

**BOARD OF SELECTMEN**  
**Minutes of April 11, 2005**

**MEMBERS PRESENT:** Chairman Roger Hohenberger, Bruce Breton, Galen Stearns, and Margaret Crisler were present. Alan Carpenter arrived at 9:10 pm. David Sullivan, Town Administrator, was also in attendance. Meeting commenced at 7:00 pm.

**ANNOUNCEMENTS:** Mr. Hohenberger announced on behalf of the Cemetery Trustees that the annual spring clean-up at the Cemeteries will begin on April 16<sup>th</sup> and that all personal items should be removed from gravesites by that date. Mr. Hohenberger also announced that there will be a rabies clinic on April 16<sup>th</sup> at the fire station from 11:30 to 12:30.

Mr. Hohenberger then recognized Police Captain Pat Yatsevich. The Captain gave an update on the mailbox vandalism case and indicated that the Windham Police, with assistance from the FBI and ATF, have apprehended three suspects, two from Windham and one from Salem, and expect to release their names within the next few days. The Captain recognized Detective Wendy Foley for all of her efforts in solving this case, as well as the public's assistance.

Mrs. Crisler announced the Women's Club yard sale to be held on April 23 at the Town Hall.

Mr. Hohenberger then announced the hiring of the Town's new Police Chief, Gerald Lewis, for which a press release had been issued on April 8<sup>th</sup>. Mr. Lewis will begin work on May 2<sup>nd</sup>. Mr. Sullivan expanded on Mr. Lewis' background as well as the entire hiring process, recognizing that there were several very good candidates to choose from. Mr. Hohenberger also indicated that it was a difficult decision and expressed best wishes to the "runner up" candidate, Lt. Mark Pearson from Salem. Mr. Breton praised Mr. Sullivan for his professional manner throughout the hiring process.

Mr. Breton announced that Sully Erna of the band Godsmack, will sing the National Anthem and sign autographs at Baseball's Festiball event.

**CAPITAL ASSET AND DEPRECIATION POLICY:** Dana Call, Finance Director, presented the Town's new policy for recording fixed assets, which was created in conjunction with the Town's implementation of Government Accounting Standards Board (GASB) No. 34 for the 2004 fiscal year. The policy provides guidelines for the capitalization and depreciation of any fixed assets with a cost basis of \$5,000 or more, which includes buildings, land & improvements, vehicles and equipment and infrastructure (roadways and bridges).

Mrs. Call noted that an external appraisal firm was used to assist the Town in valuing its existing infrastructure assets, as well as buildings, while cost values of other assets were obtained from actual cost per the Town's financial records. Mrs. Call explained that the policy includes useful lives for various types of assets and that this is for accounting purposes only, to provide a baseline on which the assets will be depreciated.

Mrs. Call shared with the Board an estimate of the fixed assets that are being recorded on the Town's financial statements as of December 31, 2004, which are still subject to audit, and total approximately \$27 million in net book value.

Mrs. Crisler asked about the benefit of implementing GASB 34 and Mrs. Call indicated that although the banks are not necessarily requiring this information for bonding purposes, the standard provides an entirely new presentation of the “government-wide” financial picture, as opposed to separate fund presentation. This will allow for better comparison of one Town to another, and by adding the Town’s fixed assets to the financial statements, a citizen can get a sense of the general age of assets in order to better anticipate the need for future capital expenditures. Mr. Stearns asked if a complete overhaul to a vehicle will be recorded as a fixed asset and Mrs. Call indicated that it would, as well as building improvements or renovations which will be tracked as new assets and depreciated separately. Mr. Stearns asked if the Town’s two shared bridges were included on the inventory and Mr. Sullivan indicated that they were not. There was additional discussion on the value of buildings for insurance purposes and Mr. Sullivan indicated that the Town will be reviewing this with our insurance carrier as part of our July renewal.

After some further discussion, Mrs. Crisler motioned to approve the Capital Assets and Depreciation Policy as written. Mr. Stearns seconded and motion passed 4-0.

**FIRE ENGINE BOND:** Mrs. Call presented the Board with the quotes obtained from three local banks for the fire engine bond in the amount of \$175,000 as follows:

|                     |       |
|---------------------|-------|
| Citizens Bank       | 3.38% |
| Banknorth           | 3.44% |
| Ocean National Bank | 2.84% |

Based on the low rate, Mrs. Call recommended we obtain the one-year bond from Ocean National Bank, subject to their review of our financial statements as we do not currently have a banking relationship with them. Mr. Sullivan indicated that the amount of the bond is lower than the \$190,000 approved at Town meeting because the Fire Department was able to negotiate prepayment discounts, which were taken off the bond amount.

Mr. Stearns motioned to approve the terms of the bond as stated with Ocean National bank and execute the note. Mr. Breton seconded and motion passed 4-0.

**SENIOR CENTER RENOVATIONS:** Tom Case of Windham Seniors, Inc. discussed proposed renovations to the kitchen of the senior center building, which are being funded through donations, and asked that the Seniors be allowed to move forward with the project. A final value for the cost of renovations will be provided to the Town and submitted for acceptance at a future public hearing.

Mrs. Crisler motioned to authorize the Seniors Inc. to proceed with remodeling of the kitchen as proposed and waive any permit fees required as part of the project, with a thanks to the Seniors for their efforts. Mr. Stearns seconded and motion passed 4-0.

Mrs. Barbara Coish, President of Windham Seniors, Inc., inquired as to the proper procedure to dispose of some of the old kitchen appliances. Mr. Sullivan advised her that any sales over \$100 would require Board approval.

Mr. Coish then reminded the Board that the Senior Center lease expire in October, and Mr. Case indicated he would prefer the renewal be in place prior to start of the project.

**WALL STREET PERMIT:** Mr. Gary Geiger of N. Pandelina Construction was present on behalf of the owners of Shaw's to present a plan for improvements to Wall Street as part of the supermarket project. The proposal includes widening, striping and resurfacing of Wall Street. The plan also includes a crossing by Sovereign Bank on Wall Street, and a bond estimate was presented for the driveway to the Shaw's building.

After a brief discussion regarding subsequent improvements to Route 111 by the State, Mrs. Crisler moved and Mr. Stearns seconded to authorize the improvements to Wall Street and accept the posting of the bond of \$13,586 and the certificate of liability insurance. Passed 4-0.

**BUILDING PERMIT/PRIVATE RD:** Mr. Dave Brouillet of Edward Herbert Associates was present on behalf of the Mastersons, owners of property on Beech Street for which a building permit had been requested. Mr. Brouillet explained that a shoreline waiver had been obtained from the Department of Environmental Services, and presented plans of the property in question for the Board's review.

Mr. Hohenberger read the motion of the Planning Board into the record, in which proof of ability to keep the roadway clear during construction and input from the fire and police departments was requested.

Mr. Brouillet explained that the Mastersons also owned the adjacent lot, and pointed out to the Board that ample space was available for staging of construction vehicles and off-road parking. Mr. Sullivan indicated that the Police and Fire departments had no concerns with issuance of the building permit as requested.

Mr. Hohenberger read a statement from Mr. Wes Aspinwal, also of Herbert Associates, into the record that reiterated the availability of the staging area and ability to keep the access open during the project.

Mr. Breton moved and Mrs. Crisler seconded to approve the issuance of a building permit for Beech Street, subject to completion of the required waiver. Passed 4-0.

Mr. Sullivan requested that, as Mr. Turner was present, the Board address the bond release included with the Board's correspondence. The Board agreed.

**CORRESPONDENCE:** *Bond release:* Outlook Road, owner Jamison. Bond amount, \$232,531.20; release amount \$199,675.20; amount to be retained, \$32,856.00. Mr. Turner explained that the ground had still been snow-covered at the last inspection, but that the retained amount should be adequate to complete the project.

A discussion ensued regarding the cistern, for which only \$10,000 had been allocated. Mr. Turner suggested that, if the Board members were concerned, an additional \$20,000 be retained for the cistern.

After further, brief discussion, Mr. Stearns moved and Mr. Breton seconded to release the bond in the amount of \$179,675.20, retaining \$52,856. Passed 4-0.

**FIRE RESCUE TOOL:** Chief Messier approached to request that the Board waive the bid process for purchase of the remaining equipment related to the rescue tool engine purchase in February, the cost of which would total \$16,575.

Mrs. Crisler inquired whether this amount was part of the monies approved at Town Meeting, and why the bid process had been previously waived. Chief Messier explained that the funds were included in the engine article approved by the voters, and that the uniqueness of the item limited the amount of distributors in the New England area to one primary vendor.

A lengthy discussion ensued, wherein several Board members expressed concerns with the total amount the Chief was requesting they waive. The appropriateness of putting these items out to bid was also discussed.

Mr. Sullivan expressed concerns that, if the Board delayed and went out to bid, the price may increase and only one distributor would likely bid anyway.

Mr. Stearns moved and Mrs. Crisler seconded to waive the bid process for the purchase of the remaining Jaws of Life equipment. Motion failed 2-2.

**CORRESPONDENCE:** Letter received from Conservation Commission regarding possible acceptance of a donation of a 40' right-of-way from Lawrence Savings Bank.

Mr. Sullivan explained that Town Counsel had advised him that there may be a title issue with the property, but the Town could move forward to accept the donation. He further noted that Conservation is ready to proceed, and was seeking the Board's endorsement to do so, and that Town Counsel feels the risk in doing so was slight. There are no known issues with the property.

After a brief discussion, Mr. Breton moved and Mrs. Crisler seconded to authorize the Conservation Commission to consider acceptance of the donation of lot 8-B-1860 from Lawrence Savings Bank. Passed 4-0.

*Letter of resignation* received from Building Inspector Jim Tierney effective April 15, 2005. Mr. Breton moved and Mr. Stearns seconded to accept Mr. Tierney's resignation with regrets. Passed 4-0.

*Sample letter received* from the City of Portsmouth regarding support of HB401 pertaining to Shipyard Association Funding.

*Letter received* from the Department of Transportation, inviting the Board to attend a Public Officials meeting on April 6, pertaining to the upgrading of existing signals on Route 111 for the development of a signal coordination plan.

Mr. Hohenberger noted that the meeting in question had been rescheduled to April 19 at the Windham Town Hall at 7:00 PM.

*Letter received* from the Department of Transportation relative to an inquiry from the Depot Advisory Committee regarding possible purchase or lease of the buildings located at the Windham Depot. The DOT indicated that, while they were not currently interested in selling any land within the Manchester-Lawrence rail corridor, they would be interested in entering into a long-term lease with the Town for the historic buildings at the Depot.

After a brief discussion, it was the consensus of the Board that process to lease the buildings should proceed.

*Letter received* from resident Scott Anderson regarding the Windham Wonderland Playground. Mr. Anderson indicated that, subsequent to concerns raised during the Griffin Park Playground discussion, he had personally looked closely at the Wonderland Playground and noted none of

the concerns mentioned. He further stated that, while he supports the new playground at Griffin Park, he believes the Wonderland Playground should remain available for use.

Mr. Hohenberger clarified that no decision to remove the Wonderland Playground had been made, as yet. Mrs. Crisler noted that, in speaking to residents, the road access and overall maintenance of the Wonderland seemed to be of primary concern.

Mr. Sullivan noted that, as an abutter to 50% of Esty Road, the Town had been working with the remaining abutters to garner some contributions to repair Esty Road. A discussion ensued regarding what would represent a fair percentage of the estimated \$5000 to repair the roadway for the Town to assume responsibility for, given the Town's level of use to access the Playground.

*Letter received* from Planning Director Al Turner, noting a change in operation in the Planning Department. Beginning immediately, based upon staffing issues, a backlog of plan reviews and inspections, and the advent of the spring building season, the Building Inspector's public "counter" hours will be limited to Wednesdays from 10:00 AM to 1:00 PM.

*Letter received* from the Division of Emergency Services Bureau of Emergency Management regarding upcoming meetings relative to emergency declarations.

Mr. Sullivan explained that funds were available for return to some communities relative to two of the more severe storms in January and February. Mr. McCartney will be attending the mandatory session to obtain the necessary paperwork to request reimbursement and the official declaration.

*Letter received* requesting official acceptance of Sheffield Road in Camelot Estates. Mr. Sullivan will schedule a public hearing for an upcoming meeting.

Mr. Dennis Senibaldi approached to express concerns with the change in the Building Inspector's hours. Mr. Hohenberger explained the Board had not taken issue with the change given that the spring is the busiest time for inspections, and staffing issues will exist during this time given Mr. Tierney's resignation.

**MINUTES:** Mr. Stearns moved and Mr. Breton seconded to approve the minutes of February 22<sup>nd</sup> as written. Passed 3-0-1, with Mrs. Crisler abstaining.

Mr. Stearns moved and Mr. Breton seconded to approve the minutes of March 7<sup>th</sup> as written. Passed 3-0-1, with Mrs. Crisler abstaining.

Mr. Stearns moved and Mrs. Crisler seconded to approve the minutes of March 14<sup>th</sup> as written. Passed 4-0.

The minutes of March 21<sup>st</sup> and 28<sup>th</sup> were tabled.

**CORRESPONDENCE, CONTINUED:** *Official liaison appointment* to 911 Coordinator was tabled, as this is normally designated to the Chief of Police. Captain Yatchevich will continue to serve in the interim.

*Health Officer Authorization:* Mr. Sullivan noted that Mr. Turner has been acting as interim Health Officer. Mrs. Crisler moved and Mr. Stearns seconded to appoint Mr. Turner as the local Health Officer until further notice. Passed 4-0.

Mr. Breton noted for the record that Health Officer duties were one of the requirements for the new Building Inspector position as advertised.

**TRAILS COMMITTEE:** Mr. Mark Samsel, Chairman of the Windham Rail to Trail Alliance, updated the Board on the project status and reviewed the conceptual plan.

To date, the WRTA has been granted tax exempt status, has completed the engineering and conceptual design which has been accepted by the Department of Transportation and the Department of Resource and Economic Development, presented the design to the NH Department of Historical Resources, and forwarded the mutual agreement to the Town.

Mr. Wayne Morris, WRTA member, supplied the Board with plans prepared by Herbert and Associates detailing the planned design consisting of 10' of asphalt with two 4' soft shoulders.

Mr. Carpenter joined the Board.

Mrs. Crisler inquired what the distance of the trail was. Mr. Samsel replied it ran from North Lowell Road to just past Roulston Road. Mr. Carpenter inquired whether it would extend to the Salem line after the 111 project was complete. Mr. Bob Sperol of DRED stated it might, and noted that as part of the by-pass project the Department of Transportation was building an overpass over the trail.

A lengthy discussion ensued regarding assumption of 100% liability by the Town as part of the mutual agreement. Mr. Sperol explained that DRED feels that the laying of pavement increases not only maintenance but also liability for use of the trail, and DRED does not want to limit the recreational uses.

Mr. Hohenberger stated he did not believe the Town was prepared to accept full liability for the trail. Mr. Sperol stated that DRED preferred gravel coating on the trail, but if the Town chose to pave it DRED would support them provided the Town assumed the liability.

Mr. Sullivan clarified that if the trail were not paved the State would accept the liability. Mr. Sperol agreed, for permitted uses as is currently the case. Mr. Sperol again noted that paved trails bring increased maintenance and injury liabilities that DRED is not willing to absorb.

Snowmobile use and current practice pertaining to the Rockingham Recreational Trail was discussed. Mr. Carpenter inquired as to any increases in the Town's insurance premiums with ownership of the trail. Mr. Sullivan noted that any increases would not be specifically related, and that the Town's liability is limited. He also noted that Town Counsel is researching the matter further.

Mrs. Crisler did not feel that liability should necessarily be a concern, citing that the potential for bodily injury is great at the skateboard park, but the Town allowed that to be constructed. She praised the WRTA for their efforts and felt the Board should move forward with the mutual agreement as written.

A lengthy discussion ensued regarding alternative surfaces for the trail and current and future maintenance issues. Mr. Breton felt an alternative surface should be considered in keeping with DRED's preference. Mr. Morris contended that, with receipt by the WRTA of the mutual agreement, DRED had signed off on the plan.

Mrs. Lisa Linowes approached to urge the Board to schedule a public hearing on this matter to allow for public input, believing that the mutual agreement existed only because of the WRTA's desire to pave the trail. She expressed concerns regarding the cost to re-pave the trail as part of future maintenance and drainage issues in the area, and suggested the Board conduct a site walk of the area prior to making a decision.

Mr. Samsel countered that the culvert and drainage issues existed because DRED had not been adequately maintaining the trail. He noted that if the trail were paved and drainage issues arose, those repairs would be the responsibility of the WRTA.

Mr. Senibaldi stated he felt that the trail was an excellent opportunity for all residents and urged the Board to proceed.

Mr. Sam Nassar approached to voice his support of the plan, and to applaud the Board's previous efforts to remove ATV's from the trails. He noted that the Board's concern regarding liability sends the wrong message, as several trails run through private property.

Mr. Breton stated that a public hearing might be the proper course, as new documents had been presented to the Board and the agenda for this evening was vague. Mr. Hohenberger noted that the process was still in negotiation with the State, and was days from being finalized. Mr. Sperol confirmed Mr. Hohenberger's comments, stating all donations must go before the Governor and the Council, who do like to see evidence of at least one public meeting.

After discussion regarding timing of a public meeting, input from Town Counsel and obtaining estimates from the Property Liability Trust of any increases in premiums, it was determined this matter will be re-addressed at the next regularly scheduled Board meeting.

**FIRE RESCUE TOOL:** As Mr. Carpenter was now present, this matter was re-addressed, and Mr. Hohenberger reviewed the previous discussion for Mr. Carpenter's benefit. Deputy Chief Tom McPherson approached to clarify the first request for waiver of the bid process. He noted that the Fire Committee had conducted hours of research to determine the best piece of equipment. He noted he did not believe it behooved the Town to go out to bid for this equipment.

Mr. Carpenter inquired what specifically needed to come from Yanmar, the distributor in question. Mr. McPherson replied all save the hoses and reel.

After further discussion, Mr. Carpenter moved and Mr. Stearns seconded to waive the bid process. Passed 3-2, with Mr. Breton and Mr. Hohenberger opposed.

Mr. Stearns moved and Mrs. Crisler seconded to award the purchase of requested equipment for the Jaws of Life to Marshfield Rescue Supply for a cost not to exceed \$16,515. Passed 4-1, with Mr. Hohenberger opposed.

**OLD BUSINESS:** Mr. Sullivan inquired whether the Board wished to meet on the 25<sup>th</sup>, in light of school vacation. After some discussion, it was the consensus not to meet on the 25<sup>th</sup>, but on May 2<sup>nd</sup> and 9<sup>th</sup>. The trail discussion will be placed on the agenda for May 9<sup>th</sup>.

*Mr. Hohenberger* indicated he would like a pre-budget workshop with Mr. Sullivan and Mrs. Call to be scheduled. Mr. Sullivan indicated the long-range agenda is currently under development.

**NEW BUSINESS:** Mr. Sullivan noted that Dave Poulson, as Chairman of the Stormwater Committee, had requested authorization to act as signatory for submission of the Town's Annual Stormwater Report.

Mr. Stearns moved and Mr. Carpenter seconded to authorize Dave Poulson to act as signatory for the Annual Stormwater Report. Passed unanimously.

*Mr. Sullivan* requested the Board adopt newly changed Federal language relative to the definition of "dependent" as it pertains to the Town's Flex Benefit Plan.

Mr. Breton moved and Mr. Stearns seconded to incorporate the changed language into the Town's Flex Benefit Plan. Passed unanimously.

*Mr. Carpenter* requested that the Tax Assessor attend an upcoming meeting to update the Board on his plans in light of the defeat by the voters of his staffing request. Mr. Sullivan noted a workshop with Mr. Norman will be scheduled and that it is not likely that the full re-assessment will be conducted in 2005, as planned.

Mr. Carpenter also requested that a joint meeting be scheduled with the Planning Board, and Mr. Hohenberger requested one with the School Board and Department Heads, as well.

**NON-PUBLIC SESSION:** Mr. Carpenter moved and Mr. Breton seconded to enter into non-public session in accordance with RSA 93-A:3 IIa. Roll call vote, all members "yes". The topic of discussion was personnel, and the Board, Mr. Sullivan, and Ms. Devlin were in attendance

*After a brief discussion,* Mr. Stearns moved and Mr. Breton seconded to remove Fire Inspector Diana Nault from probationary status. Passed unanimously.

*The Board discussed* the vacant dispatcher position. Mr. Stearns moved and Mr. Carpenter seconded to hire the recommended candidate upon successful completion of physical examination. Passed unanimously.

Mr. Breton moved and Mr. Carpenter seconded to adjourn. Passed unanimously.

The meeting was adjourned at 11:00 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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