Mr. Poulson replied he did not know, as the file had not been pulled. Rather this was an emergency situation that the Board of Selectmen had approved. Discussion ensued regarding the Town requirements and staff was asked to obtain the file for review.

Mr. McLeod sought clarification that the new septic was installed within the existing footprint, to which Mr. Bedard replied in the affirmative. Discussion ensued as to the purpose of this public hearing and the State requirements for in-kind replacements.

Mr. Sullivan indicated that the property file showed that in 1993 the Building Department had authorized the septic system to be installed within 5' of the property line. Discussion ensued regarding the 1993 plan versus the current property plan, and that the latter reflected the correct measurements for the existing conditions.

Mr. Sullivan noted that, procedurally, the Board had yet to enter the Board of Health.

Mr. Stearns moved and Mr. McLeod seconded to enter into the Board of Health. Passed 4-0.

Mr. McLeod then moved and Mr. Hohenberger seconded to approve the waiver to allow the septic system to be 68' from the well.

Lengthy discussion ensued, with Mr. McLeod expressing concerns that the owners would be effectively evicted from the property if the motion were to fail; and Mr. Hohenberger noting it appeared several mistakes had been made previously regarding the well/septic placement. Mr. Stearns felt the system was illegal, as it had not been originally installed with the proper approvals in place, and further discussion ensued.

Mr. Sullivan noted that the file also showed that the Board of Adjustment had granted a variance to allow the septic system to be installed within 58' of the well per the then Health Officer's instructions. He added he felt it was appropriate for the Board to approve the motion.

Mr. Poulson indicated he had been in contact with the DES as soon as he had been notified of the problem, and that they had approved the current plan. Ms. Scott noted that, in 1993, the installation had not been challenged by the Town or the State and that, in this case, the applicant had done what was required. She noted the current plan is the correct one as approved by the DES and staff.

Further discussion ensued, and the motion passed 5-1, with Mr. Stearns opposed.

Mr. Hohenberger then moved and Mr. Stearns seconded to exit the Board of Health. Passed 4-0.

**PUBLIC HEARING/GRANTS:** Mr. McMahan read the hearing notice into the record. Mr. Sullivan advised that the amount to accept had increased to \$126,142.46 since the notice had been posted, and that approximately \$11K will now be remaining for return to the taxpayers after completion of the freight house deck.

Mr. McLeod moved and Mr. Hohenberger seconded to accept these funds in the amount of \$126,142.46 from the NH DOT. Passed 4-0.

*Mr. McMahan* read the hearing notice into the record. Assistant Town Administrator Dana Call advised that the Town had previously received approximately \$6K in reimbursement, and that this \$26,043.14 represented reimbursement for road work completed in response to two 2010 storms.

After a brief discussion, Mr. Hohenberger moved and Mr. McLeod seconded to accept these funds from the NH Department of Homeland Security and Emergency Management. Passed 4-0.

*Mr. McMahan* read the hearing notice into the record. Mr. Stearns moved and Mr. Hohenberger seconded to accept funds in the amount of \$10K from the NH DOT CTAP Targeted Local Government Accounts program.

Mr. McLeod sought clarification as to what these funds would be utilized for. Ms. Scott approached and explained that these funds would be used as previously approved for marketing, website development, and the community survey. Passed 4-0.

**ACCEPTANCE OF DONATIONS:** On behalf of the Recreation Coordinator, Mrs. Call requested the Board accept the following donations toward the Senior Christmas party and Tree Lighting: T-Bones Salem, \$25 gift card; Lobster Tail, \$15 gift certificate; Windham Junction, \$20 gift certificate; Common Man, \$25 gift card; Coach Stop, \$25 gift certificate; Debbie MacKenzie Realty, \$100 for centerpieces; The Long Group, calendars; Windham Women's Club, puzzle; Chunky's Cinema, cocoa/coffee/cups; AJ Letizio Marketing and Sales, cookies; Shaws, \$25 gift card; Woof Woof Professional Dog Services, candy canes; and McKinnon's, samples of roast beef and hot cider.

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

**CORRESPONDENCE:** Mr. McMahan noted that a citizen zoning petition had been received relative to the rezoning of parcel 13B-60 from Rural to Commercial Business A. Mr. Stearns moved and Mr. Hohenberger seconded to accept the petition as submitted for processing. Passed 4-0.

*Mr. McMahan* noted that a citizen zoning petition had been received relative to rezoning of parcel 8B-5000 from Rural to Commercial Business A. Mr. Hohenberger moved and Mr. Stearns seconded to accept the petition as submitted for processing. Passed 4-0.

*Letter received* from the NH DOT advising of the substantial completion of the I-93 southbound off ramp and northbound bridge.

*Letter received* from Ms. Nancy Mayville of the NH DOT advising that the total projected Highway Block Grant funds for 2011 were \$314,866.48. This is an increase over 2010's funding of \$278,167.

*Letter received* from the AIDS Seacoast response advising that, in response to the Town's inquiry, they are unable to provide specific information relative to the number of Windham residents they service, due to privacy laws. They do confirm, however, that they service between 1 and 4 Windham residents.

*Letter received* from Laura Scott, advising that the Planning Board did not recommend that the Town purchase the state-owned surplus lots identified as 13B-77 and 80. The Planning Board did, however, recommend that these lots be merged either by the DOT or as a condition of sale in order to bring them more into conformance with Town zoning requirements.

*Mr. Sullivan* advised that no response had been received, as yet, from the DOT relative to the Board's request to meet to discuss the Squire Armour Road sound barrier.

*Letter received* from Ms. Scott requesting the Board reconsider their removal of \$5K in funding from the Department's 2011 budget for technical assistance. Ms. Scott approached, noting that the Planning Board had discussed the matter and felt that such assistance was needed to develop commercial ordinances. She then requested that the Board encumber up to \$5K out of the 2010 budget for this service. After a brief discussion, Ms. Scott withdrew her request as she did not have a contract in place to encumber the funds.

**BID AWARD/SURPLUS EQUIPMENT:** Ms. Call advised that, after advertising locally, in the Tribune, and on the LGC website, only one bid had been received for these items; that being from Devlin Construction in the amount of \$3700 for all items. Mr. Sullivan indicated he had spoken to Mr. McCartney, who noted the Board could either award the bid to Mr. Devlin or hold the items until the State auction, however, he did not advocate the latter. Discussion ensued.

Mr. Stearns then moved and Mr. McLeod seconded to accept the offer of \$3,700 from Devlin. Passed 4-0.

**UTILITY APPRAISAL BIDS:** Mr. Sullivan advised that one bid had been received after the deadline, although it had been mailed in time and initially delivered to the wrong address. Mr. Hohenberger moved and Mr. Stearns seconded to accept the bid for opening. Passed 4-0. It was noted that this bid was the same as one emailed to Mr. Norman directly; that being in the amount of \$98K.

Tax Assessor Rex Norman approached and advised that of the three (3) bids received, only two had adhered to the bid specifications, those being:

<i>George E. Sansoucy, PE LLC/Newington, NH</i>	<i>\$40,000</i>
<i>Thos. Y. Pickett &amp; Company, Inc./Dallas, TX</i>	<i>\$36,500</i>

Discussion ensued regarding incidental expenses/costs noted by each bidder. Mr. Norman noted he is not familiar with the company from Dallas, and that he would like to do additional research of both vendors before making a recommendation to the Board.

Mr. Sullivan advised the Board that, based on estimations to date, approximately \$40K will be available in this year's budget to complete this project. Discussion ensued, and no decisions were made.

**BUDGET UPDATE:** Mr. Sullivan advised that, after all adjustments and revisions, the budget will be posted for the January 10<sup>th</sup> public hearing in the amount of \$12,512,153, which is \$2.00 less than last year. Mr. Sullivan noted that staff is now working to draft the Town Warrant.

Mr. Norman approached and reviewed with the Board several recommended items for the Town warrant, as follows:

- Adoption of RSA 72:37 "Exemption for the Blind". Mr. Norman noted that there are currently five (5) residents receiving this despite the Town not having formally adopted the RSA.
- Increasing the "Surviving Spouse Credit" from \$700 to the maximum \$2,000.
- Adoption of RSA 72:62 "Solar Energy Systems Exemption".
- Adoption of RSA 72:66 "Wind-Powered Energy Systems Exemption".
- Adoption of RSA 72:70 "Woodheating Systems Exemption".

Mr. Norman explained that the latter three do not represent a fixed amount, but rather an exemption of the system's value from the property assessment. Discussion ensued regarding federal credits for same and that these local exemptions would depreciate over time. Mr. McLeod suggested that the warrant articles be worded in such a manner as to clarify the nature of the exemption. The general consensus of the Board was to proceed with these warrant articles, with Mr. Stearns being opposed.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that Mr. Doug Wolfe, Chairman of the Local Energy Committee had resigned from the Committee due to business commitments. Mr. Jim Hebert is currently Acting Chairman.

*Mr. Sullivan* advised the Board that, after review of various options, staff recommends that the Town move to utilizing Wright Express cards for their vehicle fuel purchases as opposed to putting the fuel out to bid. He explained that the cards afford the Town the opportunity to purchase fuel at any station. Mr. Hohenberger moved and Mr. McLeod seconded that staff proceed to obtain Wright Express cards.

Mr. Hohenberger then inquired whether Wright Express will handle the gas tax refunds on the Town's behalf. Mr. Sullivan replied they will do the Federal portion, but the Town will have to complete the State returns. Motion passed 4-0.

*Mr. Sullivan* advised the Board of various amendments to the Town's Health reimbursement accounts, as follows:

- Over the counter medications may no longer be submitted for reimbursement.
- Children may be covered up the age of 26.
- Various administrative changes to processing claims.

Mr. Sullivan explained that, procedurally, the Board must authorize these amendments as they are Federal changes. Discussion ensued regarding compliance requirements and the need to authorize a third party to administer the plan. Mr. Hohenberger moved and Mr. McLeod seconded to approve the amendments as described. Passed 4-0.

*Mrs. Call* updated the Board on the Town's heating oil needs, noting that in the summer the members had voted to postpone bidding the oil in favor of utilizing an existing credit with B & H. Mrs. Call noted that the credit has since been exhausted, but she did not believe at this point in the season the oil needed to be put out to bid. She suggested that staff be authorized to work with B & H to establish a rack plus price for the remainder of the season. Mr. Hohenberger moved and Mr. Stearns seconded to authorize staff to proceed to work with B & H as discussed. Passed 4-0.

*Mrs. Call* advised that the Historic District/Heritage Commission would like to encumber funds from this year's budget to purchase another District sign in the amount of \$1,300; \$1,000 of which is budgeted for and the remainder of which is available in the bottom line.

After a brief discussion, it was the consensus of the Board to approve the encumbrance in the amount of \$1,300 as requested.

*Mr. Sullivan* noted that in 2009 the Board had authorized the carry-over of \$8K to fund flyovers by the State, however, the State is now waiving the costs to participating Towns and not charging for the 6" resolution photos. He added the updated images will be available in February or March.

*Mr. Dennis Senibaldi* approached relative to the Spruce Pond project, noting that Middlesex has been trucking 15-1800 yards of material to the site per day. He extended thanks to Harvey Brothers and Tokanel Enterprises for providing extra equipment to spread the material at no cost. Mr. Senibaldi also thanked Mr. Maynard of Benchmark Engineering for setting the control points at the site.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. McLeod seconded to enter into non-public session in accordance with RSA 91-A:3 IIC, d and e. Roll call vote all “yes”. The topics of discussion were reputations, land acquisition and legal.

The Board, Mr. Sullivan, Ms. Devlin, and Mr. Senibaldi were in attendance in the first session.

The Board discussed a personnel matter with Mr. Senibaldi. No decisions were made.

*The Board*, Mr. Sullivan, and Ms. Devlin were in attendance in the second session.

Mr. Sullivan updated the Board on a legal matter, advising the suit in question had been dismissed.

*The Board*, Mr. Sullivan, Mr. Norman, and Ms. Devlin were in attendance in the third session.

Mr. Norman updated the Board on a legal matter. Mr. Hohenberger moved and Mr. McLeod seconded to authorize Mr. Norman to proceed with an appeal as discussed. Passed 4-0.

*The Board*, Mr. Sullivan and Ms. Devlin were in attendance in the last session.

Mr. McMahon discussed with the Board a potential land purchase. It was the consensus of the Board that a warrant article be drafted regarding this parcel as discussed.

Mr. Hohenberger moved and Mr. McLeod seconded to adjourn. Passed 4-0.

The meeting was adjourned at 9:30 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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