

WOLFEBORO BOARD OF SELECTMEN
December 21, 2011
MINUTES
Unapproved

Members Present: Sarah Silk, Chairman, Linda Murray, Vice-Chairman, Dave Senecal, Chuck Storm, Q. David Bowers, Members.

Staff Present: Dave Owen, Town Manager, Pete Chamberlain, Finance Director, Lee Ann Keathley, Secretary.

Chairman Silk called the meeting to order at 6:30 AM at the Wolfeboro Public Library.

Non-Public Session RSA 91-A: 3II

Dave Owen stated a non-public session is needed to discuss litigation and a personnel matter.

Consideration of Minutes

December 7, 2011

Corrections:

Page 2, Acquisition of Pine Hill Cemetery, 1st paragraph: insert at the end of the sentence "and read the public notice, see attached."

Page 8, Downtown Streets, 3rd paragraph: paragraph to read as follows; "Mrs. Murray questioned if they could revisit this project after the bids were opened. The last day to hold a public hearing was determined to be January 17th, so the Board will revisit the project."

Page 10, 4th paragraph: strike "their" & replace with "her", strike "then they did" & replace with "when the Board enacted"

Page 11, Committee Reports, 1st paragraph: strike "Conservation Commission" & replace with "Agricultural Commission"

It was moved by Chuck Storm and seconded by David Bowers to approve the December 21, 2011 Wolfeboro Board of Selectmen minutes as amended. All members voted in favor. The motion passed.

Public Input

None.

New Business

Chairman Silk requested the BOS to review New Business items D, E and F prior to the public hearings to allow for Pete Chamberlain to be dismissed due to inclement weather. The Board agreed.

Default Budget for 2012

Pete Chamberlain reviewed the following changes made to the default budget; reduced technology budget by \$5,000, revised the Executive budget (Cable Channel) to reflect \$66,000 and credited the Finance budget by \$38.00. He stated the new total for the 2012 Default Budget is \$25,190,539.00.

It was moved by Linda Murray to adopt the 2012 Default Budget in the amount of \$25,190,539.00. The motion was seconded by Chuck Storm. All members voted in favor. The motion passed.

Monthly Budget Expenditures and Revenues Report

Pete Chamberlain stated he is comfortable where they are at and revenues are where they should be.

Fund Balance Policy

Pete Chamberlain stated the Town's auditors are requesting the Town adopt a formal Fund Balance Policy to meet the requirements of GASB requirement No. 54.

Dave Owen stated the Board adopted a policy (Article 16, 2002 Town Warrant); noting the article did not meet GASB standards.

Linda Murray questioned whether such would change how the Town categorizes things.

Pete Chamberlain stated the unassigned fund balance will remain the same and a reconciliation report will be available.

Sarah Silk read Article 16.

It was moved by Linda Murray to adopt the proposed Fund Balance Policy. The motion was seconded by Chuck Storm. All members voted in favor. The motion passed.

Public Hearings

A. Acceptance of Grants

- i. **\$47,037.00 from the State of New Hampshire Department of Safety, Homeland Security and Emergency Management under Disaster FEMA-4026-DR-NH**

Sarah Silk read the public hearing notice and opened the public hearing.

Dave Owen stated the funds represent reimbursement of 75% of eligible and approved costs incurred by the Municipal Electric Department in responding to and cleaning up after Tropical Storm Irene. He stated of the total reimbursement to be received by the Town, \$7,425 for Class A debris clean-up has already been received by the Town, and the balance of Category B cost of \$39,611.96 has been approved and is anticipated to be received imminently. He stated these funds will be deposited in the Electric Fund.

There being no questions or comments, Chairman Silk closed the public hearing.

It was moved by Chuck Storm to accept a grant in the amount of \$47,037.00 from the NH Department of Safety, Homeland Security and Emergency Management, for reimbursement of storm response costs incurred by the Municipal Electric Department. The motion was seconded by Dave Senecal. All members voted in favor. The motion passed.

ii. **\$54,829 from the U.S. Department of Health & Human Services for early retirement reinsurance program**

Sarah Silk read the public hearing notice and opened the public hearing.

Dave Owen stated the Town has received approval of its request for reimbursement of health insurance costs for early retirees under the Early Retirement Reimbursement Program. He stated these funds must be used to offset the Town's health insurance costs.

There being no questions or comments, Chairman Silk closed the public hearing.

It was moved by Chuck Storm to accept a grant in the amount of \$54,829.17 from the U.S. Department of Health and Human Services from the Early Retirement Reinsurance Program to be used to offset a portion of the Town's health insurance costs. The motion was seconded by Dave Senecal. All members voted in favor. The motion passed.

B. Acquisition of Pine Hill Cemetery, 185 Pine Hill Road

Sarah Silk stated the BOS is holding the second of two public hearings required on this matter; noting the Conservation Commission, Agricultural Commission and Planning Board have recommended the purchase of Pine Hill Cemetery.

Chairman Silk opened the public hearing.

Randy Tetreault stated the trustees are present and that he has spoken to Attorney Puffer regarding the title.

Dave Owen stated the title would be drawn up for the BOS's January 4, 2012 meeting; noting the BOS is scheduled to vote to accept the property at that meeting.

There being no questions or comments, Chairman Silk closed the public hearing.

Bulk Vote

A. Property Tax Refunds/Abatements

Approvals:

- | | | |
|------|---------------------|------------------------|
| i. | 7 Earl Shore Road | Tax Map 200, Lot 21 |
| ii. | 39-19 Harbor Way | Tax Map 172, Lot 27-19 |
| iii. | 19 View Point Drive | Tax Map 258, Lot 28 |

B. Property Tax Credits/Exemptions

Approval:

- | | | |
|----|------------------|------------------------|
| i. | 2 Moultrie Drive | Tax Map 177, Lot 10-80 |
|----|------------------|------------------------|

C. Donation of \$1,000 from the Wolfeboro Rotary Club to the Welfare Department to help citizens pay heating bills

It was moved by David Bowers to approve Items A, B and C as noted above. The motion was seconded by Dave Senecal. All members voted in favor. The motion passed.

D. Raffle Permit; Wolfeboro Area Children's Center

Dave Owen stated he received a request to approve a raffle permit for an event scheduled for January 4, 2012 by the Wolfeboro Area Children's Center. He requested that the Board accept it as an additional Bulk Vote item.

Sarah Silk read the request.

It was moved by Chuck Storm to add the Wolfeboro Area Children's Center Raffle Permit request to the December 21, 2011 Board of Selectmen Bulk Vote agenda. The motion was seconded by Dave Senecal. Sarah Silk, Dave Senecal, Chuck Storm, David Bowers voted in favor. Linda Murray abstained. The motion passed.

It was moved by Chuck Storm to accept the Wolfeboro Area Children's Center Raffle Permit. The motion was seconded by Dave Senecal. Sarah Silk, Dave Senecal, Chuck Storm, David Bowers voted in favor. Linda Murray abstained. The motion passed.

New Business

Boat Agent Agreement

Sarah Silk stated Goodhue & Hawkins has requested to be a boat agent for the Town. Referencing Brenda LaPointe's memo, dated 12/8/11, Sarah Silk stated the Town has received \$19,100.00 in boat registration revenues.

It was moved by Dave Senecal to approve and sign the Boat Agent Agreement with Goodhue & Hawkins for the year 2012. The motion was seconded by Chuck Storm. All members voted in favor. The motion passed.

Grant Agreement with NHDES - \$8,415 for Milfoil Control in 2012

Ken Marschner stated on 12/2/11 the Town received an award letter from NHDES Exotic Species Program in the amount of \$8,415.00. He stated the Milfoil Committee is requesting the BOS to accept the grant.

It was moved by Chuck Storm to accept NHDES funds in the amount of \$8,415.00 for Milfoil control in 2012, to enter in a contract with the Department of Environmental Services for this purpose, and to authorize the Town Manager to execute any documents which may be necessary for this contract. The motion was seconded by Dave Senecal. All members voted in favor. The motion passed.

Ken Marschner stated 11,000 gallons of milfoil has been harvested; noting a cost of \$3.45 per gallon in 2010 and a cost of \$1.95 per gallon in 2011. He noted a 44% reduction in cost to harvest the milfoil. In comparison, he stated it cost Moultonborough \$7.54 per gallon.

Taxi License

Dave Owen stated the Board received an inquiry from Thomas Bryant who is interested in operating a taxi service in town.

No representative present.

The Board tabled such to the January 4, 2012 BOS meeting.

Warrant Article Review and Approval

Referencing the warrant article review by the Department of Revenue Administration, Dave Owen stated DRA put forth recommended changes; noting 2 changes have been incorporated. He stated Article B: Acquisition of Property at 255 South Main Street has been converted to a bond article.

Sarah Silk stated the Budget Committee met on 12/19/11 and reviewed the following votes on the warrant articles: Article A: recommended 9-0, Article B: recommended 9-0, Article C: recommended 6-3, Articles D, E & F: additional information requested, Articles G, I & S: tabled, Articles J, K, L, M, N, O, Q: recommended 9-0, Article P: not recommended 1-8, Article R: recommended 8-0 with 1 abstention.

➤ **Article T: Prohibition of the unlawful sale and possession of Certain Intoxicating and Illegal Smoking Substances**

Dave Owen stated the BOS received Town Counsel's opinion; noting Town Counsel has reservation regarding enforcement of such an ordinance and questions whether the Town has the authority to enact such an ordinance. He stated the Town of Franklin has enacted a similar ordinance however; the ordinance has not been challenged.

Dean Rondeau stated he received a copy of the opinion; however, the NH Elected Officials Handbook published by the Local Government Center gives the authority to towns at Town Meeting. He stated he and Town Counsel disagree with the definition of "prudential affairs"; noting Town Counsel is taking a stricter approach. He stated the challenge would come down to whether the judge agrees with him or with Town Counsel. He requested whether Town Counsel could be instructed to find a way the Town can put forth the ordinance, such as inserting such in zoning. He stated K2 is a significant problem in the Town and the drug is being sold in Wolfeboro.

Linda Murray questioned how impairment is proven.

Dean Rondeau stated the drug affects a person much like crystal meth would and is difficult to detect in the bloodstream.

Dave Senecal stated it is Town Counsel's opinion to not move forward at this time. He questioned whether the BOS have to approve the article and whether a notation would be noted on the warrant.

Dave Owen stated the article doesn't go on the warrant without the BOS' approval.

Linda Murray requested clarification as to whether the article has to be recommended by the BOS and whether it can be placed on the warrant without a notation that it is submitted by the BOS.

Dave Senecal stated a petition warrant article could be submitted.

Sarah Silk stated Town Counsel could not find anything that gives the BOS authority to enact the ordinance and if the ordinance is challenged, Town Counsel feels the Town may not prevail. She stated the article does deal with the health, safety and welfare of the community; however, the BOS has to have clear authority to defend the ordinance.

Dave Owen stated last spring the BOS adopted an ordinance to police and regulate public ways that prohibit transportation of these drugs on Town-owned property. He stated the proposed ordinance is seeking to ban it everywhere including private property.

Dave Senecal stated he is not in favor of placing the ordinance on the Town Warrant.

Dave Bowers stated Town Counsel's letter states the BOS has no authority to do such. He stated the concept is desirable and requested Mr. Rondeau to present any additional information to the Board to provide to Town Counsel.

Chuck Storm agreed with Mr. Senecal and Mr. Bowers.

Dean Rondeau questioned whether Town Counsel could find a way to make it happen either through zoning or something else. He stated he expects federal legislation in the upcoming year.

Sarah Silk recommended Mr. Rondeau speaks to Dave Knox and other local legislators.

It was moved by Dave Senecal to not place Warrant Article T: Prohibition of the unlawful sale and possession of Certain Intoxicating and Illegal Smoking Substances on the Town Warrant. The motion was seconded by Chuck Storm. All members voted in favor. The motion passed.

➤ **Article J: Town Hall Repairs and Improvements**

Dave Owen reviewed the cost data for said article; noting the Budget Committee recommended the article without complete data.

Sarah Silk stated the total for Article J has been changed to \$224,670.72.

➤ **Article F: Water Meter Upgrades**

Dave Ford submitted a memo, dated 12/21/11, regarding Water Meter Upgrades; noting the Budget Committee requested the information.

➤ **Article P: Develop Asset Management Plan**

Dave Ford questioned whether the BOS is going to continue to support the article regardless of the Budget Committee vote to not recommend (1-8).

Linda Murray stated she wants to move it forward and provide the public the opportunity to vote.

Dave Senecal and David Bowers agreed with Mrs. Murray.

Chuck Storm stated the Planning Board is in favor of the article and disagrees with the vote by the Budget Committee.

Sarah Silk stated the article will provide for a detailed inventory and life cycle of the buildings and equipment; noting such helps prioritize capital spending. She stated she thinks the Budget Committee is concerned about the economy and the warrant article at this time. She agreed to move it forward and provide the voters with a choice.

Set Public Hearing Date for Bond Issues in excess of \$100,000

Dave Owen stated bid openings for two warrant articles, Article D: Downtown Streets Upgrades-Phase 3 and Article E: Construct Glendon Street Parking Lot, have been scheduled for 1/9/12; therefore, the bid price of those articles will not be available until after said date. He stated the last day to hold the public hearing for such is 1/17/12; however, he recommended the BOS hold their public hearing on 1/11/12. He stated the

Budget Committee has changed the date of their public hearings to 1/12/12 and 1/13/12 in so that the BOS could hold their public hearing on 1/11/12.

Sarah Silk verified the Board could hold their public hearing, if necessary, prior to the Budget Committee's public hearing on 1/12/12. She requested the letters of the warrant articles be placed on the public notices.

Other Business

Sarah Silk stated the BOS need to schedule the interview on the warrant articles with Community Television.

The Board requested the agenda item be placed on the 1/4/12 agenda.

Old Business

None.

Chamber of Commerce

No representative present.

Town Manager Report

➤ Local Contractor Bidding

Dave Owen stated local contractors have been complaining that they haven't had the opportunity to get work with the Town. He stated he spoke to Dave Ford regarding the recent bid opening for the Downtown snow removal and was informed the Town received bids from 3 firms who are local contractors and have been doing work for the Town (JR Ames & Son, Evans Brothers and Frederickson). He stated a complaint was received from a local fuel contractor and upon review of the bid results, the firm did not submit a bid after being hand delivered the bid opening specs. He stated if the local contractors want to work for the Town then they need to respond to the bid openings.

➤ Email regarding RIB project

He stated an email was widely distributed throughout the community regarding the RIB site; noting glaring misstatements and falsehoods in the email and reviewed the following false statements: "The Town of Wolfeboro now admits the Rapid Inflow Basins beds will only handle 50% of the treated effluent the beds were designed to handle." Dave Owen stated if the site is permitted at 340,000 gallons/day then such equates to 58%.

"The State of NH will not pay its share of the RIB project because it does not work to design per the Town's Audit Report." Dave Owen stated the Town's audit reports do not say such and the State is no longer paying for its share because the funding was cut; noting any Town that had a sewer project and were in receipt of funds, the funding was cut.

"The Town's auditors have told the Town previously that the Town's sewer and water rates, some of the highest in the State, are unsustainable." Dave Owen stated the audit reports were reviewed and the auditors have never stated such. He stated there may have been statements that the Town's sewer rates would be unsustainable if the Town was not subsidizing all of the sewer related capital improvements via the General Fund; noting such is what is keeping the sewer rates sustainable.

Dave Ford stated the 2010 Status Report, Narrative of the 2011 Status Report and Geologic Report on the Town's website. He stated hard copies of the reports are also available at the Town Offices, Library and NH DES website.

Sarah Silk stated Mr. Ford has attended BOS meetings to discuss the project, tours have been conducted, the Wolfeboro BOS have met with the Tuftonboro BOS and the local newspaper covers it extensively.

➤ **Assessing Contract**

Dave Owen stated the assessing contract expires at the end of the year and the Town has an option to continue the current contract through 2012 with Cross Country Appraisal at the same rate as 2011. He recommended renewal of the contract.

Board consensus was to renew the assessing contract with Cross Country Appraisal.

➤ **First Night Committee**

Dave Owen stated he received an inquiry from Jerome Holden, First Night Committee, to alter the route of the parade on First Night; route to Cate Park to enter in front of Joe Greens.

Board consensus to allow the First Night Committee to alter the route of the parade.

Committee Reports

Linda Murray stated she attended the EDC meeting and attended a meeting with the Joint Milfoil Board at the NH Lake Association and met their new Executive Director Tom O'Brien.

Sarah Silk stated she attended the LHRPF meeting on 12/20/11 and she and Linda Murray attended the Budget Committee meeting on 12/19/11.

Public Input

Tom Bickford questioned which contract was extended.

Sarah Silk replied Cross Country Appraisal.

Linda Murray stated the Town interviewed 3 companies last year, requesting costs for a two year period, and chose Cross Country Appraisal.

Tom Bickford questioned whether such was through the Town's procurement policy.

Dave Owen replied yes.

Referencing the RIB site, Tom Bickford questioned whether the State pulled funding to the Town.

Dave Ford stated the State funded the loan; noting the grant payments of 30% of the yearly bond payments has been cut; however, the project is on the list if the funding returns.

Questions from the Press

None.

Chuck Storm moved the Wolfeboro Board of Selectmen to enter non-public session at 8:00 PM to discuss litigation and a personnel matter. The motion was seconded by David Bowers. Roll call vote; Sarah Silk-yes, Dave Senecal-yes, Linda Murray-yes, Chuck Storm-yes, David Bowers-yes. The motion passed.

The Board re-entered public session at 8:47 PM.

Chairman Silk stated the nonpublic session minutes of December 21, 2011 were sealed by a 2/3 vote as required by law.

It was moved by Dave Senecal and seconded by Chuck Storm to adjourn the December 21, 2011 Wolfeboro Board of Selectmen meeting. All members voted in favor.

The Board of Selectmen is scheduled to meet on 1/4/12 (regular meeting), 1/11/12 (public hearing) and 1/18/11 (regular meeting).

There being no further business before the Board, the meeting adjourned at 8:48 PM.

Respectfully Submitted,

Lee Ann Keathley

Lee Ann Keathley