

**BOARD OF SELECTMEN**  
**Minutes of May 19, 2014**

**CALL TO ORDER:** Vice-Chairman Al Letizio called the meeting to order at 7:00 PM. Selectmen Roger Hohenberger and Bruce Breton were present, as was Town Administrator David Sullivan. Selectman Joel Desilets was delayed and arrived at 7:05 PM. Chairman Ross McLeod was excused. Mr. Letizio opened with the Pledge of Allegiance.

**ANNOUNCEMENTS/LIAISON REPORTS:** Community Development Director Laura Scott approached and made the following announcements:

- The Windham Community Garden kick-off event will take place on the following Saturday, 5/24, at the former Taylor's Bingo Hall. Of the twenty (20) garden spots available, ten (10) have been claimed and four (4) are pending. Sign-ups for those interested in an area are available on the Town website or at the Community Development Department.
- The Adopt-a-Spot kick-off event is scheduled for 6/14, and there are three (3) methods of participation available: general clean-up, gardening, or paid sponsorship of island landscaping along the By-pass. Sign-ups are also available on the website or at the Department.
- The Planning Board has begun working on the 2015 Master Plan survey, and it is expected to be finalized this week. The survey will be available on the Town website or in hard copy at the Department, the Nesmith Library, and Town Hall. The Committee will also be on hand at the Strawberry Festival, and a community outreach event has been scheduled for 7/16.

*Mr. Letizio* extended congratulations to Mr. Derek Monson of the Cobbetts Pond Improvement Association, who was recently recognized by the EPA and featured in the Eagle Tribune for his efforts to preserve Cobbetts Pond.

**FIRE DEPARTMENT/EMPLOYEE RECOGNITION:** Chief McPherson approached in order to recognize the efforts of Firefighter Pat Robertson, as well as the members of Local 2915, for their Muscular Dystrophy fundraising successes. He advised that FF Robertson was the recipient of the 2013 "Above and Beyond Award" presented by the IAFF, the MDA, and the Professional Firefighters of NH.

FF Robertson approached and noted that the funds raised stay in NH, and go in part to a family right here in Windham. He also noted the fundraising efforts of his co-workers, Jim Brown, Bill Merrill, Bill Brown, Jay Moltenbrey, and Jen Hanlon; and extended thanks to all on behalf of himself and the Local 2915. Chief McPherson echoed FF Robertson's thanks.

**COMMITTEE INTERVIEWS:** The Board interviewed Mr. Charlie Roberts for possible appointment to the Economic Development Committee; after which discussion ensued regarding the other candidates interviewed at the previous meeting. Mr. Desilets moved and Mr. Hohenberger seconded to appoint Mr. Roberts to the EDC for a term of three (3) years, Mr. Oldenburg for three (3) years, and Mr. Higgins for one (1) year to fill the vacated term of Mr. Paul Gosslin. After a brief discussion, motion passed 4-0.

The Board then interviewed Mr. Jason Gill for possible appointment to the Recreation Committee. Mr. Hohenberger moved and Mr. Breton seconded to appoint Mr. Gill as a Regular member for a term of three (3) years. Passed 4-0.

The Board then interviewed the following for possible appointment to the newly established Forestry Committee: Mr. Jason Rogers, Mr. David Vazan, Ms. Holly Hanford Oliver, Ms. Wanda Rice, and Mr. Norm Babineau. Discussion ensued regarding the structure and duties of the committee being governed by statute, and the possible establishment of Alternates on which the statute is silent. The Board thanked the candidates, and Mr. Letizio advised that final appointments will be taken up in non-public session.

**PUBLIC HEARING/SEWAGE REGULATIONS:** Mr. Sullivan read the public hearing notice into the record, as attached, noting that while the law does not require a Public Hearing to amend the document; historically the Town has done so. He then indicated that a full body amendment is being recommended due to the volume of changes proposed. Mr. Letizio inquired what had prompted the proposed amendments, and Mr. Sullivan clarified that the Policy Committee works to review all Town regulations and make recommendation to the Board regarding necessary amendments due to things such as statutory changes.

Mr. Sullivan went on to note that the proposed amendments being discussed that evening had, similar to the recently adopted amendments to the Water Regulations, been reviewed by the Department heads and input garnered from expert consultants. He added that, per the Board's previous discussion and concerns regarding in-kind replacements, Ms. Scott had provided links to the relevant DES regulations.

Mr. Hohenberger inquired how the amended section 102.1 impacted holding tanks in the area of the Pond, and Ms. Scott replied that these regulations apply to new systems and holding tanks are no longer permitted as such; adding it does not impact existing/working tanks. Discussion ensued regarding the language in that it did permit installation of a holding tank if all other types were impossible, and that the Town has purposely retained property in various areas around the pond for septic replacement uses.

Ms. Scott noted that a group of experts/individuals had been brought together to provide input into the proposed amendments; adding that local regulations cannot be less restrictive than those in place at the State level. She noted that these changes bring the Town's regulations in line with NH DES requirements.

Mr. Desilets queried whether there were anything in the regulations that would become less restrictive if the amendments were approved, and Ms. Scott replied she did not believe so; adding that the Town's consultant, Keach, and the Building Inspector had both assisted in drafting the amendments. She noted we are a self-inspecting Town; meaning all applications are reviewed here prior to even going to the State.

Mr. Letizio noted for the record that the following had been consulted regarding these amendments: Chris Nickerson, Keach Nordstrom, Dubai Associates, and Joe Maynard of Benchmark Engineering. He then inquired whether any Board member took issue with same, and there was none indicated. Ms. Scott added that Dave Poulson had also contributed, and a discussion ensued regarding developer review of Town ordinances. Ms. Scott clarified that any input received was provided to the Town's engineer, Keach, and to Mr. McGuire and Mr. Poulson for review and comparison to DES requirements.

Discussion ensued regarding Sections 102 and 108 as it pertained to waiver requests, with Mr. Sullivan clarifying which would be governed solely by the DES versus those requiring approval by both the Town and state; as well as proposed language requiring documentation and the appeals process.

Mr. Desilets inquired whether, as it pertained to Section 103.1, the DES requirements for topsoil depth were more stringent, and Ms. Scott replied in the affirmative. Discussion ensued regarding DES requirements for depth of stone base.

Mr. Hohenberger expressed concerns regarding the proposed Section 107, in that it appeared contrary to the ability of applicants to fill out their own paperwork at no cost with the DES. Discussion ensued, and Ms. Scott clarified that the Town's fee was related to the issuance of a local septic permit. Further discussion ensued as to whether or not the State allowed residents to prepare their own designs and/or paperwork regarding an in-kind replacement.

Mr. Desilets inquired whether the specific areas of the DES's ENV1000 document could be cross referenced and/or cited in the Town's regulations. Discussion ensued, and Ms. Scott indicated that she would hesitate to do so in light of the DES's ability to amend the document, which is an Administrative Rule rather than a Statute, at any given time. She noted that, if specific citations were included, then the Town document could require revision each time the DES made a change.

Mr. Letizio inquired what Mr. Sullivan's recommendation was, and the latter noted that the amendments are supported by the Department Heads and the Policy Committee; and that he concurs with their recommendation to approve. He added that the Town's regulation has not been amended since 2006.

Mr. Breton moved to approve the Regulations Governing Sewage or Waste Disposal Systems as proposed. Mr. Desilets seconded for discussion. Motion failed 2-2, with Mr. Desilets and Mr. Hohenberger opposed; both citing they saw no need to change the existing regulations.

Discussion ensued, and Mr. Breton requested that Mr. Hohenberger and Mr. Desilets provide some direction to staff regarding what changes to the regulations they would like to see in order that they would approve it. Mr. Letizio suggested the two review the document, redline those areas they found objectionable, and submit same to Mr. Sullivan for the Committee to review. Mr. Desilets and Mr. Hohenberger agreed. Mr. Breton requested that the revised document also be reviewed by Town Counsel.

After further discussion regarding the possibility of the DES becoming less restrictive versus the need to amend the document to be in compliance with State regulations, no further decisions were made.

**BID WAIVER REQUEST:** Mr. Sullivan indicated that this waiver request related to purchase of the required Red Alert software module for the Mobile Data Terminals obtained via grant funds for the Fire and Police vehicles. He indicated that the MDT's cannot be used without this software, and that the cost of \$6,490 for same is part of the grant.

Mr. Desilets moved and Mr. Breton seconded to approve the waiver request and authorize the purchase of the Red Alert software as requested. Brief discussion ensued in that the vendor, Alpine Software, is the creator and sole distributor of Red Alert. Staff also clarified that the cost includes licenses for six (6) users, and the annual maintenance fee for the product is approximately \$200. Motion passed 4-0.

**FINANCE DIRECTOR:** Mr. Sullivan noted that six (6) quotes had been received relative to financing for the Ambulance, Fire Utility and Police vehicles, as follows:

<i>Bid Results:</i>	<b>AMBULANCE:</b>	<b>POLICE/FIRE VEHICLES:</b>
<u>Tax-Exempt Leasing Corp, Libertyville IL</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 2.47%	<b>5,389.28</b>	<b>5,402.96</b>
<u>Municipal Leasing Consultants, Grand Isle VT</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 2.27%	<b>5,756.23</b>	<b>5,768.80</b>
<u>Leasing 2, Inc., Tampa FL</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 3.67%	<b>7,974.11</b>	<b>7,995.50</b>
<u>Republic First National, Rochester IN</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 2.49%	<b>5,425.22</b>	<b>6,141.44</b>
<u>Ford Motor Credit, Dearborn MI</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 3.75%	<b>8,571.82</b>	<b>8,592.49</b>
<u>All American Investment, Steamboat Sprgs, CO</u>	Interest + Fees:	Interest + Fees:
Quoted Rate: 2.93%	<b>6,383.30</b>	<b>6,399.29</b>

After a brief discussion regarding the limited number of banks who can offer such financing service, Mr. Breton moved and Mr. Hohenberger seconded to approve the financing for the Ambulance through Tax-Exempt Leasing Corp., as presented. Passed 4-0.

Discussion then moved to the Cruisers and Fire Utility vehicle. Mr. Breton moved and Mr. Hohenberger seconded to approve the financing through Tax-Exempt Leasing Corp., as presented. Passed 4-0.

*Finance Director* Dana Call then approached to advise that, while there were no major concerns with the tax bills being issued on time, she does like to have a safety net in place via issuance of a Tax Anticipation Note. She indicated that the bank with which the Town had worked for the past four (4) years, that had offered a line of credit for same, was no long able to provide such a service to non-relationship customers. Ms. Call noted that there are several layers of paperwork and related fees involved with obtaining an approximately \$2M TAN/line of credit with our current bank, Citizens, including the need to obtain a legal counsel opinion at a cost of \$1,000 +/- . She indicated that Enterprise Bank, is willing to work with the Town regarding a TAN and possibly the Conservation Bond, as well, and that she would like a couple more weeks to explore the options before making a recommendation to the

Board. Discussion ensued regarding the possibility of moving the Town's finances to another bank, either wholly or parts of the portfolio, to establish working relationships with other entities. Mrs. Call reminded the Board, as a municipality, we are restricted somewhat due to the need to require collateralized deposits. She then asked that the Board authorize her to work with Enterprise Bank on the Conservation bond.

Mr. Breton moved and Mr. Hohenberger seconded to authorize Mrs. Call to explore using Enterprise Bank for the Conservation bond, as well as the possibility of establishing a banking relationship with same. Mr. Hohenberger suggested that staff also advise Citizens that other banks were being explored, and discussion ensued regarding the need for a thorough analysis of all rates and fees. Motion passed 4-0.

**COMMUNITY DEVELOPMENT:** Mr. Sullivan advised that staffing in the Department continues to be in flux; with the ZBA/Code Enforcement Officer position currently being advertised and the resignation as received from Mrs. Kolodziej. He indicated that duties are being split amongst the current staff, and that Ms. Scott was requesting the Board consider allowing a consultant to be brought in to handle the ZBA/CEO duties until the position is filled. Mr. Sullivan noted there are funds available from Mrs. Pendergast's salary, and the proposed party's rate would be \$85/hr, 10 hours/wk, through the end of July.

Mr. Desilets inquired about the second candidate for ZBA/CEO from the last round of advertising, and it was noted that he/she had not responded. Discussion ensued regarding the best use of the consultant's hours, where the vacancy had been advertised, and that it had been targeted to areas such as PlanLink.

Mr. Desilets then moved and Mr. Breton seconded to support the request of staff and to contract with the recommended vendor as proposed. Passed 4-0.

**PERSONNEL POLICY:** Mr. Sullivan advised that an error had been discovered in the Personnel Policy relative to Selectmen approval of internal, departmental procedures; and that the recommendation was to post for amendment as follows:

*ARTICLE II : ADMINISTRATION OF THE PLAN:*

*Paragraph 3 – amend by Deleting the last line:*

*“Departmental policies shall become effective only with the approval of the Board of Selectmen”.*

*and Adding a new line in its place:*

*“In the event that a Departmental Policy conflicts with a Town of Windham Policy, the Town of Windham Policy shall take precedence”.*

Mr. Desilets inquired why there was a pressing need to amend this language, and Mr. Sullivan replied that it was archaic in that the Board does not actually review same. Discussion ensued regarding the difference between policies adopted by the Board and departmental operating procedures, to which this proposed amendment refers. Mr. Sullivan noted that, in the past, the Board had periodically reviewed and discussed any concerns regarding departmental Standard Operating Procedures.

Mr. Desilets expressed concerns with moving forward with this amendment without actually seeing examples of the types of policies in question. Further lengthy discussion ensued, and Ms. Scott approached citing a recent change to her departmental cash-out process as an example of the type of internal procedure being discussed. After further discussion, it was the consensus of the Board to post the amendment for Public Hearing.

**EMPLOYEE 457 PLAN:** Mr. Sullivan explained that the Town facilitates voluntary participation in a supplemental 457 retirement plan for employees through PFPOPE, which involves generating a payroll deduction with no related employer contribution/costs. He advised that he had been approached by a group of those employees participating in the plan, who had requested addition of a loan authorization. Mr. Sullivan noted that, as the administrator of the plan, the Town must authorize same; clarifying that doing so involves no cost or liability to the Town and that he would recommend the Board approve this request.

Mr. Breton sought clarification as to who is eligible to participate in the Plan, and Mr. Sullivan noted it is available to all employees. Further brief discussion ensued regarding whether this provision would place the burden on the Town to process the loans, and Mr. Sullivan advised that he had clarified, in writing, that PFPOPE is required to do the related work while the Town need only add another payroll deduction.

Mr. Desilets then moved and Mr. Hohenberger seconded to permit the addition of a loan authorization as requested to the PFPOPE 457 Supplemental Retirement plan. Passed 4-0.

**2014 GOAL SETTING:** Mr. Letizio suggested this item be tabled until a full Board is present, and the remaining members concurred.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that SB236, related to the deadline for bond petition submissions, had passed and was awaiting signature; reminding the members that this was related to the issues faced by the Town regarding the warrant article to purchase Campbell Farm. He also advised that the final inspection on the Farm was scheduled for the following Friday, and the bond will be discussed at the June 2<sup>nd</sup> meeting. Mr. Sullivan extended thanks, again, to Representatives Griffin and McMahon for their assistance on this matter.

Mr. Breton noted that Mr. Sullivan's testimony regarding the Town's difficulties had aided in pushing the bill through, and inquired whether he would be attending the Governor's signing. Mr. Sullivan noted he may, if other representatives were attending.

**CORRESPONDENCE:** Letter of resignation received from Mimi Kolodziej, effective May 30, 2014. Mr. Desilets moved and Mr. Breton seconded to accept same with regrets. Passed 4-0.

*Mr. Sullivan* presented a current use release and supplemental tax bill to the Board for signature; explaining the former related to recently approved abatements and the latter to the recent purchase of conservation land.

**MINUTES:** Mr. Hohenberger moved and Mr. Desilets seconded to approve the minutes of 5/5/2014 as written. Passed 4-0.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. Breton seconded to enter into a nonpublic session in accordance with RSA 91-A:3 II a and c. Roll call vote - all "yes". The topics of discussion were personnel and reputations; and the Board, Ms. Scott, Mr. Sullivan and Ms. Devlin were in attendance in the first session.

Mr. Hohenberger moved and Mr. Desilets seconded to hire, as recommended, a temporary office assistant to work 5-6 hours per week at minimum wage. Passed 4-0.

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

Mr. Breton moved and Mr. Hohenberger seconded to hire the recommended candidate for junior lifeguard. Passed 4-0.

Mr. Desilets moved and Mr. Hohenberger seconded to reappoint the following: Wayne Morris and Pam Skinner for 3 years and Lisa Ferrisi-Guttman for 2 years to the Conservation Commission, and; Mary Griffin and Leo Hart to the Cable Advisory Board for 3 year terms. Passed 4-0.

Mr. Hohenberger moved and Mr. Desilets seconded to appoint the following to the Forestry Committee: Ms. Rice, 3 years; Ms. Oliver, 2 years, and; Mr. Babineau, 1 year. Passed 4-0.

Mr. Hohenberger moved and all seconded to adjourn. Passed unanimously.

Meeting was adjourned at 9:25 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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



# TOWN OF WINDHAM, NEW HAMPSHIRE

OFFICE OF THE SELECTMAN AND TOWN ADMINISTRATOR

POST OFFICE BOX 120, 3 NORTH LOWELL ROAD, WINDHAM NH 03087-0120

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## PUBLIC HEARING NOTICE

The Board of Selectmen will hold a public hearing on May 19, 2014 at 7:00 pm at the Community Development Department for the purpose of considering a full document amendment to the Regulations Governing Sewage or Waste Disposal Systems. This full document amendment is intended to replace the existing Regulations in their entirety and is proposed in accordance with the provisions of RSA 147:1. A copy of the changes being proposed within the new regulations is available for review on the Town website at [windhamnewhampshire.com](http://windhamnewhampshire.com) as well as at the Administrative Offices, 4 North Lowell Road. Language that is being added is shown in underlined text while deleted language is crossed out.

Posted by David Sullivan, Town Administrator on May 9, 2014