

**BOARD OF SELECTMEN**  
**Minutes of January 21, 2020**

**MEMBERS PRESENT:** Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Roger Hohenberger, and Heath Partington were present, as was Town Administrator David Sullivan. Selectman Joel Desilets joined the meeting via telephone at approximately 7:30 PM. Mr. McLeod opened with the Pledge of Allegiance.

Mr. McLeod announced that the Board would be discussing only particular warrant articles, and that Mr. Sullivan had advised he had been contacted regarding the Spruce Pond pump house, clarifying that was not on the agenda. Mr. Sullivan explained he had received several emails and one letter from an area resident, and that he spoken with the Town of Salem and Weston & Sampson regarding their concerns; both of whom had offered to come to a future meeting. He noted, alternatively, the Board could hold a separate meeting to discuss the residents' concerns.

Mr. Breton recommended a public meeting be held in case follow-up with the State is necessary afterwards. The remaining members concurred, and a discussion ensued regarding the timing of same. Mr. Sullivan suggested it be scheduled as part of the regular meeting the following Monday; adding Salem and the State are available and it should be held in advance of the next construction meeting, which is scheduled for the 30th. After further discussion, the Board concurred with scheduling this discussion for the 27th.

The Chairman then called for a brief recess while a potential sound issue was addressed. The meeting resumed at 7:20 PM. In response to concerns raised during the recess regarding moving the meeting due to a lack of presentation equipment, Mr. McLeod advised that the relevant statute had been reviewed as it pertained to adequate meeting notice; adding, however, that Mr. Sullivan had advised he had obtained a legal opinion and doing so could potentially result in issues with obtaining a clean opinion from bond counsel. When polled, the Board members all concurred with the meeting remaining at the Town Hall.

Mr. Desilets was contacted per his request to participate in the bond articles, and he advised he was out of state on business and no one was present with him.

**ARTICLE 5.** Mr. Sullivan read a portion of the proposed article, as well as the public hearing notice as follows: *"In accordance with RSA 33:8-A, the Board of Selectmen will hold a Public Hearing on Tuesday, January 21, 2020 at 7:00 pm in the upstairs meeting room of Town Hall for a proposed bond issue in the amount of \$6,336,500 for the purpose of constructing a water line from the area of Route 111 and Range Road westerly along Route 111 to Ledge Road, to include cost of engineering, planning, bid documentation, right of way, and construction expenses. The total cost of the project is estimated to be \$9,500,000, with the balance to come from grants or private contributions."*

Jeff Provost, Weston & Sampson, approached to provide an update to the Board on their study results to date; reminding all that Phase 1 of the overall project, as discussed on 12/30, entails the water line down Route 28 and the stub over to Klemm's, for which there are 3 ownership/cost options, those being the Town, the Town of Salem, or Pennichuck. He noted that Phase 2, which this article pertains to, is for a line from Klemm's down Route 111 to Ledge Road where there will be a water storage tank. Mr. Provost indicated tonight's presentation will combine the two phases, and costing scenarios for same.

Dave Fox representing Raftelis, a sub-contractor of Weston & Sampson, approached and reviewed the attached handout, and discussion followed.

Mr. Hohenberger questioned whether Salem had been spoken to regarding their customers absorbing the cost of the water tank; noting they had just come back on board. Mr. Provost replied in the negative, and Mr. Hohenberger then questioned where the number had come from. Mr. Fox advised that 30% is the upper limit of revenues that should be collected for fire protection services; adding it is the industry standard.

Mr. Hohenberger expressed further concerns regarding this being discussed publicly, as Salem has not heard anything about it; adding he liked the Phase 1 arrangement. Discussion ensued in that this is just a recommendation. Mr. Sullivan asked if it could be costed out without the 30%, and Mr. Fox replied in the affirmative; adding a significant impact on Phase 2 customers will result.

Mr. Sullivan noted he knew the information was not complete, as the TIF district has not been factored in as yet; questioning whether it will be reflected in the final numbers. Discussion ensued regarding the study completed by Mr. Arnett and the potential added value; with Mr. Sullivan noting that, as to the latter, the value of the added assessments could more than cover the cost of the bond over time. Mr. Fox advised that could be built into the analysis.

Mr. Sullivan then requested that the 30% be removed from the equation, as he wholeheartedly agreed with Mr. Hohenberger.

Mr. Hohenberger then sought clarification as to what the cost is to the Town of Windham, and Mr. Fox replied approximately \$600,000/year. Mr. Sullivan clarified the bond payment would range from \$326,000 to \$426,000, and sought clarification the balance of the \$600,000 was operating costs. Mr. Fox replied in the affirmative, and Mr. Provost noting that would increase incrementally.

Mr. Sullivan then noted the question is whether it can be covered by the users and TIF district, or will there be an overall cost to the taxpayers; adding he believed everyone understands that the first couple of bond payments will be borne by the taxpayers. Mr. Fox confirmed that these were front loaded costs, and added that while the most equitable way to recover the costs is from the users, that will not be palatable at first, thus it has been spread across the taxpayers.

Discussion ensued regarding the Phase 1 line versus Phase 2, that costs would need to be fronted for some years by the taxpayers similar to the MSDC charges, and the need for more information and projected number of users for Phase 2.

Mr. Sullivan noted that Pennichuck is unlikely to run Phase 2 unless the CAIAC tax is eliminated. Discussion ensued regarding potential operation of same, with Mr. Provost seeking clarification that the Board envisioned Salem operating Phase 1 and a third party Phase 2. Mr. Sullivan replied in the affirmative.

Mr. Provost then noted that if the Board focused on bars 2 and 3 of the analysis, those are the most likely scenarios. Mr. Hohenberger noted that using the 2nd bar, the cost would be \$25.68/ccf with Pennichuck, and a discussion ensued.

Mr. Partington suggested that the Windham operating numbers should be retained until the agreement with Salem is finalized; adding while he hoped it worked out those should be kept as back up.

Mr. Breton sought clarification that “subsidizing” referred to non-users, and Mr. Provost replied in the affirmative. Discussion ensued in that an appropriation will be necessary every year, and revenue from the TIF district won’t be realized until 2022; as well as that funds from the Route 28 hook ups will go into the Special Reserve fund to pay down the MSDC bond payment.

Mr. Sullivan clarified that the first payment on this bond would be due in 2021, with taxpayers covering same until revenue starts coming in; adding we do not know the number of hookups, or have the TIF district, so realistically the Town will cover the bond for the first couple of years

Ellen Davis, Range Road, sought clarification as to whether the line would go down Range Road, and Mr. Fox replied in the negative, noting Phase 1 went down to the Salem line. Mr. Sullivan added the State had been asked about running the line up Range Road, and they had responded it would be cost prohibitive; adding there may be a possibility those properties could tie in at their own cost in the future. Discussion ensued regarding well issues on Range Road, that the Town only has access to a certain amount of water, that Weston & Sampson was tasked with studying Phase 2, and that no one is obligated to tie into the line.

Wendy Williams, Bear Hill Road, inquired whether the owners along Route 111 have a choice whether or not to tie in, and Mr. Sullivan replied in the affirmative.

Ms. Williams then inquired when it will be known if the grant and contributions will be received. Mr. Sullivan clarified that, as to the latter, it is hoped the developments will contribute; adding that we have twice been denied but the State has placed our project in a special category and we have a very good shot at getting special project funds based on economic development and PFOS contamination needs. He indicated that, if the article passes, the Town will go right to the Water Advisory Board to seek approval. Discussion ensued.

Chris McCarthy approached in support of the line and noting it should be paid for by those who benefit; inquiring whether other communities have put in place a formula or impact fee schedule as a mechanism to do so. Mr. Fox noted the collection of impact fees are fairly common for water utilities, and they could probably find out; adding there is a formulaic approach to calculating same. Discussion ensued.

Wayne Morris, Jordan Road, inquired what the impact would be to him as a taxpayer, and also what the main reason was for the line; adding that to the latter it sounded as if it were commercial. He also questioned what the added density would be because of the water and resulting elimination of well radius concerns, and whether the current mitigation of contamination issues was working. He also expressed concerns that not all possible development has been considered in calculating 20,000 gallons per day.

Mr. Sullivan advised that 20,000 gallons refers to this line, whereas some of the properties cited by Mr. Morris are Phase 1 of the line. Discussion ensued regarding the methodology used to calculate that figure and the estimated number of hookups as determined by Community Development Director Rex Norman, and whether enough water will be available overall for all potential properties in both phases.

Mr. Morris then inquired where the tower would go on Ledge Road; citing issues with that property. Mr. Provost noted it would be a few hundred feet off Ledge Road within a planned industrial development.

Mr. Morris expressed appreciation for all the time put into this by staff, followed by concerns regarding traffic on Route 111; suggesting they wait to see how Phase 1 works out.

Mr. McCarthy approached and noted that, to Mr. Morris' question about contamination, it would be helpful to have an impartial number as to the overall cost for all. Mr. Sullivan noted that what Mr. McCarthy is referring to came from Nobis Engineering who advised that to mitigate the known sites, at that time, was \$300,000 to \$500,000 over a 15 year period.

Mr. Hohenberger noted he had just installed a reverse osmosis system at a cost of \$200. Discussion ensued regarding testing requirements by the DES.

Mr. Hohenberger indicated he appreciated all the work and effort, and felt bringing in water as approved by the voters last year was a good thing for the aquifer. He noted however, that as to Phase 2, this began with the Economic Development Committee seeking commercial enhancement, and the PFOS is now being tacked on as an extra benefit; however there are other ways to mitigate same. Mr. Hohenberger did not feel he got good analysis of how this would be paid for, and how to answer taxpayers who will not benefit from this.

He then moved to not move this forward to the warrant. There was no second.

Mr. Breton noted he would be abstaining as a member of the Water Commission, but expressed concurrence with Mr. Hohenberger in that more information is needed for the general public; adding he did not feel any further along and more due diligence is required, as well as letters of intent.

Mr. Partington noted that he has more clarity now regarding what it will cost for the Town to come out even without a TIF district. He went on to note that the Planning Board had discussed increased density, and the zoning in Town is limited as far as what can be built so, while there may be some, it would not be astronomical or visually remarkable given the regulations. He then noted that not all properties currently experiencing contamination will be fixed by this line, and knowing the figures for the ones it won't would be important to him. Mr. Partington noted that, if the line is going to be done, do it now with the 1/3 discount; as that funding may not be available in the future; adding he suspected it would still cost the taxpayers a couple million dollars even with a TIF district in place.

Mr. Desilets expressed that he was confident the bond would be covered and the taxpayers will not bear those costs; citing the success of TIF districts in other communities. He noted that while he understood the analysis is not complete, he was convinced the numbers would come together and it should be put before the voters so long as there was flexibility to allow the numbers to change.

Mr. McLeod noted the contamination thresholds are going to drop, thus the problem will get worse and not better; adding we have an opportunity to mitigate this here. He agreed with Mr. Desilets regarding the effectiveness of the TIF district. He would prefer to see it go to the voters to see how they feel about it; even if it reflects "not recommended" by the Board; adding there is time to fine tune the numbers before the Deliberative. Discussion ensued regarding the need for firmer numbers and whether to move this to the warrant.

Mr. Desilets moved and Mr. Partington seconded to move this article to the warrant. Roll call vote – all "yes" save Mr. Hohenberger who voted "no".

Mr. Desilets moved to "recommend" the article. There was no second.

Mr. Hohenberger moved to "not recommend". Mr. Partington seconded. Roll call vote – Mr. Hohenberger "yes", Mr. Partington "yes", Mr. Desilets "no", Mr. McLeod "no", and Mr. Breton abstained.

Mr. Desilets left the meeting.

**ARTICLE 6.** Mr. Sullivan read the public hearing notice into the record: *"In accordance with RSA 33:8-A, the Board of Selectmen will hold a Public Hearing for a proposed bond issue in the amount of \$300,000 for the purpose of repairing the roof and stone exterior of the tower of the Searles Building, on Tuesday, January 21, 2020 at 7:00 pm in the upstairs meeting room of Town Hall. The total cost of the project is estimated to be \$300,000."*

Peter Griffin, Chairman of the Searles Trustees, gave a brief history of fundraising, grant, and appropriation efforts over the years in order to rehab the facility; adding they are now facing some serious deferred maintenance issues with the tower roof, as well as repointing of the tower itself.

A brief recess was called in order to allow the Trustees' presentation to be set up.

Betty Dunn reviewed the presentation with the Board, which detailed the issues with the tower and roof, and outlining the Trustees' efforts thus far to have them evaluated and to seek grant funding. Mrs. Dunn noted that the repairs are necessary in order to keep the building functional; adding that they are still gathering information and may have more for the Deliberative Session.

Mr. Partington sought clarification as to whether \$300,000 was a verbal quote, and Mrs. Dunn replied they did have something in writing. Discussion ensued as to what the funds will cover, and Trustee Mike Mazalewski explained the estimate covers not only resetting the stones, but repointing the entire tower incorporating new, modern sealants to keep the water out. He indicated he was confident there would be no further issues.

Mr. Hohenberger expressed concern that the same contractor had gone from an initial \$150,000 to \$300,000; adding he hoped the Trustees would be willing to go out and get multiple bids. Mrs. Dunn noted that, assuming the bond passed, they would try to find masons who will work on this type of stone; adding the roof would be a separate contract for which they feel they have a solid number. She indicated that, as to the tower, it is not regular stone mason work and will involve either a lift or staging, neither of which is attractive during events. Mrs. Dunn acknowledged this is a significant expense, and noted the Trustees have gone to the NH Preservation Alliance who have provided a list of recommended masons; going on to note that two of those have retired and a third does not respond to inquiries. Discussion ensued.

Mr. Sullivan noted that the way the article is currently written, any grants received would be in addition to the \$300,000, and inquired what level of confidence the Trustees had that they could obtain grants. He indicated if there is an expectation they will, language to that effect would have to be added at the Deliberative Session. Discussion ensued in that the grants could go toward paying off the bond, and Mrs. Dunn asked that Mr. Sullivan forward the Trustees the two proposed articles for review prior to the Deliberative. Mr. Sullivan will do so.

Mr. Hohenberger moved and Mr. Breton seconded to move the article to the warrant as “recommended”.

Passed 4-0.

**ARTICLE 15:** – Mr. Sullivan read the proposed warrant article into the record, as follows: *“To see if the Town will vote to raise and appropriate the sum of \$50,000 for the purpose of purchasing a new Rescue Tool for the Windham Fire Department’s Ladder Truck and to authorize the Board of Selectmen to contract for, accept and expend Federal Assistance to Firefighters Grant (AFG) funding in the amount of \$47,500 to be applied against said appropriation, with the balance of \$2,500 to come from general taxation. This will be a non-lapsing account per RSA 32:7, VI and will not lapse for a period of two (2) years. This article shall be deemed null and void if the AFG Grant is not approved.”*

There being no public input, Mr. Breton moved and Mr. Partington seconded to move the article to the warrant as “recommended”. Passed 4-0.

**ARTICLE 16:** - Mr. Sullivan read the public hearing notice into the record, as follows: *“In accordance with RSA 162-K:4 the Selectmen will hold a public hearing on January 21, 2020 at 7:00 PM in the upstairs meeting room of Town Hall to discuss a warrant article before the 2020 Town Meeting to adopt the provisions of RSA 162-K relative to Municipal Economic Development and Revitalization Districts. The wording for the proposed article is as follows: To see if the Town will vote, pursuant to RSA 162-K:1(II) to adopt the provisions of RSA 162-K MUNICIPAL ECONOMIC DEVELOPMENT AND REVITALIZATION DISTRICTS, authorizing the Town to establish one or more economic development and revitalization districts.”*

He went on to explain this article allows the Board to take the next steps to define the border of, plans for, and related documents to establish a TIF district for submission to the next Town Meeting; clarifying this is only the enabling legislation.

Mr. McCarthy approached in support of the article, noting it was a creative financial solution that both Derry and Londonderry have had great success with. Mr. McCarthy felt this was crucial, and asked that the Board support same.

Ms. Williams expressed concerns that the TIF District must have commitments in order to be successful, as well as regarding other portions of the statute, such as eminent domain, that will be adopted at the same time. To the latter, Mr. McLeod advised that the statute does not add any greater eminent domain authority than the Town already has under other statutes. Discussion ensued regarding the Kelo Supreme Court case, and that its effects on eminent domain are unrelated to RSA 162.

Community Development Director Rex Norman approached noting the validity and importance of all questions being posed; adding that if this enabling legislation passed, they will need to get those answers and bring in all the parties involved. Mr. Norman clarified this discussion related to adopting legislation that will allow the Town to identify a TIF District, if they choose to; adding the area being looked at involves contamination and undeveloped, commercial land.

He went on to explain TIF districts are specific to an objective, involving identifying infrastructure, the dollar amount, and the district; adding they do nothing to the average taxpayer, rather the value increase in the district gets redirected. Mr. Norman noted the current assessed values are \$30M and, as of April 1 a revaluation will be done and, if the values increase and a TIF district is in place, that increase can be captured. He indicated he had a high level of confidence a TIF district will pay back the bond in a reasonably short period of time; adding the consultant had advised that NH has little history of TIF Districts failing. Mr. Norman then reiterated adopting this legislature is the first step, and there is lot s of work to be done from there on regarding the specifics.

Mr. Sullivan also clarified this article is only to adopt the enabling legislation; adding that any district to be formed has to go to Town Meeting as neither the Planning Board or Board of Selectmen has that authority. He indicated this warrant article is a commitment to have the Board study the issue further and hold public hearings to discuss same.

Ms. Williams expressed that she still thought the article was premature; adding all the information should be presented to the voters now as they need to know where it is and see that there is a real commitment. Discussion ensued regarding the number of times this has been discussed at lengthy Selectmen meetings, as well as the purpose of this article, with Ms. Williams noting informational articles should be done in cases such as this. Mr. McLeod replied that, should this pass, he would hope Mr. Norman would do that in advance of any hearings.

Mr. Hohenberger concurred with Mrs. Williams in that the Board had been asking for it to be looked at all last year. He indicated that the Planning Board had disbanded their sub-committee, and not too much has been done. Mr. Hohenberger expressed he was in support of this article, as it will answer these questions; but noted there is no funding in the budget should this pass to do all the work to get more information before next March.

He then moved, and Mr. Breton seconded to move the article to the warrant as “recommended”. Brief discussion ensued, with Mr. Partington clarifying the Board of Selectmen, not the Planning Board, has authority in this instance.

Motion passed 4-0.

**ARTICLE 14:** Mr. Sullivan read the public hearing notice into the record, as follows: *“In accordance with RSA 31:95-c and 31:95-d (1,b) the Selectmen will hold a public hearing on January 21, 2020 at 7:00 PM in the upstairs meeting room of Town Hall to consider the establishment of a Special Revenue Fund for the payment of loan or other payments related to the purchase of water rights from the City of Manchester associated with the regional water line project; said fund to be voted on at the 2020 Town Meeting. The wording for the proposed article is as follows: “Shall we adopt the provisions of RSA 31:95-c to 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 loan or other payments associated with the purchase of the Town’s allotment of gallons of water from the City of Manchester associated with the Regional Water Line Project? Such revenues and expenditures shall be accounted for in a special revenue fund to be known as the MSDC Special Revenue fund, separate from the General Fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote of the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund or source of the revenue.”*

He went on to explain this targets monies from user hook-ups for use towards MSDC charges; adding it does not include the bond discussed earlier this evening. He noted if the Board wished to do the same in that case, either this article could be amended or a separate one done next year.

Ms. Williams inquired whether this was contingent upon the other article passing, and Mr. Sullivan reiterated this has nothing to do with that; rather this refers to the \$714,000 bond approved last year to purchase water rights. Discussion ensued in that these charges relate to new users hooking into the water allocation purchased by the Town, with no one being required to hook up with the exception of Flat Rock as that had been a Planning Board condition of approval.

Mr. Hohenberger moved and Mr. Breton seconded to move the article to the warrant as “recommended”. Passed 4-0.

Mr. Sullivan then advised that two citizen petitions had been received; the first being related to keno. He noted the Board had put forward the same last year, which had failed by only 100 +/- votes.

Mr. Hohenberger moved and Mr. Partington seconded to move the petition to the warrant as “recommended”. Passed 3-1, with Mr. McLeod opposed.

Mr. Sullivan advised the other petition reads as follows: *“By Petition of John Gage and others “New Hampshire Resolution to Take Action on Climate Pollution: We the town of Windham hereby call upon our State and Federal elected representatives to enact carbon-pricing legislation to protect New Hampshire from the costs and environmental risks of continued climate inaction. To protect households, we support a Carbon Fee and Dividend approach that charges fossil fuel producers for their carbon pollution and rebates the money collected to all residents on an equal basis. Enacting a Carbon Cash-Back program decreases long-term fossil-fuel dependence, aids in the economic transition for energy consumers, and keeps local energy dollars in New Hampshire’s economy. Carbon Cash-Back has been championed by US economists (Jan 17, 2019 WSJ) as the most effective and fair way to deliver rapid reductions in harmful carbon emissions at the scale required for our society.*

*We expect our representatives to lead in this critical moment for the health and well-being of our citizens and for the protection of New Hampshire’s natural resources upon which we all rely.*

*The record of the vote approving this article shall be transmitted by written notice to Windham’s State Legislators, to the Governor of New Hampshire, to Windham’s Congressional Delegation, and to the President of the United States, informing them of the instructions from their constituents, by Windham’s Select Board, within 30 days of this vote. “*

John Gage, petitioner, presented the Board with a handout for their review. He explained the article was the idea of several people at the State House, and the intent is to allow voters to weigh in on an effective and fair climate solution which economists around the world recommend. Mr. Gage noted this follows an effort in 2007, when a warrant article had passed to establish a Local Energy Committee. He explained Congress has had trouble doing their part to reduce carbon emissions, and this article is more specific in that it provides a widely recommended solution; adding that putting a price on pollution will send a strong message to producers, investors, and consumers that pollution costs money and will drive producers and consumers to make more informed decisions. Mr. Gage indicated that the money collected is paid by fossil fuel producers and importers and goes into a Carbon Trust and then given back to households on an equal basis each month; adding it would be 1 share per adult and 1/2 share per child. He indicated it is an efficient, market based, revenue neutral approach with many benefits; explaining those with an average carbon footprint will break even and those with a below average footprint will come out ahead; citing in particular low income households who generally have a below average one. Mr. Gage noted fees would also be attached to imports, protecting US jobs and encouraging other countries to match our price. He noted Canada and the EU have implemented this program, and China will be in the near future; adding that doing this at the State level will show Congress that this is possible.

After brief discussion, Mr. Hohenberger moved and Mr. Breton seconded to not reflect a recommendation on this article passed 4-0.

Mr. Hohenberger then moved and Mr. Breton seconded to reconsider the vote on keno. Passed 4-0.

Mr. Hohenberger moved and Mr. Partington seconded to not reflect a recommendation on the keno article. Passed 4-0.

Mr. Sullivan then advised that there may be proposed changes to the petition regarding Third Street, and it has been given to the petitioner to review; adding Town Counsel has also recommended an amendment to the Northland property lease article.

**NON-PUBLIC SESSION:** Mr. Hohenberger motioned and Mr. Breton seconded to go into Non-Public Session under RSA 91-A: II a and b. Roll call vote – all “yes”.

*Personnel Hiring* - Mr. Hohenberger moved and Mr. Breton seconded to approve staff’s recommendation to hire a candidate for a General Service Operator position. Motion passed 4-0.

*Personnel Discipline* - Mr. Breton moved and Mr. Partington seconded to seal the minutes of this session. Motion passed 4-0

Mr. Hohenberger motioned and Mr. Breton seconded to come out of non-public and adjourn the meeting. Passed 4-0.

Meeting adjourned at 11:15pm.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

David Sullivan, Town Administrator

# DRAFT

## Annual Customer Bill - 400 Ccf Annual Consumption

