

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, October 26, 2011

CALL TO ORDER: Chair Sirak called the meeting to order at 6:30 pm.

PRESENT: Nancy Comai, Michael Downer (excused), Vincent Lembo, James Levesque, Todd Lizotte, Susan Lovas Orr, James Sullivan, Nancy VanScoy, Dean E. Shankle, Jr. (Town Administrator) and Chairman William Sirak.

PLEDGE OF ALLEGIANCE

Joe Baribeau of Troop 292 lead the group.

APPROVAL OF MINUTES

October 12, 2011 – ***J. Levesque moved to approve the October 12, 2011 minutes as amended. Motion seconded by T. Lizotte.***

The Administrative Assistant was asked to listen to the tape and add Councilor Lembo's comments with regards to the Town Council Rules.

Motion carried unanimously.

October 12, 2011 Non-Public – ***N. VanScoy moved to approve the October 12, 2011 non-public minutes. Motion seconded by T. Lizotte. Motion carried unanimously.***

PUBLIC INPUT

David Pearl, 79 Main Street: Please consider this to be my formal complaint against Town Council Chair Bill Sirak. I feel that the Chairman acted inappropriately and contrary to Town Council Rules at the October 12th Town Council meeting. The following is a list of those inappropriate actions, resulting in disrespectful behavior towards a citizen he is supposed to be representing.

1. Prior to my speaking at the meeting, the Chairman received a copy of Town Council Rule G from another Councilor. Immediately upon seeing the document, the Chair said "I understand this clearly and I'm familiar with it." The Chair tried to use this rule to restrict my remarks to "issues of which the Council has governance over." It was later pointed out by the Vice Chair that this rule did not apply to the Public Input portion of the meeting. That it was, in fact the wrong rule being cited and used against me.
2. When I attempted to point out that in my opinion, and supported by the information I had sent the Council prior to the meeting, that the Chair had made a false statement, I was gavelled down and ruled out of order. Later, the Chair explained "One of the reasons I gavelled you down the second time was you already started making demeaning remarks about me." In respectful rebuttal to the Chair's position, my claim and complaint is that by saying he made a false statement, it was not a demeaning remark in itself towards his personality, in accordance with and adherence to Town Council Rules.
3. The Chair demanded I "remove yourself from that seat" numerous times, rather than discussing the issue or simply allowing me to continue to speak. In fact, the Chair should not be engaging in any debate and responses with the public during the public input session, per Town Council Rules.
4. In explaining why he gavelled me down, the Chair said the following, "I have received a number of complaints and concerns from Council members, concerned about disparaging remarks, personalities exchanged during public input to a point where I know in the past, people have resigned or not run for office, because of those kinds of hostilities that sometimes come from public input." I felt these

remarks were directed at me personally, yet I have never made a disparaging remark during public input. Once again, I cite Town Council Rules, which prohibit rebuttal comments being made to the public during public input sessions, which were demeaning and intended for me.

In closing, I feel that Chair Sirak was overreaching his authority as Chair and attempted to stifle my public statement, with his inappropriate interruptions from his position of power. All of these inappropriate actions taken by the Chair are inconsistent with the standards of currently adopted Council Rules.

John Gryval, Planning Board Chair: I would like to thank the Councilors who attended Planning Board's land use workshop on the 17th. We had a good meeting. We got a lot of input from the Council members. I guess you can see why I insist on having more meetings from different boards. It helps us to work closer together.

NOMINATIONS AND APPOINTMENTS

Available Positions

Heritage Commission – (2) Alternate Members

Economic Development Committee – (1) Full member

Parks & Recreation Advisory Board – (1) Full member

The Council received a letter of interest from Mr. David J. Rogers for the Planning Board and Heritage Commission. A question was raised whether a conflict exist. It was determined only one member can serve on both the Planning Board and Heritage Commission at the same time. Currently, no member of the Planning Board is also on the Heritage Commission, thus, Mr. Rogers can serve on both boards.

J. Sullivan nominated David J. Rogers to Heritage Commission.

David J. Rogers, 15 Mt. St Mary's Way, #203: As far as my interest in the Heritage Commission, in college, I was a History major, grew up in a house in Salem, NH built in 1770. I've always had an affinity for older properties and part of the reason why I live at Mount Saint Mary's is because of that historic building. I've spoken with Kathie Northrup about my interest. It's not a huge high commitment as far as meetings goes. The same thing applies for the Planning board. When I lived in Salem, I was a member of the ZBA. That is my background in land use. I was a practicing attorney. I work for the State now. During my practice, I did a lot of land use work.

J. Sullivan moved to waive the rules of waiting period between nomination and appointment. Motion seconded by N. VanScoy. Motion carried unanimously.

J. Sullivan moved to appoint Mr. Rogers to Planning Board (alternate, exp. 6/2014) and Heritage Commission (full member, exp. 6/2013). Motion seconded by J. Levesque. Motion carried unanimously.

T. Lizotte asked if it's possible to change the meeting time for Economic Development Committee. The current meeting time of 12 noon is inconvenient for an interested resident. Chair Sirak will bring it up to the board for consideration.

SCHEDULED APPOINTMENTS

D. Shankle stated departments and boards will continue to come in to update the Council. The Tax Collector will be attending the November 9th meeting. The Heritage Commission will be coming in on November 30th. CIP will be attending the first meeting in December (December 14th).

Board of Elections

Linda Pischetola (Town Clerk), Don Riley (Moderator) and Mike Horne (Supervisors of the Checklist) informed the Council of an issue with the budget.

The Tax Collector and the Town Clerk were one and the same for many years. Last year, the two positions were split. Town Elections is a part of the Town Clerks budget. Unanticipated expenses

presented some challenges this year partly due to the change in the budget, the two positions being split and having a new Town Clerk (2nd year) and Moderator (1st year). In addition, this year the State required the Supervisors of the Checklist to do a listing purge, which required letters to be sent out. The total costs amounted to about \$800. The Town Clerk's budget will need an additional \$1,200 for this year to cover these expenses.

L. Pischetola requested for the Council to consider separating the budgets for the Town Clerk, Moderator and Supervisor of the Checklist. If the Council feels it's more appropriate to have all three under the Town Clerk's budget, she asked to have a final say on expenses. She will work with the Moderator and the Supervisors of the Checklist to come up with a more accurate budget to cover election-related expenses.

D. Shankle stated the 3 groups tend to be independent-minded and coming up with separate budgets usually works better.

Article 2.5 of the Charter created the Board of Elections, which includes the Town Clerk, Moderator and the Supervisors of the Checklist. D. Riley started the board this year. They've met twice. They were unable to locate any records from former Boards of Elections, i.e., Town Election procedure and election-related expenses for the year to accurately predict what they are going to need. They are planning on putting together an election procedure for the Town. He suggested creating a line item for Town Elections.

M. Horne explained the current budget was put together with the previous Town Administrator and a new Town Clerk. Since being voted into office, he's learned a lot including the 10-year purge. They did realize this had to be done and it was not budgeted for.

The group will be working with the Town Administrator to address these issues.

Regarding re-districting, M. Horne stated the Supervisors of the Checklist's goal is to get it done in time for the May election.

D. Riley was asked to address a question that came up at the last meeting with regards to "calling a question" at a Town Meeting/Deliberative Session.

D. Riley stated the Deliberative Session is covered under the statutes. He asked for some time to check into this and he would be willing to come in someone in December to further discuss the matter.

The Town and School Moderators will be invited to the Town Council meeting in December.

OLD BUSINESS

Town Council Rules & Procedures

Chair Sirak stated it may sound like the Council is having a lot of discussion on this but the goal is to have productive, professional and respectful discussions.

T. Lizotte requested to add notations to the Council Rules as to when the revisions were made.

There was a discussion with regards to providing copies and posting of the Town Council Rules section that pertains to public input.

The Council Rules refer to both public input and public opinion. V. Lembo asked for some clarifications between public input and public opinion. He added that his interpretation of public input has to do with citizens' concerns with daily Town operations. He does not see how someone could be allowed to speak during public input to express an opinion. Opinions should be sent to the Hooksett Banner under Letters to the Editor. That's the proper forum for opinions not during public input.

J. Sullivan stated public input and public opinion is the same. He also asked if it was appropriate to allow Councilors to make comments about issues addressed during public input.

N. VanScoy commented any Councilors can bring up any items under “New Business”. She read the rules for the record, “*Persons other than members of the Council shall not be permitted to address the Council except during the designated agenda public input or by invitation of the Chair. A time limit for addressing the Council may be established by the Chair. The speaker shall not enter into a debate with any person, the Chair or Council members.*” She also read Section 7b (Public Input) of the Council Rules. It does not limit what anyone can say during public input. The only limit is the time limit.

T. Lizotte added the Council shouldn’t be afraid of criticism.

Chair Sirak agreed. He’s been accused of doing some things inappropriately but at the same it is inappropriate to restrict that type of input. If someone has an issue with the Council, they have the right to their concerns and should be given the time to speak. His biggest concern is it is a deterrence for others accepting positions to serve on Town boards.

N. VanScoy moved to provide copies of the Town Council Rules and Procedures for the public at every meeting. Motion seconded by N. Comai.

S. Orr commented the Council should not limit the citizens’ right to speak. It’s up to the Council to have self-control and not respond.

Motion carried unanimously

Town Boards’/Committees’ Meeting

Chair Sirak suggested holding an annual meeting between the departments, boards and the Budget Committee to discuss budget priorities.

T. Lizotte stated the Budget Committee is supposed to be an independent entity that cannot be influenced.

N. Comai added she believes the Town has a very competent Town Administrator who would work with the departments to propose a fiscally responsible budget for the Council’s approval.

Council consensus was not to hold the meeting.

NEW BUSINESS

Quarterly Financial Report

Christine Soucie, Finance Director presented the 1st Quarterly Finance Report for fiscal year 2011-2012.

25% of the year has expired. Administration Department budget is about 44% expended due to workers’ compensation (\$153,000) and property liability insurance (\$170,000) being paid in full at the beginning of the year. Legal Fees line is also about 40% expended due to current litigations, i.e., Assessing Revaluation issues. Fire Department is right on target at about 25%. It is estimated that NH Retirement for Fire-Rescue will be over expended by \$53,000 for the year due to the change in the employer rates. The Ambulance Division should have some funds left in their budget. This would help off-set the additional cost of NH Retirement. Public Works’ budget is about 21% expended. Large seasonal budget items such as winter plowing are not expended until later in the budget year. Recycling & Transfer Department’s budget is about 17% expended. They always under expend their budget and return funds. They are considering setting up a reserve account to be used if necessary rather than returning funds. Police Commission’s budget is about 22% expended.

On the revenue side, about 27% is collected from Motor Vehicle Registrations and Building Permits. Revenue from Interests on Deposits is only at 6%. On Ambulance Services, projected revenue for 2011-2012 is \$150,000. \$83,257 has been collected to date. Once revenue reaches \$150,000, revenue and

expenses will be accounted for in a separate fund that can only be utilized for Ambulance Services, making the service self-supporting and will not need to be funded out of tax dollars.

V. Lembo brought up the fact that the warrant article was amended to have the Council approve all ambulance related expenses. He asked how this will be done.

C. Soucie explained the Council will get a list of expenditures every quarter to be approved. After approval, the Treasurer would transfer funds from the reserve account to the general fund.

N. Comai asked for the actual costs of running the Ambulance Service.

Ambulance Service is revenue neutral. The Town used to pay an outside contractor \$70,000 a year to run an ambulance service. With the Fire Department, the Town is utilizing personnel already on the payroll to run the Ambulance Service. The Fire Chief would have to consider personnel time and other costs to be able to come up with the actual costs.

2011 Tax Rate

The Town has \$2 million or 5.05% of unassigned fund balance in the general Fund as of June 30, 2011. The Town's policy is to maintain a minimum of 5% to protect itself against emergencies and economic downturns. Fund balance is a major factor in the financial health of the community.

The estimated 2011 tax rate without additional unassigned fund balance is \$21.84 (\$0.16 increase). Municipal tax rate went up by \$0.27, school tax rate went down by \$0.13 and both State and County went up by \$0.01.

C. Soucie recommended using \$260,000 of unassigned fund balance to reduce the tax rate and keeping it at \$21.68 (same as previous year). This would leave a balance of \$1.7 million (an increase of \$500,000 or 1.44%) or 4.41% of unassigned fund balance.

T. Lizotte moved to apply \$260,000 of unassigned fund balance to reduce the 2011 tax rate. Motion seconded by N. Comai.

The Council has a policy to strive and maintain an unassigned fund balance of 5%.

T. Lizotte commented this is a compromise to keep the tax rate the same while increasing the fund balance.

N. VanScoy stated every year, the Council talks about financial times. Things are always tight. It's very important to keep those savings.

D. Shankle added in one year, the Town has made 2/3 of its goal. That is a big step forward. He explained that fund balance started when tax bills went out once a year in September and the town's fiscal year started in January. Town's used the fund balance from previous year to pay their bills until the tax bills went out. Now, it's a major factor for bond rates.

N. Comai suggested applying less amount to off-set the tax rate but she added she's leaning towards keeping the tax rate the same.

C. Soucie stated the Town has consistently utilized fund balance to reduce the tax rate.

S. Orr asked if the Town had ever used the fund balance for an emergency.

C. Soucie explained the Town has never used the fund balance for any type of emergency but using the sewer disks incident as an example, if Sewer Department didn't have the funds, it would have fallen back on the Town. The Town would have had to pay for it using the fund balance.

Roll Call

N. Comai	Yes		
V. Lembo	No		
J. Levesque	Yes		
T. Lizotte	Yes		
S. Lovas Orr	Yes		
J. Sullivan	Yes		
N. VanScoy	Yes		
Chairman W. Sirak	Yes	7-1	<u>Motion carried.</u>

Media Relations Policy (see file)

D. Shankle presented the proposed Media Relations Policy to the Council as suggested by ICMA (International City/County Management Association). This would be a part of an upcoming Communications Policy.

The policy designates the Town Administrator as the primary spokesperson and the primary source of information for the Town except for routine media requests that may be responded to by the department head or emergency related inquiries. It also states that when speaking to the press, Council members will clarify whether they are speaking on behalf of the Town Council. No Council member shall speak for the Council unless duly authorized by the Council to do so. It also provides guidelines for employees acting as citizens.

T. Lizotte moved to adopt the proposed media relations policy. Motion seconded by J. Levesque. Motion carried unanimously.

Code Enforcement Officer/Building Inspector

D. Shankle informed the Council Robert Flanders has been brought in to work part-time (twice a week) to do inspections. He is still looking into other options to run the department. Some towns run it through the Fire Department, Community Development Department or Public Works. He added that running a 2-person department seems inefficient.

Complaint Procedure (see file)

A citizen inquired about the Town's Complaint Procedure. The Town didn't have one.

D. Shankle presented the draft Complaint Procedure as suggested by ICMA. He suggested making the document a part of the Code of Conduct Policy, which was adopted in August 2009.

N. VanScoy stated she does not think the complaint procedure should be a part of the Code of Conduct. The Code of Conduct provides specific guidelines on how board members should act. The Complaint Procedure does not have anything to do with the Code of Conduct. It should be a part of the Council Rules or a stand-alone document.

V. Lembo asked for clarification on, "*take any action deemed appropriate*". Any citizen who has a complaint against a public official can go to superior court.

D. Shankle stated the Council does not have to adopt the procedure but this would provide another avenue for anyone to file a complaint without having to go to superior court.

J. Sullivan read Section 3.2 of the Charter, "***Council may also declare a vacancy if a member has missed three (3) regularly scheduled meetings in sequence, or has missed one quarter (1/4) of all meetings within one (1) calendar year, or has interfered with Administration, or falsified records, misapplied Town funds or property, or has been ultimately convicted of a Federal or State crime as a felon.***" This clarifies the process

N. VanScoy added she does not see a need for this. The teeth of the policy is nothing more than what is already on the Town's Charter, Rules and Regulations and State RSA.

T. Lizotte stated the Council should provide for an avenue to bring a complaint forward other than public input. Not to have one at all sets a bad precedent.

J. Sullivan recommended changing the wording from “will” to “may”, to be consistent.

D. Shankle explained how the process would work. The Town Administrator receives the complaint. The Town Administrator informs the Council of the complaint, the name of the complainant and the public official involved. The Council then appoint a committee of not more than (4) Council members to investigate the complaint. The committee will then obtain written responses and meet with the parties involved.

V. Lembo cited an incident that happened in 2009 when a Councilor was accused of a wrong-doing and the Council got wrapped up for weeks discussing the matter. It caused a lot of grief and divided the Council. He does not think the Council is the proper venue for these types of complaints.

N. VanScoy added part of the reason why the Human Resource Director was brought into the complaint process was to have an impartial party.

N. VanScoy moved to table. Motion seconded by S. Orr. Motion carried unanimously.

Self-Evaluation Process for the Town Council

D. Shankle presented the draft for Governing Body Evaluation.

Chair Sirak suggested sending the questionnaire to the general public.

J. Sullivan suggested posting the questionnaire through “Survey Monkeys”.

N. VanScoy suggested providing a place for comments.

The Town Council consensus was to fine-tune the questionnaire and post on the website through “Survey Monkey”.

Political Signs Placed on State Roads

N. VanScoy received complaints from residents regarding political signs placed on State roads.

The Town has an ordinance on Political signs, which is considered a temporary signs, “*No permit is required for these signs...no part of any sign shall be located in or over the public right-of-way*”.

The Town Administrator will enforce the ordinance for political signs and will ask Public Works staff to remove the signs.

V. Lembo moved to close the meeting and move to non-public session. Motion seconded by N. VanScoy. Motion failed.

TOWN ADMINISTRATOR’S REPORT

D. Shankle informed the Council that Emery & Garrett Groundwater, Inc. was retained by Village Water Precinct to conduct an exploratory drilling on a Town property to identify wells that are feasible for public water supply. D. Shankle asked for the Council’s approval to drill on a Town property, south of Pinnacle Road.

The Council consensus was to give permission for the exploratory drilling and if they find water they’ll have to come back to the Council and schedule a public hearing.

PUBLIC INPUT

D. Pearl: Mr. Shankle said something that kind of confused me. Through my right to know, I did receive an e-mail that was generated the day after the Chief was removed and it was stamped "Confidential". At that time, it made me wonder why I got it. I think that may be something you may want to look into. It gives the impression that it's non-public information. Yet, it was discovered through right-to-know.

(Chair Sirak passed the gavel onto Vice-Chair N. VanScoy and excused himself.)

Referring to the public input comments, like to tango, it takes two to debate. As I sit here, I assume I have the floor. I really can't debate with anybody unless, they engage me. I don't think that's my fault, if someone from the Council engages me. I've never tried to insist upon a debate when I sit at this microphone. I don't understand why that's discussed under public input. I was upset with the public input discussion. Every discussion, every Councilor seems to make a very concerted effort to keep it generic, except the Chair, who brought up my name and said he supported my right to speak, which also confused me. When last meeting, he gaveled me down. I don't think your policy should be set upon my actions. I think they should be general public actions. It also concerns me when the Chair, speaking about public input, says he is seeking a balance. I don't understand after you're all setting the policy, it's going to be left up to the Chair to strike a balance, if he's vision, prevent people to not want to run for public office or for resigning, etc. If you set your policy in your rules, and the public abides by that, the results would be whatever the results are. I don't understand what he is saying about seeking a balance. If you're going to enforce your rules of not commenting, I think it should be enforced on favorable issues, as well, for consistency and so there's no expectation.

Marc Miville, 42 Main Street: Tonight's meeting has put me in a bit of a cynical mood and a bit rhetorical but I promise I will remain respectful. I need to say that I was appalled by the recent events in this chamber at the last meeting over a treatment of a fellow citizen, which has apparently now have been resolved somewhat tonight. That would implicate to me a meá culpá acknowledgement and a lesson learned. I vividly recall my years of attending these Council meetings, and I know a lot of you are new at this point. I remember the former Council held rules that the Chairman should not be "giving testimony" during meetings. I recall Councilor Dean Longfellow was always quick to warn of that when it happened. Chair Gahara had at one point expressed that he would hope to have that rule rescinded. To my knowledge, that rule has not yet been approved by the Council for testimony being allowed by a Chairman. In addition, an opinion was raised this evening that citizens may be hesitant to volunteer for town positions due to public input comments. I would also note and suggest that volunteers are also may be hesitant to volunteer resulting from the behavior of the Town Council as well. Citizens have a right to speak at this venue regardless if it's desired or not. We can't spin everything in this Town. We must be true and accountable to the facts. Remember why you are seating here and who you represent in that seat. Don't overreach on authority. I have a personal practice when commenting or questioning the Council based on the notion that I am trying to make a difference in Town with suggestions or relying on the Council to theoretically state, "Thanks for the info, Mr. Miville." Or "what do you want us to do about it?" in response. Regarding the joint budget meeting that you want to have, I would agree with Councilor Lizotte, as a Chair of the Budget Committee, I would not attend that meeting and should not attend that meeting. I would advise all Budget Committee members not to attend that meeting. Per RSA 32, the Budget Committee sets the budget calendar not the Town Council. Budget Committee should not be involved in preparatory budget discussion before it is time for it to receive the budget. The Budget Committee is independent and will not take directions from any department or committee. The Financial Director recently stated at a budget meeting that there is an inherent built-in friendly tension between the departments and the Budget Committee and that's healthy, in her opinion. Department heads already present to the Budget Committee, so there's no need for such committee to attend. The Budget Committee could also attend Town Council meetings or budget workshops, as I regularly do so I can gain information. We don't need an extra meeting. There seems to be a slight misconception of the budget process that concerns me moving forward. I would invite any and all Councilors to attend Budget Committee meetings, which are starting right now should you want to witness the direction of the Budget Committee. Regarding the self-evaluation process, in my opinion, to what end? What's the point? I think all boards and committees should unilaterally stipulate at this point that all volunteers in Town do a great job for the Town, for the best interest of the Town in perpetuity. Regarding the Water Precinct drilling issue, I was also at the School Board meeting when the Water District presented that. I since have

addressed the School Board with an e-mail. We had a wonderful discussion back and forth with e-mails. My concern on that, what's in it for the Town? What's in it for the School? The Water Precincts are independent, revenue generating. If they are going to drill on Town property, they are basically appropriating town property resources. The water underneath that property is your water, not the precinct's water. Once they extract the water, then they are going to bill you for the water that you're using from your own property. That's the question that needs to be asked. You need to negotiate for the rights to the town and school property resources.

NON-PUBLIC SESSION

J. Sullivan moved to enter into non-public session per RSA 91-A:3, II (c) "Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant." ***and;***

RSA 91-A:3, II (e) "Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph."

Motion seconded by T. Lizotte. Roll call vote carried unanimously.

N. VanScoy moved to exit the non-public session. Motion seconded by T. Lizotte. Roll call vote carried unanimously.

The Council made a statement that they voted to seal the minutes of the non-public session.

The Council resumed the public session of the meeting.

E-mail Correspondence re: Police Chief

T. Lizotte: I am formally requesting that a letter be drafted to the town Council memorializing the source of the information contained in the e-mail sent to Town Councilors, which was dictated via the phone by Chair Sirak to Evelyn on behalf of Dr. Shankle on the morning of September 23, 2011. I understand the ramifications of the information being conveyed. I asked Evelyn to ask Chair Sirak on the phone where did the information come from. The response was, from a credible source. Before I could get to the next question, the phone conversation was terminated. My position is this...not to be argumentative to that nature but, I've looked through litigations in this Town. In each case of the litigation that we had, we've had a failure to document. Right now I'm not certain if I can speak to the missing documentation, which deals with the litigation at the Library. I've had to go to Dr. Shankle in that matter, in regards to the context of that.

D. Shankle: I think that's still an on-going case so I'd stay away from that.

T. Lizotte: In those circumstances we have a situation where there is documentation missing. My position is that an e-mail was sent to all of us, that was attributed to Dr. Shankle. A citizen requested through a right to know request and then has asked, who gave that information, which Dr. Shankle said the information came from Chair Sirak. And that was directly from Stephen Agrafiotis. Everyone was absolutely correct. Stephen Agrafiotis is the only person who has the right to release that information. The question is if the information is not attributed directly to him and it's not documented then the historical records say that the information was leaked by our Town Administrator. My intent was to say, if we could memorialize where that information came from in the context under which it came, so we could put it away in a file. I understand people will say it's not really necessary because if it came down to it they'll have an investigation. Investigations cost money. Depositions cost money. Two years from now, or a year from now, I don't want to have someone say to me it was a misinterpretation. The concept of

speaking it into the minutes to me is once again a situation in which as we all said, the minutes are not going to encapsulate the details of the conversation. And encapsulate it as such that without a doubt we understand that the information was directly from Stephen Agrafiotis. I requested that of the Chair. I didn't see any reason to bring it up in public but I was asked to. I don't see any problem with Chair Sirak going to the Town Administrator to ask to place the information into an e-mail. I don't believe its best practice but I didn't have any problem we that. The issue I has was that we understand where the information came from so that we understand that it came from the person who had the right to release it.

J. Sullivan: The only way to do that is to ask the person who gave the information, the Chief. Have him send you a letter saying, "I gave Chair Sirak this information". That should be it. That's the only way to memorialize it is to come from the horse's mouth. The best way to resolve that is to contact the person who provided the information that you quoted and ask to send a letter stating he provided the information to Chair Sirak. Is that possible? I think that would be the easiest way. I think that would solve the problem.

Chair Sirak: I'd be glad to relay that.

T. Lizotte: That would solve the problem, absolutely.

V. Lembo: Is there a motion on the table? If the motion hasn't been seconded, then I make a motion to adjourn and go home. I don't want to sit here and listen to this.

N. Comai: I'll second it. If there's a Councilor that has something to say, it should be seconded so it's now on the floor.

V. Lembo: Can I speak on my motion? I think I still have the floor...

T. Lizotte: Once again, this is an example right here of the issue of the sensitivity of things in regards to evaluating ourselves individually in regards to what's going on. If I can't bring something forward that I feel must be done. If I just look at what it says on the Charter, I have a duty in order to reflect reality. I have a duty of fiduciary responsibility. I diligently gone back and looked at our legal cases in trying to understand where we went wrong. There's a pattern here. I think that pattern is the fact that too often we listen to someone who says, you really don't need to do it, don't worry about it, if legal action comes up, we'll handle it then. At that point, it's a \$10,000 handling situation. I'm saying right now, let's have the documents in place, it's fresh. I'll remove my motion and allow Councilor Sullivan to make his motion. I believe his motion is better than my motion in terms of getting it from the horse's mouth.

E. Horn: There was no motion made.

T. Lizotte: I would like to have it formulated into a motion. So I remove my motion.

Chair Sirak: My concern is that Mr. Lizotte now has put it into the minutes some serious concerns and questions. I think they have to be addressed at this point in time saying that we're going to call the Chief is fine. But quite frankly, I want to put this in context. This is an issue that belongs with the Police Commission. Unfortunately, it keeps coming back to this Council and we can do very little about it. This was a headache that the past Chairman had. It's an on-going headache. I want it to stop. So let me respond. There's a time for this to stop, this non-sense. In response to your e-mail, Mr. Lizotte dated October 13th. Chief Agrafiotis was the individual who disclosed to me via phone that he was placed on administrative leave pending a possible investigation and outcome of the Police Commission's audit. I shared this information with Dr. Shankle who requested I draft a memo to members of the Town Council as he was out of the office that morning. You were in the office, coincidentally. I dictated to Evelyn Horn the e-mail that you and other members of the Town Council received. As Chair of the Town Council, I felt a responsibility to share the information provided to me by Chief Agrafiotis regarding his employment status with the Town Administrator and members of the Town Council. Later in the day, I was contacted by the Union Leader and shared the same information. In the absence of a response from the Police Commission, I fulfilled my leadership responsibilities as Chair of the Town Council to share the status of

the Police Chief with members of the Town Council, our Town Administrator, and to the citizens of Hooksett by responding to media questions. I did not feel it appropriate to share my source of information with Mr. Pearl. I did not violate any requirements of 91-A. That's the end of my statement.

V. Lembo: I totally agree with you, Mr. Sirak.

T. Lizotte: Can I speak to that?

Chair Sirak: One last time.

T. Lizotte: First off, I never said you violated 91-A. What I stated was, in your desire in which to get the information out to the Town Council, which I respect, I engaged you in a conversation of where the information came from because I had a concern. Evelyn while she was taking the dictation said it into the phone so I knew what it was. I understood the context of it. At that time, I had asked who it was from because I wanted to make sure it was reflected in the e-mail. When I read the e-mail, I became concerned because the information in the e-mail was not attributed to either you or Stephen Agrafiotis. My concern from that point was the historical records said that Dean had this. All I'm interested in is correcting the historical records. As far as the aspects of the Police Commission, I could care less. The fact of the matter is that we had a certain amount of information but the other portion of this was the information you sent to us said "confidential". It wasn't anything that we could use. We can understand it but theoretically, we couldn't use it to put it out forward. Once again, I just want to make sure the historical records were clear that the information did not come from Dr. Shankle that it came directly through you. That's all I was asking to have on the record.

Chair Sirak: Let me respond, please. Then, hopefully we can move to adjourn. We have been talking about communications and trust and respect. This has been very difficult for me. I was placed in a very difficult position. I felt compelled as a leader of the Town Council to share that information. If it happened again, I would do exactly what I did before. I did not disclose it came from the Chief, out of respect for his confidentiality. I did not want to place him in further harm's way. So I denied that I got it from the Chief, initially. Perhaps, I shouldn't have done that. If I had to do it all over again out of respect to him and his situation, I would do that. At the same time, I was held to a higher order of communicating with the citizens of Hooksett. It was not appropriate for the Police Commission to not say anything. And for people to go to the Police Office, for television cameras to come to the Town Hall and placed the Administrator and Evelyn Horn at a tremendous disadvantage, that was not right. And I felt compelled to correct it. I would accept a motion to adjourn.

S. Orr: I have one question. From my understanding your concern was there is some documentation that the information did come from the Chief.

T. Lizotte: Correct.

Chair Sirak: Got it.

S. Orr: He's just read a statement into the minutes that is now documentation. Do you believe that would satisfy your desire to have something in writing so there's historical evidence if anything comes up in the future?

T. Lizotte: Yes, as long as he submits the...so it's captured in the minutes, correctly so it's not edited. As long as he can provide that.

Chair Sirak: It's not going to be edited. It's going to be as stated.

T. Lizotte: We don't have verbatim minutes. That's what I'm saying.

J. Sullivan: I would suggest, after we came out of non-public to have verbatim minutes.

Chair Sirak: This is the e-mail from Todd Lizotte requesting that I share only with the Chairman, Vice Chair and the Secretary. I thought it was more appropriate to share it with the entire Council.

T. Lizotte: Sorry, Chair. You're editorializing. I sent you an e-mail to say to draft the document for historical records. I did not say that it was for only certain eyes. It would be a part of the public record.

N. VanScoy: I'd like to step in here because I really feel we're getting into a tit-for-tat. I don't believe it's doing any of us good at 10:45 pm. That's where we are, a tit-for-tat. We were all able to read the e-mails because we've been copied on every one of them. You have now had your chance to speak. I believe we should hear it from Vinnie. We should see if anyone else in the Council has anything to say. Then, if appropriate, and you'd like to bring this up at another meeting, we can certainly continue it.

V. Lembo: I agree. I just want to say that with the draft, even the policy that Mr. Shankle gave us, on media relations tonight, we'll solve this problem. Everything will go through Mr. Shankle to be released to the press. This doesn't have to go any further. This is getting crazy. It has taken more time out of this Council when we could be doing things that we should... I make a motion to adjourn.

N. Comai: There's a fine line and balance between tit for tat and what's been said. If you dig through the root of what's being said, it's to save us, two years from now, in litigation. It's really not a personal attack or anything like that. Period, end of story. That's how I look at this.

V. Lembo: I disagree with that. Motion to adjourn.

J. Levesque: I second it.

Motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 10:45 pm.

Respectfully submitted by,

Evelyn F. Horn
Administrative Assistant

Nancy Comai
Town Council Secretary