

**BOARD OF SELECTMEN**  
**Minutes of April 20, 2009**

**MEMBERS PRESENT:** Chairman Galen Stearns called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Roger Hohenberger, Charles McMahon, and Ross McLeod were present, as was Town Administrator David Sullivan. Mr. Stearns read the agenda into the record, followed by the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mr. Sullivan advised that the old landfill will not be open the following Wednesday, as planned, due to safety concerns regarding the amount of debris that have been disposed of to date. He noted that it is hoped the pile can be reduced later in the week to allow the site to be reopened on Saturday.

**LIAISON REPORTS:** Mr. McLeod presented several updates from the Recreation Committee, including: all fields are now open; 35 residents and approximately 50 non-residents have obtained permits for the Skate Park; the Recreation Committee continues to discuss the Nashua Road swale, for which a wetlands permit may be needed; Mr. Senibaldi continues to work on the Griffin Park playground and bridge projects; the Recreation Committee will be undertaking review/revision of their Rules of Procedure; and additional trash receptacles at Griffin Park will need to be discussed.

**MINUTES:** Mr. Hohenberger moved and Mr. McMahon seconded to approve the minutes of April 6<sup>th</sup> as written. Passed unanimously.

**CORRESPONDENCE:** *Letter received* from Ms. Yolana Carter, praising Recreation Coordinator Cheryl Haas and her coordination of the recent trip to the Boston Public Library.

*Bond Release/Windham Cooperative Kindergarten:* Mr. McLeod moved and Mr. Breton seconded to release the bond as stated in the amount of \$3,500. Mr. Breton then requested that Mr. McLeod amend his motion to include any related interest. Mr. McLeod agreed. Motion passed unanimously.

*Bond Release/Whispering Winds:* Mr. McLeod moved and Mr. Breton seconded to approve the total release of \$5,000 and all related funds as stated. Passed unanimously.

*Memo received* from Transfer Station Manager David Poulson advising of a free mercury diversion program being offered by the Town's waste provider, Covanta. Under the program, which can also be extended to the Schools, the Transfer Station will accept small mercury items such as thermometers and thermostats, and that fluorescent lights can be disposed of at Cyr Lumber.

*Mr. McMahon reviewed* a brokerage program for electricity services with the Board, noting that NH's status as a de-regulated state allows customers with a minimum kilowatt hour usage of 50K/month to choose their electric provider. He indicated that the School District currently participates in such a program, and advised that the brokerage firm of Satori Energy had solicited a proposal to supply the town's electricity for a period of 12 months at a reduced rate of 8.725 cents. Mr. McMahon indicated that this rate would save the Town approximately \$8,843 for the year. Mr. Hohenberger noted that the proposal indicated a greater savings with a three (3) month agreement; nearly double that of a twelve month. Discussion ensued regarding fluctuating prices.

Mr. McLeod sought clarification of whether Mr. McMahon had any financial interest in this matter, to which Mr. McMahon replied in the affirmative indicating he would be recusing himself. Mr. McMahon noted that his personal earning in the matter would be approximately \$250.

Discussion ensued regarding putting the electrical service out to bid, and Mr. Sullivan explained that the proposals presented by Satori represent those seven companies that are licensed to provide the service in NH. Finance Director Dana Call pointed out that this was similar to the oil/propane consortium the Town had considered participating in last year through a brokerage.

Mr. McLeod inquired whether the Town was currently under contract, to which Mr. Sullivan replied in the negative; explaining that unless one takes advantage of the deregulation, the services are provided by PSNH and National Grid automatically.

Discussion ensued regarding entering into a twelve month versus three month agreement. Mr. Breton then moved and Mr. Hohenberger seconded to enter into a twelve month agreement with Satori as the Town's provider. Mr. Hohenberger requested an update be provided to the Board of savings realized at three months.

Mr. McMahon clarified that the agreement would not be with Satori, but rather with Constellation Energy as the low bidder. He also clarified that the agreement would be for the electricity supply only, and any other services would remain status quo with PSNH or National Grid.

Mr. Breton amended his motion and Mr. Hohenberger his second to execute the contract with Constellation as bid. Passed 4-0.

Mr. McLeod felt the motion should be recorded as 4-0-1, as Mr. McMahon had not properly recused himself by leaving the table and therefore had only abstained from the vote. There was no opposition from the Board members.

Motion passed 4-0-1, with Mr. McMahon abstaining.

**NON-PUBLIC SESSION:** Mr. Breton moved and Mr. McMahon seconded to enter into a non-public session in accordance with RSA 91-A:3-II b. Roll call vote – all members “yes”. The topic of discussion was personnel hiring and the Board, Mr. Sullivan, Town Clerk Nicole Merrill, and Ms. Devlin were in attendance.

*Ms. Merrill* discussed the Deputy Town Clerk position with the Board. Mr. McMahon moved and Mr. Hohenberger seconded to approve the recommended candidate, and that the one-year probationary period be waived. Passed unanimously.

*Mr. Stearns* resumed the public portion of the meeting by announcing that the Board had discussed the Deputy Town Clerk position and that Ms. Merrill would be extending an offer of employment to the recommended candidate.

**RECREATION UPDATES:** Ms. Haas confirmed that all fields opened the previous Saturday, as well as the Skate Park, and there had been no issues over the weekend. Ms. Haas further advised that five (5) classes had been set up for non-residents, and extended thanks to Officer Jessica Flynn and Cable Coordinator Stacey Sofronas for their assistance in developing the training

DVD. She also thanked Town Clerk Nicole Merrill and her assistant, Maria Marotta, for issuing the permits.

**FIREWORKS:** Chief McPherson approached indicating there are concerns regarding the Annual July 4<sup>th</sup> fireworks that need to be discussed. Chief McPherson noted that, as the fireworks will be on a Friday this year and in light of the economy, it is likely that even more will be attending the event leading to parking problems. He noted that closing the beach early that day had been discussed, which would allow staff to rope off the parking lot prior to the event to delineate a parking scheme to include a staging area for emergency staff, etc. Chief McPherson also noted there is a continuing concern with lifeguards on duty having to do double-duty of watching the beach and overseeing the parking. He suggested that the beach be closed early and re-open at approximately 5:30 PM, and that marine patrol be contacted to ensure they arrive earlier as opposed to at the outset of the event.

Chief Lewis approached to concur with Chief McPherson, and to note that significant issues exist with parking along Cobbetts Pond Road, as well. He noted that the area from Range Road to Horne Road would be limited to parking on one-side only, with an officer stationed at either end, which would keep the area open for emergency access. Discussion ensued regarding the length of the fireworks event and related detail costs.

Mr. Bill Deluca, CPIA, approached to extend his thanks to the Chiefs for the efforts, and to suggest that Griffin Park be considered as an overflow viewing area. He also indicated that the CPIA would be willing to help with contacting marine patrol, if necessary.

After a brief discussion, the Board concurred with the Chiefs' plan.

**FIELD & FACILITY USE POLICY:** Mr. Michael Hatem approached to request the Board consider an amendment to the Field and Facility Use Policy as it pertained to priority use by the Windham Baseball Softball League. Mr. Hatem explained that he had tried to schedule Tokenal Field from 4 PM to 6 PM on Sunday afternoons, with the understanding that his team would move if WBSL needed the field, and that Recreation Coordinator Cheryl Haas had approved his use. He indicated he had then been notified that he could not use the field as requested, due to the for profit status of his ASA team, which had subsequently been resolved; however, he was again advised he couldn't utilize the field as the Center School field was going to be skinned and the Boys Baseball would thus need Tokenal. Mr. Hatem noted that there are currently 3 ASA teams, and will be more in the future, and felt the policy needed to be changed as WBSL has exclusive use but does not schedule Sundays.

Mr. McMahon noted that the goal of WBSL in developing the Policy, of which Mr. Hatem had been a member, was to ensure that WBSL had priority use of the fields. He then questioned why Mr. Hatem's view had changed. Mr. Hatem replied that it had not, and that his proposed amendment still gives priority, but allows others who are not part of WBSL to use the facilities. Discussion ensued.

Mr. McLeod noted that soccer also requests specific time slots, working closely with lacrosse, and that this is the same situation as WBSL and ASA/AAU are separate entities. He then inquired whether WBSL has 24/7 exclusivity as it pertained to the fields.

Mr. McMahon replied that WBSL has priority use of the fields Monday through Saturday for games and practices, noting there are 850+ participants and 60+ teams. He further noted that weather can be a challenge. Discussion ensued regarding Sundays, what Mr. Hatem viewed as a lack of good faith on the part of WBSL, and the status of both as private leagues.

Mr. McLeod felt that this issue should be resolved at the Recreation Committee prior to the Board weighing in; citing the current policy as it pertained to soccer and lacrosse working together and the lack of a similar parallel regarding baseball. He suggested an amendment in this area might be appropriate. Mr. Hatem felt that could work.

Mr. Breton disagreed, stating that soccer and lacrosse are Windham programs and not separate entities such as Mr. Hatem's team, and indicated that all soccer participants are Windham children. Mr. McLeod corrected Mr. Breton, in that not all soccer participants are from Windham. Discussion ensued regarding private versus charitable entities.

Mr. Dennis Senibaldi, Recreation Chair, approached to indicate that the Recreation Committee had discussed Mr. Hatem's request and voted fairly and unanimously to not support his proposed amendment. Mr. Senibaldi further noted that Mr. Carbonello's AAU team was the first to operate in Town, and scheduling was worked out for him; however Mr. Carbonello now utilizes the School fields as he has outgrown the Town fields. Mr. Senibaldi felt that Mr. Hatem's remedy should have been with the Recreation Committee as there is a policy in place, and that once the WBSL schedule is complete Ms. Haas can assist Mr. Hatem.

Mr. Hatem disagreed, noting that Mr. Carbonello and Mr. Yennaco utilize the School fields as the District does not have an ordinance limiting use. Mr. Hatem then reiterated that he had gone to Ms. Haas and had followed the policy.

Mr. Scott Mueller, WBSL Director of Facilities/Recreation Vice-Chair, approached to review a timeline of events leading up to this discussion (*attached for the record*), and questioned Mr. Hatem's motives. Mr. Mueller noted that there are three (3) Windham children on Mr. Hatem's team, and inquired why the skinning of the field needs to occur now as the AAU has Windham Center School every Saturday. Discussion ensued, and Mr. Hatem noted that skinning the field will not adversely affect 900 children as was claimed.

Mr. McMahon stated that Mr. Hatem had wanted a decision to be made before the WBSL scheduling was complete, which has never been done. He stated that, once the WBSL schedule is complete, then whatever slots are open will be filled.

Mr. Dave Cleasby, WBSL, approached noting that the schedules are available on the WBSL site, and that the Center School upper is scheduled for practices all week long. Mr. Cleasby explained that it is required by league rules that a certain number of games be held within a certain time period to be able to participate in the tournament trail, and that games are scheduled Monday through Saturday with Sundays used for practices/make-up games. Mr. Cleasby noted that the policy works as it is if the parties communicate and work together. A discussion ensued regarding the skinned field.

Mr. Hohenberger felt that this discussion should go to the Recreation Committee and asked that they keep an open mind and suggesting that they re-hear Mr. Hatem's petition. Mr. McLeod concurred, noting that moving forward there is opportunity to resolve this matter for the splinter groups.

Discussion ensued, and it was the consensus of the Board to not amend the policy and refer the matter back to the Recreation Committee.

*The Chairman* called for a five minute recess.

**CTAP UPDATE/ROAD MAP:** Mr. Cliff Sinnott of the Rockingham Planning Commission presented a Powerpoint presentation to the Board, outlining the history/purpose of the CTAP program. Highlights included:

- Purpose of the CTAP is to help communities to prepare for growth as a result of the I-93 expansion, and to promote long-term improvements in planning capacity, create a regional cooperative effort to support community planning, and to minimize adverse impact from future growth through better planning/improved development regulations.
- The CTAP program involves \$3.5M in I-93 Federal and State funds, and is administered by the NHDOT with cooperative management from the DOT, NH Office of Energy and Planning, NH Department of Environmental Services, and input from regional Planning Commissions. The duration of the project is five years, from 2007-2012.
- I-93 secondary impact studies project, for Windham, 4,047 additional population in background growth; 1,240 additional due to I-93.
- Scope of services to communities include public awareness, training and education, direct technical assistance, pilot projects, and technical assistance (ie: tools/models/analysis).
- Year 1 discretionary grants to Windham included: \$7,000 for impact fee studies; \$5,000 for the sewer connection study; and \$3,000 for the partnership program with CURP.

Mr. Stearns then discussed the CTAP Road Map with the Board, indicating the utilization of CTAP funding for the remainder of the project needs to be discussed. He inquired whether it was the preference of the Board to seek input through hosting of a large charette, or through a small group of staff/board representatives.

Mr. McLeod suggested that both means be used; starting with a large charette and filtering down to a smaller group. He felt this would ensure a better public buy-in. Mr. Hohenberger concurred, noting recommendations could be presented at the charette for further analysis and prioritization.

Mr. McMahan disagreed, citing the 2005 Master Plan which had been developed through a charette process and did not include any suggestions made thereat. He indicated his preference for a focused group, noting this project needed to move forward sooner rather than later. Mr. McLeod took issue with Mr. McMahan's statement regarding the Master Plan, which he felt did reflect the charette discussions and requests made. Discussion ensued.

Town Planner, Laura Scott, approached noting that the Planning Board had discussed this matter at their April 15<sup>th</sup> meeting, and preferred proceeding with a smaller group. Discussion ensued regarding possible overlap of various phases. Mr. Breton requested that the Community Assessment Report completed as part of the CTAP program be posted on the website to allow the public to comment thereon, and it was suggested it be made available as a community survey. The Board concurred, and staff will follow-up.

*Mr. McMahon* requested that Mr. Sinnott provide a brief clarification of the distribution of the Federal stimulus funding in NH. Mr. Sinnott noted that the funds have been prioritized as follows: Rail service; the State 10-year plan; and municipal submissions. Brief discussion ensued.

**DANA CALL:** Mrs. Call advised the Board that the Purchasing Policy, as previously discussed and amended, had been posted accordingly and that the Department Heads had requested either an additional amendment to expand the authorized list of credit card holders or obtaining of a corporate credit card for departmental use. Mrs. Call explained that, often, in order to obtain best pricing/immediate needs, companies require a credit card. In the past, some Department Heads have utilized their personal cards for these purchases, but she did not feel it was appropriate to ask that of them.

Discussion ensued and it was the consensus of the Board to support Mrs. Call's exploring implementation of a corporate card.

Mr. McMahon then moved and Mr. McLeod seconded to approve the Purchasing Policy as presented. Passed 4-1, with Mr. Hohenberger opposed. Mr. Hohenberger clarified that he supported the policy, but his vote reflected his disagreement only with the purchasing limit increases.

Mrs. Call then presented hand-outs to the Board regarding acceptance of credit cards for discussion the following week.

**OLD/NEW BUSINESS:** Mr. Sullivan advised that the Strategic Planning meeting had been scheduled for Saturday May 9<sup>th</sup> at 8:00 AM. Mr. Hohenberger indicated he would be out of town that day and, after a brief discussion, the date was moved to May 16<sup>th</sup> at the Searles building.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. McLeod seconded to enter into a non-public session in accordance with RSA 91-A:3-II b, c, and d. Roll call vote – all members “yes”. The topics of discussion were personnel, reputations and legal.

*Mr. Stearns recused himself for this session.* The remainder of the Board, Mr. Sullivan, Ms. Haas and Ms. Devlin were in attendance.

After discussion with Ms. Haas, Mr. Hohenberger moved and Mr. McLeod seconded to approve the recommended candidate for the position of lifeguard, subject to the Employee policy. Passed 4-0.

Mr. McMahon then moved and Mr. Hohenberger seconded to approve the hiring of the recommended candidates for junior lifeguard, at ten hours each, subject to the Employee policy. Passed 4-0.

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

Mr. Sullivan discussed a personnel matter relative to temporary, part-time staffing of a building inspector to cover vacations. It was the consensus of the Board to proceed as requested.

Mr. Sullivan reviewed a property tax abatement with the Board. Mr. Breton moved and Mr. Hohenberger seconded to waive the associated interest as recommended. Passed unanimously.

Mr. Sullivan discussed a legal matter with the Board. It was the consensus of the Board that an amendment be drafted to the proposed agreement as recommended by Mr. McLeod.

*Mr. Stearns recused himself for the final session.* The remainder of the Board, Mr. Sullivan, and Ms. Devlin were in attendance.

The Board discussed the vacant Community Development Director position. Mr. McMahan moved and Mr. Breton seconded to re-advertise the vacancy. Passed 4-0.

*Mr. McMahan* moved and Mr. Breton seconded to adjourn. Passed unanimously.

The meeting was adjourned at 11:15 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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