

**BOARD OF SELECTMEN**  
**Minutes of January 6, 2020**

**MEMBERS PRESENT:** Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Roger Hohenberger, Joel Desilets, and Heath Partington were present, as was Town Administrator David Sullivan. Mr. McLeod opened with the Pledge of Allegiance.

Mr. McLeod explained the purpose of the evening was to conduct the required public hearing on the budget/warrant; adding there were several other scheduled for 1/21. He noted that the latter is posted for the Town Hall, however, it may move to Community Development due to cable issues. Mr. McLeod noted that the following would be discussed on the 21st: a bond for \$9,500,000 to design and construct main water line from Route 111 / Range Road westerly along Route 111 to Ledge Road; a bond for \$300,000 for repairs to the Tower of the Searles Building; a bond for \$50,000 to purchase a new Rescue Tool for the Fire Department; an article to, as allowed by RSA 31:95-c, restrict 100% of the revenues from income derived from collection of water source demand charges (MSDC) from water line users to expenditures for the purpose of paying the bond payments associated with the purchase of the towns allotment of gallons of water from the City of Manchester associated with the Regional Water Line; an article to adopt the provisions of RSA 162-K which would allow the Town to establish TIF districts, and; a citizen petition to allow Keno games in the Town of Windham.

Mr. Sullivan then reviewed an updated budget presentation; noting the proposed increase is currently 7.21% inclusive of the \$204,000 conservation loan payment, which will be paid with Commission funds, as well as another \$260,000 for which revenue will be received via the SAFER grant. He indicated that, removing those two items, the net increase is approximately 4.1%. Mr. Sullivan then advised the operating budget is up 6.73%, while the special warrant articles which include all 3 contracts is up \$33,000 and, lastly, the Capital expenses are \$40,232 higher than last year; going on to expand upon the details of each.

Review of the proposed warrant articles, as read by Mr. McLeod, then followed.

ARTICLE 4 – This will be discussed on 1/21 as posted.

ARTICLE 5 – This will be discussed on 1/21 as posted.

ARTICLE 6 – To see if the Town will vote to raise and appropriate the sum of One Hundred Eighty Thousand, and no 100ths (\$180,000.00) Dollars for the purpose of repairing approximately 1800' of the Rockingham Recreational Rail Trail, including drainage, pavement improvements, and engineering planning associated with the construction and payment of costs associated with the financing of said project; any federal, state or private funds made available therefore shall be applied toward the cost of the project; and to raise the same by issuance of not more than \$80,000.00 in bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA Chapter 33) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon, and to apply toward the cost any interest earned from the temporary investment of any bond or note; and furthermore to authorize the withdrawal of \$50,000 from the Rail Trail Capital Reserve Fund established for this purpose, with the balance of \$50,000 to be raised by general taxation; and to take any other action as may be necessary to carry out and complete financing of this project. This article is part of the Capital Improvement Program. (60% Majority Required).

Mr. Sullivan advised that, per Town Counsel's advise, "non" will be added before "Capital Reserve Fund" as it is not a structure.

There being no public input, Mr. Hohenberger moved and Mr. Breton seconded to move this article to the warrant as "recommended" by the Board. Passed 4-1, with Mr. Desilets opposed.

ARTICLE 7 – To see if the Town will vote to raise and appropriate the sum of \$75,000 to be added to the Property Maintenance Expendable Trust Fund.

There being no public input, Mr. Hohenberger moved and Mr. Breton seconded to move this article to the warrant as "recommended" by the Board. Passed 4-1, with Mr. Desilets opposed.

ARTICLE 8 – To see if the Town will vote to raise and appropriate the sum of \$32,500, said amount to be withdrawn from the balance in the previously established Searles Special Revenue Fund for payment of both marketing related and maintenance related costs associated with the Searles Building. Approval of this article will have no additional impact on the tax rate.

Mr. Hohenberger inquired whether the last line could be stricken. Mr. Sullivan replied the Board could remove it, however he did not agree with doing so as it does involve a tax impact; going on to clarify that because it is a special revenue fund, those funds must be used toward the Searles. Discussion ensued.

Mr. Hohenberger moved to remove the last sentence. Mr. Desilets seconded for discussion, which ensued regarding the motion language.

Mr. Partington sought clarification that the \$32,500 comes all from Searles revenue, and none from the general fund. Mr. Sullivan replied in the affirmative. Further discussion ensued, and Mr. Desilets withdrew his second.

Mr. Breton then seconded for discussion and suggested the word “may” be inserted. Further discussion ensued in that Mr. Hohenberger wanted the whole sentence struck and, if the revenues do not come in, they cannot be expended. . The motion failed 3-2, with Mr. Breton and Mr. Hohenberger opposed.

There being no public input, Mr. Breton moved and Mr. Desilets seconded to move this article to the warrant as “recommended” by the Board. Passed 4-1, with Mr. Hohenberger opposed.

Mr. Breton move to warrant with rec. Mr. Desilets second. 4-1, with Mr. Hohenberger opposed.

ARTICLE 9 – To see if the Town will vote to approve the cost items included in the latest tentative bargaining agreement reached between the Selectmen and members of Local Union No. 1801 AFSCME (Municipal Union) and to further raise and appropriate the sum of \$29,220 representing the amount of the increased cost attributable to the increase in salaries and benefits to said members for the fiscal year 2020. Said contract to expire on March 31, 2023 with the additional cost for 2021 to be \$45,030, \$36,630 for 2022, and \$11,950 for 2023 at the current staffing level.

There being no public input, Mr. Desilets moved and Mr. Breton seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 10 – To see if the Town will vote to approve the cost items included in the latest tentative bargaining agreement reached between the Selectmen and members of Local Union No. 2915 IAFF (Fire Union) and to further raise and appropriate the sum of \$63,790 representing the amount of the increased cost attributable to the increase in salaries and benefits to said members for the fiscal year 2020. Said contract to expire on March 31, 2023 with the additional cost for 2021 to be \$73,540, \$72,150 for 2022, and \$17,960 for 2023 at the current staffing level.

There being no public input, Mr. Breton moved and Mr. Hohenberger seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 11 – To see if the Town will vote to approve the cost items included in the latest tentative bargaining agreement reached between the Selectmen and members of Local Union No. 213 NEPBA (Police Union) and to further raise and appropriate the sum of \$56,150 representing the amount of the increased cost attributable to the increase in salaries and benefits to said members for the fiscal year 2020. Said contract to expire on March 31, 2023 with the additional cost for 2021 to be \$67,860, \$65,890 for 2022, and \$15,560 for 2023 at the current staffing level.

There being no public input, Mr. Desilets moved and Mr. Breton seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

Mr. Breton asked that the duration/COLA of the contracts be clarified. Mr. McLeod noted that each were three year contracts, with a 3% COLA in 2020, and 2.5% in the 2nd and 3rd years.

ARTICLE 12 – Shall the Town of Windham, if Articles #9, 10 or 11, are defeated, authorize the governing body to call one special meeting, at its option, to address Article(s) #9, 10, or 11, cost items only?

There being no public input, Mr. Desilets moved and Mr. Breton seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 13 – To see if the Town will vote to raise and appropriate the sum of \$93,770 for the purpose of paying the second of three lease payments associated with the Fire Department Ambulance leased in 2019. This article is part of the Capital Improvements Program.

There being no public input, Mr. Breton moved and Mr. Desilets seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 14 – This will be discussed on 1/21 as posted.

ARTICLE 15 – To see if the Town will vote to raise and appropriate the sum of \$65,000 for the purpose of making any needed repairs to the Police Station roof as well as replacing the roof shingles and rubber membranes. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until the project is complete or for a period of two (2) years, whichever is less. This article is part of the Capital Improvement Program.

There being no public input, Mr. Desilets moved and Mr. Hohenberger seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 16 – To see if the Town will vote to raise and appropriate the sum of \$50,000 for the purpose of making improvements associated with Phase I of the Town Common Beautification project to include but not limited to installation of sidewalks and crosswalks along North Lowell Road in the area of the Town Center as well as improving the landscaping and utility of the Town Common area. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until the project is complete or for a period of five (5) years, whichever is less. This article is part of the Capital Improvement Program.

There being no public input, Mr. Breton moved to move this article to the warrant as “recommended” by the Board. Mr. Desilets seconded for discussion and then noted two wordings had been proposed for this article. Mr. Sullivan clarified that the second option, rather than establishment of a Capital Reserve Fund, had been chosen. Passed unanimously.

ARTICLE 17 – This will be discussed on 1/21 as posted.

ARTICLE 18 – This will be discussed on 1/21 as posted.

ARTICLE 19 – To see if the Town will vote to authorize the Board of Selectmen to negotiate and execute a lease agreement between the Town and the Town of Salem for the use of a parcel of land consisting of an area of 90 +/- feet x 135 feet with 90 +/- feet of frontage on the Northerly side of Northland Road situated on the Westerly side of a constructed access road as depicted on a certain plan entitled “Northland Road PRV/Chemical Feed Station” prepared by Weston & Sampson dated 2019. Said lease shall contain, but not be limited to the following terms:

1. An initial term of up to twenty five (25) years,
2. The ability of the Board, in their discretion, and upon request, to extend the lease for up to two (2) additional twenty-five (25) year terms
3. Annual lease payment of \$1
4. The right for the Town of Salem to utilize the adjacent access road to provide access from the Easterly side of the demised premises to Northland Road

Mr. Sullivan asked that the Board keep this item open for the duration of the meeting; explaining he had received many calls/emails that day about this article and, as the meeting was proceeding very expeditiously, he would like to give anyone interested an opportunity to arrive – keep open for duration of meeting. It was the consensus of the Board to support Mr. Sullivan’s request.

ARTICLE 20 – As authorized under RSA 72:35 (I-a), shall we modify the Tax Credit for Service-Connected Total Disability from property tax in the Town of Windham, for qualified taxpayers, from \$2,000 to \$4,000.

Mr. Desilets sought clarification that this was the actual article language, and Mr. Sullivan replied in the affirmative. Mr. Sullivan then inquired whether the Town had the ability to put “disabled vets” in parentheses or something similar. Mr. Sullivan noted that the statute in question has that language.

There being no public input, Mr. Desilets moved and Mr. Hohenberger seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 21 – By Petition of Earl Bartlett and others “This article is to respectfully ask for consideration in a Yes vote to allow the Town Voters, Property Owners and / or the Town Council, Selectmen and the Town Administrator to grant relief of a hardship by removing deed restrictions placed on 13 Third Street (16-P-1004) and two small abutting lots (16-P-501 &502). A Yes, would allow the property owner reasonable use of their land. Allowing removal of the deed restrictions would make it possible for a structure on the property. This land is the same size or greater than the past and present lots being developed. The property is large enough to support a well and a septic, thus not effecting surrounding abutters.” Mr. McLeod clarified that this is the petitioner’s language rather than the Town’s.

Mr. Sullivan noted that the property owner was present, and that Town Counsel had been asked for an opinion on the language; adding the latter advised it must be put on the warrant as drafted despite legal issues with the second paragraph. He indicated that Counsel has recommended a motion be made at the Deliberative session to strike the portion that reads “A Yes, would allow the property owner reasonable use of their land. Allowing removal of the deed restrictions would make it possible for a structure on the property. This land is the same size or greater than the past and present lots being developed. The property is large enough to support a well and a septic, thus not effecting surrounding abutters.”

Mr. Sullivan went on to note that Counsel had also suggested language; reiterating it must go to the warrant as submitted and any amendment would take place at the Deliberative session on February 8. He then noted that this would be an advisory vote in that the Town meeting can authorize the Board to remove the restrictions, but it would be up to the Board whether they wish to or not.

Mr. Desilets indicated he had thought petitions could not be amended, and Mr. Sullivan replied that was incorrect.

Mr. Desilets then noted he would like to see the proposed amendments prior to the meeting, and Mr. Sullivan noted it is included in the posting notice. Discussion ensued.

Mr. Hohenberger noted that, as no money is involved, the Board does not have to make a recommendation, and Mr. Sullivan concurred, adding however that Board policy is to place them on each article unless as a Board they decide not to. Discussion ensued.

Mr. Desilets requested a brief description of the restrictions. Mr. Sullivan noted that, in 2018 the owner had requested that the Board remove the restrictions, which the latter had declined to do, thus this petition had been submitted. He explained that, in 2013, several town properties were sold, some with restrictions; adding the latter had been marketed as such. Mr. Sullivan noted the properties were sold via public bid, and little over \$15,000 had been received for the three properties, which cannot be used to build structures, but rather for parking, septic, etc. Mr. Breton added that the deed restriction was because they were not sold as buildable lots and a discussion ensued.

Mr. McLeod noted that, as this is a citizen petition, it will be moved to the warrant as is and, at the Deliberative Session, Town Counsel has recommended there be an amendment. He encouraged anyone who has an interest to attend the Session on February 8 beginning at 9AM at the High School. Mr. McLeod noted that the Board may opt to attach a recommendation to the article, explaining that typically those that are amended at Deliberative come back to the Board at the next meeting for a final determination. Mr. Desilets indicated that his understanding was that if a recommendation is made beforehand, and the article is amended, then it can be changed; seeking clarification that if it goes to Deliberative without one the Board can then make one after. Mr. Sullivan replied in the affirmative and a brief discussion ensued.

Wendy Williams, Bear Hill Road, approached to inquire whether the restriction was related to the Cobbetts Pond Watershed District. Discussion ensued, with Mr. McLeod, Mr. Hohenberger and Mr. Desilets noting it had been a concern, as well as maintain the parcel to assist abutters with failing septics, and well/septic radiuses. Further discussion ensued in that these parcels were sold with the restrictions in place, and were advertised, priced, and sold as such.

Ms. Williams sought clarification as to whether one of the lots had a home on it. Mr. Mike Callahan, owner, reviewed a map of the lots; explaining he had bought the parcel in order to install a septic across the street from an existing house. He indicated that, shortly afterwards, two abutters had blocked his access to the property, as he had intended to go across the street from #3 to #13.

Mr. McLeod indicated that the only issue before the Board is whether the restriction would be relaxed, thus they would not delve into the access. Discussion ensued regarding the size and orientation of the three lots, and Mr. Callahan indicated he wanted to make sure the Board knows he did not intent to mislead them when he purchased the lot. He reiterated he would like the restriction lifted, as eventually he would like to put a garage there; adding he had obtained 25 signatures for the petition and was okay with Town Counsel's suggested wording. Mr. Callahan indicated he cannot fight the abutters, and would like to make use of his property; adding it would still need to go to the Zoning Board.

Ava Beaudet, Second Street, indicated she was an abutter who had also bid on the property along with five others; adding that Mr. Callahan had triple bid them knowing it was restricted. She indicated that when Mr. Callahan had bought the property for a septic system, he did not own the other house, rather his girlfriend's parents had; adding he had sued the abutters. Mr. McLeod reiterated that the focus is where the Board stands on relaxing the restrictions, and a lengthy discussion ensued.

Dennis Root, Third Street, indicated he had tried to buy the property years ago, as had another neighbor, and both were denied and advised the Town was saving the parcel for septic needs; adding Mr. Callahan had then bought it without owning any property near it. He felt the Board had made a mistake selling to him, and asked the restrictions not be lifted. Mr. McLeod explained that the Board typically awards such things to the highest/lower bidder accordingly, and a discussion ensued.

Patricia Thibodeau Lamirande, Third Street, approached to clarify it was correct that when Mr. Callahan had bid on the lots her parents had owned the property across the street; noting their intent had been to make that home more comfortable for her parents knowing that in the long run she and Mr. Callahan would purchase the property from them which is why the land had been purchased for the septic. She reiterated that they have been blocked by the abutters on everything, that they wanted to do a septic, and that they have always been abutters.

Joel Burdette, Fourth Street, approached indicating he would have bid on the property and expressing support of keeping with the restrictions as deeded and the parcel being used for parking or a septic. He felt that, in fairness to the public and neighborhood, if those were the restrictions and how the property had been priced and advertised, then the restrictions should remain. Mr. Burdette felt the neighborhood would benefit from the undeveloped space and the watershed from a forested, wooded lot.

Mr. Callahan reiterated he would not be here if they had not been locked out and if they could install a septic as intended; adding he cannot afford court which is why he looking for another use for the property and a garage will not impact the neighborhood or water.

Mr. McLeod noted that the Board can move this to the warrant with or without a recommendation. Mr. Desilets indicated that all are aware what it sold for, who owns it, and what their intentions are and suggested the Board move to the warrant and perhaps it will be figured out by the Deliberative Session.

He then moved to move the article to the warrant without recommendation by the Board. There was no second and discussion ensued amongst the members.

Mr. Partington moved and Mr. Hohenberger seconded to move this article to the warrant as “not recommended” by the Board.

Mr. Desilets inquired whether Mr. Partington would split off the recommendation from the motion, and lengthy discussion ensued before Mr. Partington declined to amend his motion.

Motion passed unanimously.

Brief discussion ensued regarding the Deliberative Session and follow-up Selectmen’s meeting.

ARTICLE 22 – Mr. Sullivan advised that the default budget would \$15,711,529.45; which is last year’s budget plus or minus legal and contractual obligations.

There being no public input, Mr. Hohenberger moved and Mr. Breton seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

ARTICLE 19 – Mr. McLeod noted this had been previous read into the record, and concerns the pump house by Northland Road/Route 28.

Mr. Sullivan reiterated he’d had several conversation with residents regarding why this was going to Town meeting if construction had already started; to which he’d explained that the Board is authorized to enter into a one-year lease, which it has, but a long-term lease must go to Town meeting. Mr. Sullivan indicated that the building will house the chemical feed plant for the water line, and is located on Town property at the beginning of Northland Road. He indicated the concrete/metal roof building, will be buffered by shrubbery on the Northland Road side; and that information regarding same, which had provided to those residents he spoke to, will be on the Windham and Salem websites. Mr. Sullivan indicated the building is expected to be finished by May and that Salem hopes to beautify it as much as it can be.

Tony Barbaro, Northland Road, expressed concerns as to what impacts the structure might have on their property values; adding he would also like the Town of Salem to be proactive in informing residents of Spruce Pond as to such things as paving repairs. Mr. Barbaro noted the residents would like to have some input into and/or be kept aware of what is going to happen.

Mr. McLeod clarified that, should the Town approve the warrant article does not mean a long-term lease will happen, it simply gives the Board the authority to negotiate a lease which could include such terms. Mr. Sullivan added that, as Northland is a Town road, it will be repaired to our satisfaction.

After brief discussion, Mr. Hohenberger moved and Mr. Breton seconded to move this article to the warrant as “recommended” by the Board. Passed unanimously.

Mr. Sullivan inquired of Mr. McLeod whether anyone who might be present for an article scheduled for the 21st, who cannot attend then, might be permitted to comment. Mr. McLeod felt it inappropriate to open such a discussion, but urged anyone with comments to send them in or send someone to the meeting on the 21st on their behalf; thanking all for being involved.

Mr. Sullivan briefly reiterated those items which will be dealt with on the 21st, noting any petitioned articles that may come in will also be discussed, and Mr. McLeod reiterated that although posted for Town Hall, the meeting will likely be at Community Development.

**NON-PUBLIC SESSION:** Mr. Hohenberger motioned and Mr. Desilets seconded to go into Non-Public Session under RSA 91-A: II a. Roll call vote – all “yes”. The Board and Mr. Sullivan were in attendance.

Mr. Hohenberger moved and Mr. Breton seconded to hire the recommended candidate for General Services laborer as discussed. Passed unanimously.

Mr. Sullivan updated the Board on a police matter. No decisions were made.

Mr. Hohenberger motioned and Mr. Desilets seconded to come out of non-public and adjourn the meeting. Passed unanimously.

Meeting adjourned at 8:45 pm.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

David Sullivan, Town Administrator