

**BOARD OF SELECTMEN MEETING**  
**Minutes of April 11, 2022**

**CALL TO ORDER:** Chairman Heath Partington called the meeting to order at 7:00 pm; opening with the Pledge of Allegiance. Selectmen Bruce Breton, Ross McLeod, Jennifer Simmons and Roger Hohenberger were present, as was Fire Chief Tom McPherson.

**ANNOUNCEMENTS:** Mrs. Simmons noted that there had been a wonderful turnout the previous weekend at the Easter Egg Hunt, extending thanks to the following: Boy Scout Troop 266, Jason Pancoast, Addie and Allison Lewandowski, Mya Ridlin, The DiPietro Group, Premier Mortgage Lending, Dance Connections, Windham Police Department, Anna Haas, and Officer Matt Nieves.

*Mrs. Simmons* noted that the Economic Development Committee had recently heard a presentation from Sean Smith of RJ Kelly & Associates and representatives of Costco regarding a conceptual design for the 20 acre parcel at 126 Indian Rock/80 Range Road; adding this is the parcel the Board had asked the EDC to look into. She explained the proposal involved a 162,000 sft wholesale building with a 15,000 sft retail pad, a Quik-Serve and a fueling station for Costco members. Mrs. Simmons noted that Costco will continue to speak to other committees and the State regarding the proposal.

*Videographer* Barbara Coish was presented with birthday cupcakes to a chorus of “Happy Birthday”.

*Mr. Partington* advised that the Historic District Commission had met with General Services Director Dennis Senibaldi regarding the scope of work for the Town Hall; explaining one issue that had been discussed was whether to proceed with new wood or retain as much as possible of the existing siding. He indicated there were also some other, mitigating issues raised by the assessment report relative to humidity in the building, including measures in the crawlspace and attic areas.

Mr. McLeod inquired whether the use of a synthetic product to avoid having the building look terrible every few years had been considered. Mr. Partington replied it was his understanding that siding was proposed at some point, however, it was not well received by the HDC. Discussion ensued regarding repetitive painting of the building and the expense of same, siding versus wood, moisture issues and mitigation, and the type of paint of used. Peter Griffin, HDC member, noted the HDC is evaluating all options and realizes the chronic paint peeling is an issue.

*Mr. Partington* noted the Cable Advisory Board had discussed possibly updating the meeting room, including installing a new TV screen; noting the Cable Coordinator will work with the Community Development and General Services Directors on a plan for the room.

**EAGLE SCOUT PROJECT:** Reid Krizan presented a proposal to the Board to design and construct flag disposal boxes for placement at the Fire Station and Legion building. Brief discussion ensued regarding the overall design, weatherproofing, locations, and that the project is supported by both the Fire Chief and Post Commander.

Mr. Hohenberger moved and Mr. McLeod seconded to allow Mr. Krizan to proceed with his Eagle Scout project as presented. Passed unanimously.

**DONATION ACCEPTANCE:** Mr. Senibaldi requested the Board accept a donation from the School District of staging and a table saw valued at less than \$1,000.

After brief discussion regarding the existing saw and potential uses for the donation, Mr. McLeod moved and Mr. Hohenberger seconded accept the donation with gratitude. Passed unanimously.

**RESIDENT REQUEST – ARMENIAN GENOCIDE PROCLAMATION:** Steve Serian requested that the Board issue a proclamation, identical to that done in 2021, declaring April 24 as a day to commemorate the 107th anniversary of the 1915 Armenian Genocide.

Mr. Hohenberger moved and Mr. McLeod seconded that the Chairman execute the proclamation and that it be placed in the Windham Independent. Passed unanimously.

**BID AWARD:** General Services Director Dennis Senibaldi advised that, after placing the new highway truck out to bid and speaking to several vendors, only one bid had been received; adding he did not know why the others he spoke to had not followed through and submitted a bid. He indicated that the same vendor had submitted two bids, as follows:

Vendor	2022 Highway Truck with side dump sander and plows	2022 Highway Truck with conventional body, drop-in sander and plows
Allegiance Trucks, Manchester NH	\$205,850	\$213,655

Mr. Senibaldi noted his recommendation would be to award the lower of the two bids; going on to explain that it exceeded available funds of \$185,000 due to price increases in plow equipment since the bid packet had been prepared for the CIP in the fall. He noted the necessity of this piece of equipment, and requested that the Board approve funding of the difference from the ARPA monies; adding that if the truck is not ordered now it could be another two years before we can obtain one. Mr. Senibaldi noted he had explored getting a used vehicle, but he was unable to find one of this caliber that included the electronic controls and salt reduction equipment.

Discussion ensued regarding the wording of the article language and Town Counsel’s opinion on whether the Board could exceed the amount approved, with Mr. Hohenberger disagreeing that we could and feeling we should stick with the \$185,000. He noted we should explore a used vehicle instead or, if the ARPA funds were to be used for the balance, then a public hearing should be held. Mr. Senibaldi requested that, however the Board chose to proceed, they expedite the process as much as possible.

Wendy Williams, Bear Hill Road, suggested that a certified pre-owned vehicle be sought out; adding she was uncomfortable with pushing the balance to the ARPA funding as other requests had been submitted within the deadline. Mr. Partington clarified that Mr. Senibaldi had submitted a request for \$25,000 for this purpose by the deadline, which was marginally different from the final number.

Mr. Breton noted that this vehicle is a need, not a want, and further discussion ensued regarding the ARPA funding.

No decisions were made.

**STRATEGIC PLAN – INFORMATION TECHNOLOGY:** IT Director Eric DeLong reviewed the attached presentation with the Board. Highlights of the discussion included:

- What the IT Director’s day to day activities consist of
- Duties of the proposed Social Media versus PC Tech positions
- The need to properly vent the dryer at the Police Station gym where the server is located
- Moving the server versus moving the data to the cloud versus building a new climate controlled area
- Aging equipment and replacement procedures
- Implementation of a ticketing system for IT requests and the workings/failure of same when previously attempted
- The timing of the inventory completion, which is expected to be mid-May

- Email training campaigns relative to spam and other hazards
- Computer Use policy amendments and the internal Policy Committee, including how the latter reviews town policies and submits recommendations to the Board
- Possible upgrades to the current email system; attachment size limitations on the existing system and the reasons for same
- Lack of information available at the Board level regarding departmental statuses, vision and/or issues they may be experiencing

No decisions were made and thanks were extended to Mr. DeLong for his presentation.

**ARPA FUNDING REQUESTS:** Mr. Partington noted that the Board had asked that requests be submitted by April 5, and that hundreds of thousands of dollars in excess of available funding had been received. He explained that rather than discussing the individual requests this evening, he would like the Board to determine how to proceed; adding his suggestion would be the Board hear from the submitters at the two regular meetings in May, and then at the first meeting in June they discuss the results of the presentations. Mr. Partington reminded all that the funds must be encumbered by the end of 2024 and fully expended by the end of 2026; noting that his proposed method also allows Brian McCarthy, the new Town Administrator, time to review the requests submitted and offer his own input.

Mr. McLeod concurred and suggested that a five grade rating system similar to that used by the CIP Committee also be utilized to allow the Board to more efficiently go through the requests. Discussion ensued and the remaining members concurred.

Mr. Partington then noted that the Board had previously discussed \$9,500 in funding for the Governor Dinsmore wall repairs and utilizing ARPA funding for same as part of the warrant article; inquiring whether the Board wished to approve this expenditure that evening or put it off until June. Discussion ensued regarding the small amount of funding, the approval of the warrant article by the voters, and the review process just established.

Diane Carpenter, Emerson Road, approached expressing concerns regarding the Board utilizing the CIP ranking system; citing how that ranking works as far as community involvement. She indicated that some of the ARPA requests are coming from volunteers trying to do good for the community whose projects otherwise might not see the light of day, as they are things that might never receive taxpayer or Board support or elevation to the CIP process. Mrs. Carpenter noted that perhaps all projects are not created equal in that sense and, from a process standpoint, if there is a mechanism to fund them such as this then perhaps they should be weighted differently from others.

Lengthy discussion ensued, with input from Mrs. Carpenter and HDC member Peter Griffin, regarding the review process and presentations to the Board, as well as the Governor Dinsmore wall. To the latter, Mr. Partington advised it will be placed on the next agenda. Mr. Griffin will follow up to provide the Board back up information prior to the meeting regarding the quotes he obtained.

**OLD/NEW BUSINESS:** *Hayes Hart Boat Ramp:* Mr. Partington advised that there were concerns from multiple, seasonal residents who own property on the water and, though not full time residents, can use the Transfer Station and Town Beach but cannot obtain a key to the Hayes Hart ramp. He reminded all that the usage rules and deed state “Windham residents”.

Mr. McLeod noted that the State is fairly clear on the issue of “resident”; going on to cite the relevant statute and noting that this circumstance is different from a town policy. He indicated that it is a thorny issue, however, he was inclined to stick with the statutory definition; expressing agreement with Town Counsel that if it were to be opened up to “residential taxpayers” it would need to go through the cy pres process. Discussion ensued, with Mr. Hohenberger indicating he would have to believe that the Dows were referencing seasonal residents as, back then, most of the properties around the Lake were seasonal. He felt the Board should err on the side of the definition being someone who pays taxes in town.

Further discussion ensued, with Mrs. Simmons concurring with Mr. McLeod; adding that the Board has no idea what the Dows intent was at the time and that, although other services are given to seasonal residents, in this case because of the wording of the deed the Board has to go with the State definition. Mr. Breton concurred.

Mr. Partington expressed his agreement with Mr. Hohenberger; questioning how many people owned multiple homes back then and noting that people who now have seasonal residences right there at the Lake cannot use it. He indicated the Dows intent was likely to stop people from coming in from out of state. Discussion ensued regarding the State definition of resident, Town policy versus the recorded deed, and the Dows intent versus the latter.

Cheryl Haas, Parks & Recreation Director, noted that she had been told that residential taxpayers could obtain a key; adding that if the Board does otherwise, residents will just buy keys for others. She noted that 150 keys had been issued last year, and it was better to know who the individuals are through the decals; adding the Police have access to the applications. Ms. Haas requested some direction from the Board that evening.

Bob Coole, Morrison Road, approached in agreement with Mr. Hohenberger; indicating that if one pays property tax they should be able to get the benefits of a residential taxpayer. He noted that while their residency may be seasonal, the building is there year round; adding the Board could also look to reinstate the resident tax.

Mr. McLeod inquired whether Mr. Coole saw “Windham residents” and “Windham taxpayers” as being the same or different in the deed. Mr. Coole replied it would depend on what they were being taxed for, noting one being taxed for a business would not be a resident. He suggested that if the Board were going to go that way then seasonal residents should be told they cannot use other services. Mr. McLeod noted that there was no deed involved in those other uses. Discussion ensued.

Mr. Breton felt that if the properties were seasonal cottages at the time, the deed would say “taxpayers”; adding he thought the Dows meant it for people who use the area year round. He then sought clarification as to Town Counsel’s opinion.

Mr. McLeod indicated that Atty. Campbell had advised the language of the deed was clear that the ramp was for residents only, and that the State definition of resident was also clear; reiterating that the Board is dealing with a deed that has been recorded.

Mr. Coole suggested that the Board determine what the law was in 1950 as far as the definition. Discussion ensued with Mr. McLeod noting that what the Board is faced with is deciding whether to proceed with a cy pres petition to loosen the restriction or sticking to the statutory definition of resident.

Mr. Griffin approached noting he had grown up on Canobie Lake and back then perhaps 3 houses out of 40 had been year round; adding people had come from all over seasonally from Memorial to Labor day. He indicated that he was not a lawyer, but there are other examples of seasonal people having use of the Transfer Station, etc., and they should be paid the same courtesy in this case.

Steve Neil, 184 North Policy Street, advised he had owned his property for 35 years and explained that his front door is in Salem whereas one third of his yard is in Windham. He noted there is probably one other home with the same issue and that he just wished to put his boat in as he has been for 35 years; adding that all residents, both Salem and Windham, should be living there happily.

Lengthy discussion ensued regarding the Dow’s intent, the Board’s options, the definition of resident, and historic versus current statutes. Mr. McLeod suggested that Town Counsel be asked to look into what the law was at the time the deed was executed, and the remaining members concurred.

Further discussion ensued regarding whether to grant Mr. Neil a waiver to obtain a key to the ramp, and Mr. Partington indicated it appeared any such vote that evening would fail and the better situation would be to wait.

Mrs. Williams inquired why the Board cannot just make an exception and the need to undertake a cy pres petition to waive the deed was explained.

Ms. Haas sought clarification as to how she should respond to any phone calls regarding this matter, and Mr. Partington replied that there no change at this time; one must be a resident and prove as such in keeping with the Policy.

*Mr. Senibaldi* requested the Board's guidance relative to improvements to the Route 111 by-pass medians using funding from the State that was received after their removal of several trees in the area. He indicated there is an opportunity to now create something that will last but, before expending time on designing same, he would like to ensure the Board supports alternatives.

Mrs. Simmons read portions of the 9/27/2021 meeting minutes when this was last brought up, and a discussion ensued. It was the consensus of the Board that Mr. Senibaldi come up with a proposed plan and cost estimates for improvements to the medians.

*Mrs. Williams* requested that a Stop sign be installed at the intersection of Bennington and Burnham roads; citing safety concerns. Chief McPherson advised that the Highway Safety Committee would be meeting the following week and can address this request.

Mrs. Williams then noted that the intersections at Route 111 and Hardwood Road and Route 111 and Fellows Road need to have green arrows installed for left turns onto Route 111; noting there are such arrows turning off the latter. Discussion ensued in that Route 111 is a State road, that this had been discussed at the Planning Board level, and future State plans for roundabouts at these intersections.

Mr. Senibaldi approached and clarified that, to Mrs. Williams' first request, there had been a stop sign there that was stolen; adding that although Bennington is still unaccepted he felt it should be replaced. Discussion ensued, and it was the consensus of the Board that Mr. Senibaldi replace the sign.

*Mr. Coole* approached and inquired what the Town's backup plan was in the event something happened to the IT Director. Discussion ensued regarding the lack of same and previous discussions regarding outsourcing support, to which Mr. DeLong had been opposed.

**CORRESPONDENCE:** Mr. Partington advised a letter had been received from a "Cobbetts Pond Homeowner" expressing concerns regarding a large number of illegal moorings in the area; adding the Board had also received a related memo from the Police advising that the Town has no jurisdiction. No action was taken.

*Mr. Partington* advised that the Town of Plaistow had requested an extension to purchase their share of the MSDC charge and, as part of the approval, the remaining towns needed to sign off on an amendment to the SIA to reflect the new date.

Brief discussion ensued in that the amendment involves only the date change with no other impacts to the other towns, financial or otherwise.

Mr. Hohenberger moved and Mr. McLeod seconded that the Chairman execute the amendment as requested. Passed unanimously.

*Mr. Partington* advised an offer had been received to purchase a portion of 21 Haverhill Road in order to install a billboard. After brief discussion, it was the consensus that the Town had no interest in selling said parcel.

**MINUTES:** Mr. McLeod moved and Mr. Hohenberger seconded to approve the minutes of 3/14 as written. Passed unanimously.

**NON-PUBLIC SESSION:** Mr. Hohenberger moved and Mr. Breton seconded to enter into non-public session in accordance with RSA 91-A:3, II a, b, c and l. Roll call vote – all “yes”.

The Board, Chief McPherson and Human Resource Director Paul Carmichael were present in the first two sessions.

*Personnel/Attorney Correspondence* – Mrs. Carmichael briefed the Board on an employee’s disability status and transition from short term disability to long term disability. She also reviewed correspondence being sent to the employee relative to their employment status, and a letter received by the employee’s attorney. Mrs. Carmichael advised that all documents have been reviewed by the Town’s employment counsel. No decisions were made.

*Personnel* - Chief McPherson presented a candidate for hire to replace Firefighter Travis Arel, who will be terminating employment on May 1, 2022. A conditional offer of employment has been extended and background checks are being conducted. Once completed, official offer to be made at Grade 13 step 2 of the non-union scale.

Mr. McLeod made a motion to approve Chief McPherson’s hiring recommendation contingent on background check completion, second by Mr. Hohenberger. Roll call vote: approved 5/0.

The Board was present in the remaining session.

*Reputations* - Based upon recommendation from the Conservation Commission, Mr. McLeod moved and Mr. Hohenberger seconded to dismiss an alternate appointee to the Conservation Commission. Roll call vote – all members yes.

Mr. McLeod moved and Mr. Hohenberger seconded to exit non-public. Roll call vote – all members yes.

Mr. McLeod moved and Mr. Hohenberger seconded to adjourn. Roll call vote – all members yes.

Meeting was adjourned at 10:30 PM.

Respectfully submitted,

Heath Partington, Chairman  
Paula Carmichael, Human Resource Director  
Wendi Devlin, Administrative Assistant

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