

**BOARD OF SELECTMEN**  
**Minutes of June 6, 2005**

**MEMBERS PRESENT:** Chairman Roger Hohenberger called the meeting to order at 7:05 PM. Selectmen Bruce Breton, Galen Stearns, and Alan Carpenter were present. Selectman Margaret Crisler was excused. David Sullivan, Town Administrator, was delayed.

**LIAISON REPORTS:** *Mr. Breton* reported that the Planning Board has approved a 24-unit subdivision, subject to Town Meeting approval of a cross over. If not approved, the subdivision will contain a hammer-head. Also, the Spruce Pond development and a commercial building on Route 28 are pending approval.

**ANNOUNCEMENTS:** *Mr. Carpenter* congratulated the Friends of the Library of Windham (FLOW) for hosting another, amazingly successful Strawberry Festival.

*Chief Messier* advised the Board that the Fire and Police Departments would be jointly applying for a grant for improvements to the Town's emergency communications. The grant funds, if obtained, would go toward the purchase of additional mobile/portable radios for Town departments, improved infrastructure, and equipping of the schools to tie into the Town's communication. This is a 100% matching grant of approximately \$150,000.

A lengthy discussion ensued between the Chiefs and the Board regarding digital versus analog service, acquisition of a Town-wide frequency for use by all departments, future maintenance costs, and compilation of an inventory of existing equipment.

It was the consensus of the Board that the Chiefs proceed to write the grant application, which will then be submitted to the Board at the next scheduled meeting for review.

*Chairman Hohenberger* called for a 10 minute recess to allow the Board to examine a Project-54 equipped cruiser located in the parking area, to aid them in their upcoming discussion that evening.

**DONATION/GRILLS:** Mr. Hohenberger read the public hearing notice into the record. Ms. Bev Donovan and Ms. Mindy Davis of the Friends of Library of Windham explained that, each year, FLOW endeavors to enhance their on-hand equipment. As part of their discussions, they decided to look into the purchase of two (2) commercial grills for use not only by FLOW, but by other Town departments and organizations. After working with Mr. John Normington of Cisco and through private donations, FLOW now wished to donate these grills to the Town with the stipulation that FLOW's use of them at the Strawberry Festival each year take precedent.

Mr. Carpenter moved and Mr. Stearns seconded to accept the donation of the grills with gratitude. Passed 4-0.

**BOARD OF HEALTH/SAWTELLE ROAD:** Mr. Breton moved and Mr. Stearns seconded to convene as the Board of Health. Roll call vote – all members “yes”.

Mr. Turner explained that this applicant, Dale Smith, had been before the Board previously regarding replacement of three existing septic systems with one central system for three seasonal properties at 33 and 35 Sawtelle Road. The proposed system would also include a tie-in to a fourth seasonal dwelling for future use, if necessary. Mr. Hohenberger read the public notice into the record.

A discussion ensued regarding the Board's previous denial of this request and State procedures. Mr. Hohenberger read correspondence from the Department of Environmental Services into the record, which took no action

on the applicant's request to their office. Mr. Hohenberger noted that the Board had determined at the previous meeting that, if the plan were approved by the State, Mr. Smith could then resubmit to the Board of Health, however there didn't appear to be any new information that evening.

Mr. Smith, as well as his engineer Phil Beland, pointed out to the Board that the DES will not review any plans unless they are approved by the Town, which is in keeping with an agreement between the Town and the State.

Mr. Smith requested that he be allowed to present information to the Board that he felt had not been sufficiently discussed at the previous hearing. The Board agreed to allow Mr. Smith to proceed.

Mr. Smith stated that he could try to replace the systems "in-kind", but as the properties are being updated it made sense to improve the overall situation at the same time. He noted that, currently, one system is within 25' of the shore line and another is within 20' of the well. Mr. Smith stated he was trying to provide the best situation for all, by moving the systems away from the pond and the well.

Mr. Hohenberger questioned whether the property in question juts into the Pond. Mr. Smith confirmed that it did, being surrounded on three sides by water, and further stated the shape makes it impossible for him to comply with the requirements.

Mr. Turner then posed several questions of both Mr. Smith and Mr. Beland regarding the seasonal status of the properties; time necessary for the new system to be broken in; time necessary for the bio-mat to establish and risks to the well and pond, if any, during the waiting time; and whether holding tanks wouldn't be better suited to seasonal dwellings.

Mr. Beland replied that it is recommended with some systems that they be "seeded" with active bacteria to break them in. The bio-mat should be established within a few months initially, then within a few weeks each spring when use resumes. Mr. Beland noted the risk during the bio-mat establishment is nearly zero, as bacteria is generally filtered out within feet of the system.

Mr. Beland further stated that the State will not approve the use of holding tanks unless no other option is available and that the State felt that, with waivers, a proper system can be fit onto the property.

Mr. Smith then assured the Board that the properties were to remain seasonal, and reiterated he was attempting to do something responsible toward preserving the pond and drinking water.

Mr. Breton suggested the Board of Health could grant the waiver with the stipulation that the properties not be utilized or converted for year-round use. Mr. Turner noted that, if granted as such, this waiver would be void if violated and the owner would have to return to the Board for another. Mr. Beland noted that conversion to year-round use would also have to be approved by the State, which was unlikely as the property lacked the density to do so.

Mr. Hohenberger expressed concerns that many such requests are made of the Board and that, at only 48', this was very close to the pond and well within the State's 75' and the Town's 100' requirements.

Mr. Breton moved and Mr. Turner seconded to approve the waiver for a septic system as proposed provided that the subject properties remain seasonal; and subject to all required State approvals.

Mr. Carpenter expressed concerns regarding what precedent the Board would be setting if approved. He indicated that, if the Board were not going to enforce it, the 100' code requirement might as well be re-written. He

further stated he did not believe a denial would limit the use of the property, and that approval may limit the neighboring owners from improving theirs.

Mr. Turner noted that, while there had been no evidence of bacteria to date, the proposed system is far better. He expressed concerns that the existing system(s) will fail, and the failure not be discovered until after contamination has occurred. He felt the new system could provide 30-years of service without issue.

The motion was defeated 2-3, with Mr. Hohenberger, Mr. Stearns, and Mr. Carpenter opposed.

Mr. Breton moved and Mr. Carpenter seconded to adjourn the Board of Health portion of the meeting.

**BUILDING PERMIT/PRIVATE ROAD:** Mr. Joel Burdette, owner of 9 Fourth Street, explained to the Board that he had successfully received a variance from the Zoning Board of Adjustment for conversion of the property to year-round. He also noted he has received his permit for a new septic system, and has signed the waiver required per RSA 674:41. Mr. Burdette then presented the Board with a plan of the area, depicting the availability of off-street parking and staging areas for use during construction.

Mr. Hohenberger inquired whether the recent Town Meeting vote regarding this property involved any restrictions regarding Mr. Burdette's request. Mr. Sullivan indicated that when the lot in question was conveyed per the Town Meeting vote, it was done so subject to its use for a septic system only. Mr. Burdette indicated that was, in fact, what the lot was being used for.

Mr. Sullivan read the warrant article into the record, and reiterated that its intent was to allow for septic improvements only. Mr. Burdette noted that there was to be no alterations to the structure or its footprint, and that the merging of the two lots had occurred prior to his purchase. Mr. Sullivan also advised the Board that no other restrictions were contained in the deed to Mr. Burdette.

A lengthy discussion ensued regarding the intent and testimony of the previous owner in requesting to purchase the lot. Mr. Carpenter felt the previous owner's intent was moot, as all the Board could consider were the language in the warrant article and Mr. Burdette's deed.

Mr. Hohenberger noted that Mr. Burdette had signed the required waiver, and advised the Board that the Fire Department and Planning Board had no concerns other than availability of a staging area and assurance from the owner that the availability of emergency access will be maintained.

Mr. Carpenter moved and Mr. Stearns seconded to approve the issuance of a building permit for 9 Fourth Street subject to the waiver requirements and availability of emergency access at all times. The motion failed 2-2, with Mr. Breton and Mr. Hohenberger opposed.

Mr. Hohenberger suggested that Mr. Burdette re-submit his request to the full Board.

Mr. Breton cited the lack of legal opinion that the Board could act counter to the warrant article as reason for his vote. Mr. Hohenberger stated that one of the duties of the Board was to ensure that the requesters have ascertained that the area can sustain the increased load of a year-round dwelling, which he did not feel had been established in this case.

**PROJECT 54 GRANT:** Chief Lewis briefly discussed the equipment viewed earlier in the evening by the Board. The UNH Project 54 Grant would provide for installation of the following equipment in five (5) of the Town's cruisers: light control head; light bar; siren with amplifier; Wig Wag control unit; laptop computer with dock and stand; console; Golden Eagle radar unit; GPS unit; and all Project 54 control equipment, wiring, and software. Chief Lewis felt this to be an opportune time to update the Department's equipment at no cost to the taxpayers.

Mr. Stearns moved and Mr. Breton seconded to accept the Project 54 Grant valued at approximately \$55,000. Passed 4-0.

**FIRE SOFTWARE BIDS:** Chief Messier advised the Board the standard bid advertising procedures had been followed, and that four (4) bid packages had been sent out. He noted that two (2) bids had been received, as follows:

<i>Alpine Software Corp.</i>	\$22,087
<i>Fire House Micro Business System</i>	\$ 6,720

Chief Messier recommended that the bid be awarded to Alpine Software, explaining that, although they were not the low bidder, their modular software ties into the Derry system, meets the current and future needs of the Department, and offers reporting capabilities far beyond the Fire House software.

Mr. Hohenberger sought clarification that the Fire House software was what the Chief had requested to purchase. Chief Messier agreed, but noted that after going out to bid at the Board's request he had been approached by Alpine regarding their program. He again stated that Alpine's statistical reports are second to none, and that he had worked with Fire House previously and was unable to generate adequate reports. He noted that Alpine provides Red Alert, up to the minute reporting and offers over 300 built-in report templates.

Mr. Carpenter inquired whether the IT Director had reviewed the bids and what the initial cost to purchase the software would be. Chief Messier stated that Mr. DeLong had reviewed the bid packages and offered no recommendation, and that the initial cost would be \$8,140. The \$22,087 figure represented total costs for all modules, some of which will be considered in future budgets.

A lengthy discussion ensued with input from the Chief and Ed Gannon of the Derry Fire Department regarding necessity of the additional modules, future costs, whether the bid specifications limited vendor responses, and compilation of a detailed comparison of both systems including all related fees.

It was the consensus of the Board that the Chief work to provide them a side-by-side comparison of the two systems for further review. Mr. Carpenter suggested that the Technical Advisory Committee may be able to assist in developing a detailed analysis of the two programs. Chief Messier will follow-up for discussion at a future meeting.

**OLD BUSINESS:** Mr. Sullivan presented revised proposals to the Board from Tate Brothers Paving and Taylor Paving relative to the Esty Road project. At the Board's request, these proposals had been revised to include improvement of the Playground and Roger's Field parking areas. Mr. Sullivan noted the revised costs were as follows:

<i>Tate Bros. Paving:</i>	\$6,000
<i>Taylor Paving:</i>	\$7,600

Mr. Sullivan noted that the Esty Road repair remained the predominant portion of the bids, and advised the Board that Highway Agent Jack McCartney had clarified Tate's price to ensure that both vendors had bid the project equitably. The Town's portion of the repairs, if awarded to Tate, would be \$5,000.

Mr. Hohenberger inquired whether an estimate to repair the Wonderland Playground had been determined and from where the funds for Esty Road would be expended. Mr. Sullivan replied that the cost to repair the playground had yet to be established, and that funds were available in the Highway budget for the Esty Road/parking lot repairs.

After some discussion regarding the legality of funding more than 50% of the repairs to Esty Road, Mr. Carpenter moved and Mr. Stearns seconded to award the project to Tate Brothers for a cost of \$6,000 to repair Esty Road, the playground parking lot, and Rogers parking lot; said award to include a \$1,000 contribution from the area residents. The project is to be completed within thirty (30) days and shall include detailed specifications acceptable to the Highway Agent and Town Administrator prior to commencement. Passed 4-0.

The Chairman called for a five (5) minute recess.

**RECREATION/BASKETBALL:** Mr. Hohenberger noted that this discussion was a continuation from a previous meeting.

Mr. Al Matthews of the Windham Basketball Committee approached and took a moment to recognize the other members of the Committee who were also present as follows: Joan Matthews, Steve Shields, David Connors, Rick Erdling, Jim Smith, and Scott Cormier.

Mr. Matthews advised the Board that the Basketball Committee had met to discuss whether to continue their involvement with the basketball program. After some discussion among the members, they had determined they did wish to continue, however as a separate entity similar to the Windham Baseball Softball League (WBSL). Mr. Matthews advised the Board the Committee had begun the process to establish themselves as a non-profit entity and would be purchasing the required liability insurance.

Mr. Hohenberger inquired whether the timing of the program would be impacted by the change. Mr. Matthews replied it was essentially too late to begin a summer program, but that registration for the same winter program would begin in early fall.

Mr. Carpenter inquired whether this matter was up to the Board to decide. Mr. Sullivan replied the Board did not have purview over the Basketball Committee's decision, and Mr. Breton noted the Board could only move to officially recognize the WBC as the sanctioned provider of the basketball program. Mr. Stearns added that the Board could also tell the Recreation Committee not to provide a competing program.

Mr. Carpenter inquired of Mr. Matthews why the Committee wished to change their status. Mr. Matthews cited control concerns, specifically regarding permission to make improvements. He referred to the Committee's planned purchase of a replacement scoreboard, which the Recreation Committee had stopped.

Mr. Senibaldi, Chairman of the Recreation Committee, approached to state the Recreation Committee had not advised the Basketball Committee not to purchase the scoreboard. He stated the Recreation Committee had only

advised them that, per the agreement executed last year, the Basketball Committee was required to discuss the purchase with the Recreation Committee and follow the Town's purchasing procedures. Mr. Senibaldi then began to read the Recreation Committee's response to the Basketball Committee's recent letter to their participants, which he stated was unanimously supported by the other Committee members.

Mr. Breton voiced his concerns that the letter did not have the unanimous support of the Recreation Committee, and questioned whether the meeting of the Committee at 10AM on Saturday at Mr. Senibaldi's Citgo was proper. Mr. Senibaldi countered, stating that the meeting had been posted 24-hour prior in two public places, as per the requirements. Mr. Senibaldi further stated the letter had the unanimous support of the Committee members in attendance at the meeting, and that Ms. Dirksen and Ms. Narkewich had also voiced their support despite being absent.

Mr. Senibaldi completed reading the letter into the record, which voiced the Committee's support of keeping the basketball program under the Recreation Committee. The letter also noted, among other things, that the Committee was prepared to move forward with the program, having already begun a Men's Over 30 summer league.

Mr. Hohenberger noted that, two years ago, Recreation had felt that the program was too large for them to manage and, at that time, the Windham Basketball Committee had stepped forward to handle it. He noted the winter and travel portions of the program are very involved and suggested that the Basketball Committee might continue to run those while Recreation ran the summer program.

Mr. Stearns noted that the Recreation Coordinator would be joining the staff shortly and suggested that, while Recreation and the Basketball Committee had both done a good job, a decision not be made until the Coordinator was on board.

Mr. Breton urged the Board to look at the Town as a whole, and at the successes of the WBSL and Soccer Association. Mr. Breton did not feel that Town government could run a program as efficiently as volunteers. He felt that letting the Basketball Committee strike out on their own would allow for an excellent program and for them to expand the program in whichever way they choose.

Ms. Gail Webster, resident, approached to note that basketball had been under the Recreation Committee for over 25 years, and she would hate to see that stopped.

Mr. Steve Shields approached to inquire whether the Recreation Committee was prepared to run all the basketball programs, such as the travel, second grade, and women's leagues. Mr. Senibaldi replied in the affirmative.

Mrs. Dana Call, Finance Director, raised the possibility of the Basketball Committee, as a 501c, running the travel program and the Recreation Committee running all other programs.

A discussion ensued regarding budgeting of the program and financial accounting. Mr. Matthews noted that the Basketball Committee presents a financial accounting at each of their monthly meetings.

Mr. Carpenter inquired of the Recreation Committee why they were concerned with the Basketball Committee's separation, noting it would take quite a load off Recreation. Mr. Sam Maranto replied, stating that continuity is important. He further stated that the Committee had been requesting a Recreation Coordinator for several years and, now that one was

to be hired, he or she could do those duties the Committee had been seeking help with. Mr. Maranto noted that the winter basketball program was intended to be a large part of the Coordinator's job and that he, personally, would not have voted in support of a Coordinator without basketball.

Mr. Breton noted that the Coordinator position was to be 30 hours per week and that a volunteer group existed that was willing to undertake 400 hours per year of work which would allow the Coordinator to expand the Town's programs.

A lengthy discussion ensued regarding the Recreation Coordinator, the lack of a clear reason for the difficulties between the Basketball and Recreation committees, splitting the basketball program between the groups, financial difficulties of two programs, and sanctioning of the Windham Basketball Committee as the Town program.

Mr. Stearns moved to leave the full basketball program under the Recreation Committee. There was no second.

Mr. Carpenter suggested the Board wait one week for a full board to make a decision, with no further input just Board discussion. Mr. Sullivan will schedule this matter on the next agenda for decision.

**NEW BUSINESS:** Mr. Senibaldi advised the Board that he had been approached by the Cobbetts Pond Improvement Association with a request that grills be allowed at their annual picnic at the Town Beach. It was the consensus of the Board that grill use by the CPIA at the Town Beach was acceptable.

*Mr. Senibaldi* advised the Board that, although \$1,700 each had been budgeted for bleacher purchases, the new standard included fencing on the sides and back at a higher cost. He stated that, rather than the \$3,400 available, \$5,100 was necessary which was available in the Recreation budget. Mr. Senibaldi then presented the Board with three proposals and, after a brief discussion, the matter was passed to Mr. Sullivan for review.

*Mr. Senibaldi* advised the Board that additional funds were needed for porta-potties at Griffin Park. Mr. Carpenter moved and Mr. Stearns seconded to authorize Recreation to expend additional funds toward porta-potties at Griffin Park through the summer. Passed 4-0.

*After Mr. Sullivan's review*, it was determined that the Recreation Committee will purchase the originally planned for bleachers.

*Mr. Maranto* approached to inquire what the Board felt the Recreation Committee should be doing as a group. Mr. Carpenter suggested that other, area town by-laws be researched. A brief discussion ensued regarding examination of the Committee's charter after the Recreation Coordinator commences his or her duties with the Town.

**MINUTES:** Tabled.

**CORRESPONDENCE:** *Bond Release:* Mitchell Pond Road Extension, JRV Homes, release amount \$74,674 retaining \$60,226. After a brief discussion regarding the cistern cost, the Board determined an additional \$20,000 should be retained. Mr. Carpenter moved and Mr. Breton seconded to approve the partial release as amended to \$54,674. Passed 4-0.

**OLD BUSINESS, CONTINUED:** Mr. Sullivan advised the Board that the Highway Safety Committee had reviewed the proposed plans for improvements to the Cardinal/Oriole Road area to a three-way intersection. He noted the Committee would be submitting the matter to the Board of

Selectmen for review, and requested the Board's approval to schedule a public meeting regarding the matter. The Board agreed, and Mr. Sullivan will schedule this matter for early July. Mr. Sullivan also noted that the plans in question are available at the Administrative Office for review.

**NON-PUBLIC SESSION:** Motion by Mr. Carpenter and second by Mr. Breton to enter into non-public session in accordance with RSA 91-A:3,IIa. Roll call vote: all members "yes". The subject of discussion was personnel. The Board, Mr. Sullivan and Ms. Devlin were in attendance.

*The Board* discussed an ongoing Fire Department issue. Mr. Sullivan advised the Board that the Fire Union had agreed that, due to staffing issues, a qualified call-firefighter will be permitted to cover one vacant shift. No further decisions were made.

*Mr. Sullivan* advised the Board that he had been approached by an employee regarding his excess earned-time over the established cap. Mr. Sullivan advised the Board that he was working with the employee and the union on an appropriate agreement regarding this issue. After some discussion, it was the consensus of the Board to support Mr. Sullivan's recommendation in light of the uniqueness of the circumstance. Mr. Sullivan will work with all parties to draft said agreement for future submission to the Board for signature.

Mr. Carpenter moved and Mr. Stearns seconded to adjourn. Passed 4-0.

The meeting was adjourned at 11:30 PM.

Respectfully submitted,  
Wendi Devlin, Administrative Assistant

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