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**TOWN OF WINDHAM, NH**  
**BOARD OF SELECTMEN MEETING**  
**April 3, 2023**  
Community Development Department  
3 North Lowell Rd.  
Draft Minutes

Attendance:

Chairman Heath Partington- present  
Mark Samsel- present  
Bruce Breton- present  
Roger Hohenberger- present  
Ross McLeod- excused

Staff:

Brian McCarthy- Town Administrator

Board Nominations

**A motion was made by Mr. Hohenberger to nominate Mr. McLeod as Chairman and Mr. Partington as the Vice Chairman. Seconded by Mr. Samsel. Vote 5-0. Motion passes.**

Egg Hunt

Mr. Samsel wished to commend Ms. Cheryl Haas for the Easter Egg Hunt at Golden Brook school over the weekend.

Voter Recount

Vice Chair Partington stated that there was the voter recount on Friday and the results of the election remain the same after the recount.

Liaison Report

The Board discussed that they will prepare for the next meeting in order to discuss the liaison report at the next meeting.

Armenian Genocide Proclamation

**A motion was made by Mr. Hohenberger to accept the Armenian Genocide Proclamation and asked the Chair to sign the measure. Seconded by Mr. Breton. Vote 5-0. Motion passes.**

Employee Recognition Award

Mr. McCarthy addressed the Board. Mr. McCarthy stated that the town needed someone to take

46 on new tasks and one of those tasks was the town report. Mr. McCarthy stated that the report  
47 contains all the necessary information for the tax payers and to show how the town runs the  
48 government. Mr. McCarthy stated that this employee has done a fantastic job in the Community  
49 Development Department. Mr. Julie Suech took on the town reports and did a fantastic job. Mr.  
50 McCarthy is very pleased with the way Ms. Suech put the town report together. Mr. McCarthy  
51 stated that she is a tremendous asset and she provides technical support to the Community  
52 Development Department and beyond.

53

54 Board of Health

55

56 **A motion was made by Mr. Hohenberger to recess as the Board of Selectmen and**  
57 **reconvene as the Board of Health. Seconded by Mr. Samsel. Vote 5-0. Motion passes.**

58

59 Mr. Mike Maguire addressed the Board. Mr. Maguire stated that several property owners are  
60 trying to get a well and release waiver for their respective properties.

61

62 Mr. Maguire discussed 20 First Street where there is a partial foundation still standing on the  
63 site. The property owners will not have the separation between their well and their septic. There  
64 are several neighbors who were also be affected according to Mr. Maguire.

65

66 Mr. Hohenberger stated that the voters just voted on further protection for the pond. Mr.  
67 Hohenberger asked how close to the pond is the leech field and he also mentioned there is no  
68 way that the lots can fit the radii required for wells and septic systems. There is a need to put a  
69 well and a septic, yet, these are very small lots. Mr. Maguire stated that there are pre-existing  
70 camps and they have a right to rebuilt. Mr. Maguire stated that both lots are going to be replacing  
71 their septic systems with a Clean Solutions system. Mr. Hohenberger stated that these lots are not  
72 capable of accepting a well and a lot and they are not capable of supporting these systems.

73

74 Mr. Maguire then discussed 43 First St. which is a property that has already been before the ZBA  
75 and the second one will be going before that Board at a later time perhaps. 43 First St has  
76 received the approval from Shoreland, the state, and ZBA. Vice Chair Partington stated that 43  
77 First St is a better situation. Vice Chair Partington stated that there is at least supervision of the  
78 system under the new town regulations. Mr. Maguire stated that it is a whole new design for the  
79 lot. After discussion, the Board agreed that both have been through the approval process. Mr.  
80 Maguire stated that there is discussion at the state level to do away with the ability to replace  
81 properties on these “coffee can” lots as they were once called.

82

83 The Board discussed that there is more oversight now because of the new regulations on the lake  
84 and pond lots. The Board viewed both of the proposed plans as presented. The Board reviewed  
85 both of the approved plans with Mr. Maguire as they were not available electronically prior to  
86 the meeting. Mr. Maguire also discussed the previous conditions of the lots.

87

88 **A motion was made by Mr. Hohenberger to deny the proposed plan on 43 First St. as**  
89 **presented. No second.**

90

91 **A motion was made by Mr. Breton to approve the well and septic plan for 43 First St. as**

92 **presented. Seconded by Mr. Samsel. Vote 4-1. Mr. Hohenberger opposed.**

93

94 The Board discussed their support of the proposal as they see incremental improvement in the  
95 distance between the well and septic system on each property.

96

97 **A motion was made by Mr. Hohenberger to deny the proposed plan for 20 First St.**  
98 **Seconded by Vice Chair Partington.**

99

100 **Vote 2-3. Motion fails. Mr. Hohenberger and Vice Chair Partington in favor of the denial.**

101

102 **A motion was made by Mr. Breton to approve the proposed plan for 20 First St. Seconded**  
103 **by Mr. Samsel.**

104

105 The plan shows a slight improvement in the conditions of the property according to Mr. McLeod.  
106 Mr. Samsel stated these are always tough cases but there is a reasonable right to make use of the  
107 property.

108

109 Mr. Hohenberger stated that the law says that they can replace with an in-kind structure and the  
110 replacement is not always in kind or a constitutional right.

111

112 Mr. Samsel stated that what was before this Board are septic system and well questions and not  
113 other factors on the lot.

114

115 **Vote 3-2. Mr. Hohenberger and Vice Chair Partington opposed. Motion passes.**

116

117 Mr. Maguire does not get a vote as the member of the Board of Health; he is the secretary.

118

119 **A motion was made by Mr. Hohenberger to adjourn the Board of Health. Seconded by Mr.**  
120 **Samsel. Vote 5-0. Motion passes.**

121

122 Gym Equipment

123

124 Chief Caron addressed the Board and he is asking for a motion to dispose of the gym equipment  
125 at the police station.

126

127 **A motion was made by Mr. Breton to allow Chief Caron to dispose of the gym equipment.**  
128 **Seconded by Mr. Samsel. Vote 5-0. Motion passes.**

129

130 The Board discussed that the town is not liable when giving away equipment or other items. If  
131 donated, people can sign a form that the town is not liable.

132

133 Delegation of Authority Form

134

135 Mr. Bob Coole, the town treasurer, addressed the Board to ask if the Board had any questions  
136 about the form presented to the Board regarding several town departments.

137

138 **A motion was made by Vice Chair Partington to approve these 4 delegation of deposit**  
139 **authority. Seconded by Mr. Hohenberger. Vote 5-0. Motion passes.**

140  
141 Discontinuance Request from Range Road

142  
143 Mr. Brian McCarthy addressed the Board. Mr. McCarthy stated that a portion of the road was  
144 never discontinued and the area to be discontinued was described on the map. The portion in  
145 green and red are being sold to 2 individual parties. The blue section is the discontinued road.  
146 Chairman McLeod stated that the question for the Board is if they wanted to use this piece of  
147 property for any reason.

148  
149 The Chairman invited public comment.

150  
151 Mr. Jaques Lopez, 2 Edgewood Road, addressed the Board. Mr. Lopez stated that he is  
152 concerned about the selling of this property. Mr. Lopez stated that he spoke with Mr. LaBonte  
153 from the state. Mr. Lopez stated that there are 5 different overlays that effect this property from a  
154 conservation standpoint. Mr. Lopez would like the town to consider buying the land for the sake  
155 of Conservation. Mr. Lopez did approach the town to try and purchase the property.

156  
157 Mr. McCarthy stated that he did not know what the town's pleasure was so he started with the  
158 Board of Selectmen. Mr. Hohenberger stated that he has heard that the Conservation  
159 Commission might be interested in purchasing the property.

160  
161 Mr. Stephen LaBonte addressed the Board; he is from the Department of Transportation. Mr.  
162 LaBonte stated that they are in the discontinuance process. Once that notice is given, a town has  
163 60 days to act; it will revert back to a Class V or a Class VI highway. The state then goes through  
164 the disposal process and then the town has the right to pursue other Boards to see how they  
165 would like to proceed. If the Board did nothing, there would be a notice that they failed to act  
166 and it is a state highway and a public right of way even though it is in the woods. Mr. LaBonte  
167 stated that if the town does nothing, it becomes a municipal road. If they would like to use this  
168 for conservation, they will need to discontinue the road. The Board has decided that there was no  
169 actionable item at this time.

170  
171 **A motion was made by Mr. Hohenberger to send a letter to the NH DOT that the town is**  
172 **not interested in making this a Class V road. Seconded by Mr. Samsel. Vote 5-0. Motion**  
173 **passes.**

174  
175 86 Rockingham Road

176  
177 Mr. Alex Mello addressed the Board. Mr. Mello stated that there is a 68 unit duplex development  
178 on the site approved by the Planning Board. The last few days they have been constructing a  
179 bridge and they need to access an adjoining parcel which is owned by the town. The property  
180 owner needs permission from the town to access the property. The Board discussed the access  
181 agreement. Mr. Hohenberger asked that it sounds like the Board of Selectmen is being asked to  
182 decide the location of the bridge over the wetland. They are not. Mr. Mello stated that he is  
183 seeking approval for the developer to access town land as they are working on the bridge. They

184 are looking for access to town land while they build the bridge. Mr. Mello stated that there is an  
185 escrow account to pay Keach/Nordstrom out of that escrow. Mr. Mello stated that there are 2  
186 construction firms that are being utilized on the site as well, one from the town and one from the  
187 firm.

188  
189 Mr. Hohenberger stated that he would like to see something in the language that the property will  
190 be returned to its current state. Chairman McLeod stated that he would like to know what the  
191 benefit is to the town for allowing access. Mr. Mello stated that they are allowing the town  
192 access to the property for free. Mr. Mello stated that they would be able to create a curb cut; it  
193 would save the town the expense of needing a curb cut if they ever needed to use that parcel for  
194 any reason.

195  
196 Mr. Hohenberger would like to put a clause in the motion about returning it to its original  
197 conditions.

198  
199 **A motion was made by Mr. Hohenberger to allow TPC Flat Rock LLC to utilize the town**  
200 **adjoining property for 12 months with the stipulation that they return the property to its**  
201 **original condition at the end of the project. Seconded by Mr. Breton. Vote 5-0. Motion**  
202 **passes.**

203  
204 Pennichuck Water

205  
206 Mr. Don Ware addressed the Board. Mr. Ware is the Chief Operating Officer of Pennichuck  
207 Water and addressed the Board. Mr. Ware stated that the communities of Windham, Salem,  
208 Plaistow and Derry (HAWK) were under an agreement due to wells that were polluted several  
209 years ago. Mr. Ware stated that the source of everything starts in Manchester because that is the  
210 source of supply.

211  
212 Mr. Ware stated that Phase 1 had 2 limitations and until their new treatment plan is completed,  
213 they have 2.2 million gallons a day. They are currently using 1.1 million gallons today. Mr. Ware  
214 stated that it does not make sense for them to own the property line so Salem did take this over as  
215 they are not subject to the state line tax. The quality of the water in that system has degraded  
216 over time. Mr. Ware stated they went to the town of Windham and asked if they would like to  
217 sell 30,000 gallons a day. Mr. Ware reviewed where the water meters were. Salem sells water to  
218 Windham. The goal is to continue that line through the center of town. The goal would be that  
219 the water being integrated into the system would be better water quality. Gradually over time, the  
220 hardness in the wells continue to go up and the chemical readings have also gone up over time  
221 according to Mr. Ware; they are looking to mitigate that as much as possible. Windham has the  
222 ability to have 100,000 gallons at plant capacity and 100,000 gallons as the hydraulic capacity.  
223 They are in need of getting the additional capacity.

224  
225 Mr. Ware stated that the goal is for Windham to get an extra 2000,000 gallons a day. If they  
226 town needed 170,000 gallons of capacity, they would immediately cut back to 30,000 gallons a  
227 day. When Phase 2 is complete, Manchester will have more capacity and be able to get more  
228 gallons. The short term ask is to use capacity that they are not using right now. They would like  
229 to expand it from 30,000 gallons to 60,000 gallons.

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Mr. Breton asked what the town of Windham would be getting.

Mr. Hohenberger stated that there is an escalatory clause. Mr. Hohenberger stated that the additional 30,000 gallons will be more than the original 30,000. gallons Mr. Ware stated that there are looking for the hydraulic side of the agreement and it would not decrease the capacity of the current use. Mr. Ware stated that they are looking to buy 30,000 gallons from Manchester. There is also the hydraulic capacity that is already in existence. That capacity has already been paid for with state grant money.

Mr. Ware stated that the wells do 75,000 gallowes a day but the goal is to provide odd/even irrigation and they would require a higher number annually. 45,000/50,000 gallowes a day is the winter usage and, in the summer, the usage goes to 75,000/80,000 gallowes a day. Mr. Ware discussed the pump house on West Shore Road. Mr. Ware stated that there is no degradation at this time. Mr. Samsel asked how long the 50/50 mix will last. Mr. Ware stated there is still the same amount of water but the water quality is getting worse.

Vice Chair Partington asked how the water price was regulated. Mr. Ware stated that the expense of delivering the water is a publicly regulated utility. The rates are set by the public utilities commission; these are cash expenses. The new rate would be put in in early 2024. It is more expensive to buy the water than to treat the water.

Public comment

Mr. Jaques Lopez, 2 Edgewood Road, Mr. Lopez asked how the town would recover the funds. Mr. Ware stated that they have to go through an agreement with Salem that allows for the change. If Windham is in need of the water, then Salem would surrender the water the next day. Salem could then revert to using more well water.

Mr. Ware stated that the mix of the water is currently a quality that people are happy with. This is a much better option to replace the wells with the source that can handle the capacity and there will be more capacity built into Phase 2.

Mr. Hohenberger stated that he is fine with this but it appears as if Pennichuck is getting something for nothing and they are a private business.

**A motion was made to approve the agreement (the agreement does reference the prior agreement in Section 7, all residents in the town of Windham) with Pennichuck for an additional 30,000 gallons with all that was discussed tonight with the understanding that it would revert back to the 30,000 gallons if needed. Seconded by Mr. Breton.**

Salem will be able to handle this capacity according to Mr. Ware. Vice Chair Partington stated that Windham residents will be getting something for nothing.

**Vote 5-0. Motion passes.**

276 Mr. Ware stated they are a private corporation. There is no share holder system.

277

278 General Assistance Program Restructuring and Town Hall Building Evaluation

279

280 Mr. McCarthy stated that they have started the process of looking at the town hall: Mr.  
281 McCarthy, Mr. Senibaldi, Mr. Maguire sat down to look at the plans of the building. They were  
282 looking to see that the building is structurally sound. They would like to engage with a structural  
283 engineer to see that everything is structurally sound.

284

285 Structural evaluation- Mr. Dennis Senibaldi stated that a local structural engineer that has been  
286 doing other work for the town. Mr. Senibaldi stated he thinks the cost will be between \$5,000-  
287 10,000. The structural engineer is certified as an engineer. Mr. McCarthy asked if he was  
288 comfortable moving forward at this time. Mr. Breton stated it would be more expensive to do the  
289 structural evaluation on a historical building than on a regular building. They would like to have  
290 the structural engineer attend the next meeting. The request is to engage an engineer. Mr.  
291 McCarthy stated that it is difficult to make a comparison between projects.

292

293 The Board would like this to be an agenda item 2 weeks from now.

294

295 General Assistance Program Restructuring

296

297 Mr. Peter Griffin addressed the Board. There is a meeting this Thursday regarding the  
298 preservation of historical building including the town hall. Mr. Sorenson, and Mr. Glynn will be  
299 available and will meet with the historical commission to discuss the process of building  
300 preservation. Mr. Griffin mentioned the old Academy Building at Pinkerton and the town hall in  
301 Salem. The restoration of the congregational church in East Derry was also brought forward as a  
302 past project.

303

304 Mr. McCarthy discussed a memo that is a recap of the welfare program in town. Mr. McCarthy  
305 stated that this is a desperate time financially for people seeking help with heat, food, rent and to  
306 help temporarily until they can get back on their feet. That task has been delegated to the Human  
307 Resources coordinator, Paula Carmichael. There were 6 calls today alone and 4 on Friday. It is  
308 not sustainable for Ms. Carmichael to be in this dual roll. Mr. McCarthy would like to put  
309 forward a proposal to consider an experienced general assistance coordinator and to hire  
310 someone that has been doing this job for over 25 years. Mr. McCarthy stated he is concerned that  
311 they may be providing assistance to people who may not need that assistance since there is not  
312 the time or resources to full research the needs of those calling or the validity of those needs.

313

314 Mr. McCarthy stated that there were 2500 welfare fraud cases and saved the state over 7 million  
315 dollars. Ms. Carmichael is struggling to do her job which is human resources. Ms. Carmichael's  
316 job description is in the public packet and the job description has not been updated since 2007.

317

318 Mr. Hohenberger stated that the original job description had 20% towards human resources.  
319 What does the rest of her day get filled with. Mr. McCarthy stated that she is tasked with on  
320 boarding new staff and closing out other jobs. Mr. McCarthy stated that there are a host of other  
321 responsibilities that tie up her day. Mr. Hohenberger stated that he would like to know what are

322 the other tasks that she will be doing with her time. Mr. McCarthy stated that he will need her to  
323 revise the policies and procedures that are old and out of date. Vice Chair Partington stated that  
324 they have talked about a lot of good ideas. Vice Chair Partington stated that he is on the fence  
325 because he understands that this is money that cannot go elsewhere. Mr. Samsel stated that these  
326 jobs have evolved and there are 2 jobs here as there are a lot more responsibilities. Mr. Samsel  
327 stated that these are 2 distinct jobs. Mr. McCarthy stated that there are a lot of factors here with  
328 the economy.

329  
330 Mr. McCarthy stated that this would be a per diem position. Mr. Samsel asked if it is was fair to  
331 give the Director 2 different responsibilities. Mr. Breton stated that the town told the director that  
332 this would be a part of her job. Mr. Breton stated that the cases do go up and down during ebbs  
333 and flows in the economy.

334  
335 Mr. McCarthy stated that he is looking for relief for an employee. It may have worked well  
336 before but it is become more cumbersome to do both of these jobs effectively. Mr. McCarthy  
337 then went through and listed all of the items that are now under the responsibilities of Ms.  
338 Carmichael. There is also a homelessness crisis and the state is looking for the towns to take on  
339 more responsibilities. Mr. McCarthy stated that recent clients have been referred to them from  
340 the state. He is trying to make it more efficient and effective. Mr. McLeod stated that this is now  
341 a full-time position and he sees the value of making this a full-time position. Mr. McLeod does  
342 support the per diem position and taking it off the responsibilities of the human resources  
343 director. Mr. McCarthy stated that she is the liaison to Primex and several other responsibilities.  
344 Mr. McLeod stated that more laws are in place and the town has grown and there are more  
345 employees and that is causing the influx of responsibilities to towns. Mr. Samsel asked if there  
346 has been more legal liability to towns.

347  
348 Mr. McCarthy stated that we are not providing certified services. We do not have anyone on  
349 board that can handle these situations. There are all different walks of life that is necessary to  
350 support those in need. We need someone with these abilities. Mr. McCarthy would like to make  
351 sure they are doing what they can for people who are in need of services.

352  
353 Mr. McCarthy stated it is important to have some experience in these areas. Mr. Breton stated  
354 that they will see a bunch of different agencies that money is given to o try to take advantage of  
355 the agencies. Mr. McCarthy stated that one of the things they can do is evaluate and look at  
356 whether or not a program is working. Mr. McCarthy stated that it is worth engaging the program  
357 now but that might change after a year. They can take another look at this in a year.

358  
359 The rate of the per diem position would be \$40 an hour.

360  
361 Mr. Breton stated that they should have budgeted for this in the most recent budget. Mr. Samsel  
362 asked who would coordinate the the services. Mr. McCarthy stated that Ms. Haas does some of  
363 the work. Mr. Samsel stated that the timing is an issue but he would want to work with the Board  
364 to determine the time required to do this work. Vice Chair Partington stated that it would be  
365 about \$15,000 a year. Mr. Hohenberger would like to see a rewritten job description.

366  
367 Chairman McLeod would like Ms. Carmichael here to discuss her job description and her



368 responsibilities. Chairman McLeod stated that he thinks the Board is looking for more  
369 information about this job and what it entails and the direction this would go in.

370  
371 Mr. Bob Coole addressed the Board to discuss his concerns regarding the human resources  
372 position. Mr. Coole stated that when the job description was written 15 years ago, 20% of the job  
373 is now a larger volume of work for one individual in the same position. Ms. Carmichael is likely  
374 getting far more calls as the population has increased over time.

375  
376 Mr. Hohenberger discussed some of the data points that have been collected over the past few  
377 business days regarding this position and the percentage of the job that has been spent on welfare  
378 items.

379  
380 March 20<sup>th</sup> draft minutes

381  
382 **A motion was made by Mr. Hohenberger to approve the March 20<sup>th</sup> draft as presented.**  
383 **Seconded by Vice Chair Partington. Vote 3-0-2. Mr. Samsel and Mr. McLeod abstained.**

384  
385 Searles School and Chapel

386  
387 Ms. Betty Dunn addressed the Board. Ms. Dunn stated that they are reviewing the bids for  
388 contractors for the painting. Ms. Dunn also wanted to mention damage to the rear door of the  
389 school room. They are not sure if it was wind damage or vandalism. The whole door is rotted and  
390 has been a problem in setting the alarm. It is not a historic door and has been there since 1995  
391 when it needed to be wider in order to meet code. Ms. Dunn is working with Mr. Senibaldi on  
392 the project.

393  
394 **A motion was made by Mr. Hohenberger to enter non-public session at at 9:38pm under**  
395 **NH RSA 91-A: 3 II (b). Seconded by Mr. Breton. Roll call: Chairman McLeod, Vice Chair**  
396 **Partington, Mr. Breton, Mr. Hohenberger, and Mr. Samsel- yes. Vote 5-0. Motion passes.**

397  
398 Respectfully submitted by Anitra Lincicum