

**Wolfeboro Board of Selectmen
Meeting minutes
Unapproved
March 3, 2010**

Members present: Chairman Dave Senecal, Vice-Chairman Kristi Ginter, Linda Murray, Sarah Silk and Marge Webster

Staff present: Acting Town Manager Rob Houseman and Recording Secretary Amelia Capone-Muccio

Chairman Senecal called the meeting to order at 6:30 PM at the Wolfeboro Public Library.

Non-Public Session RSA 91-A: 3II

Mr. Houseman stated a non-public session is needed to discuss personnel.

Other

Chairman Senecal thanked Kristi Ginter for her service as Selectmen noting this would be her last meeting. He reminded everyone voting is Tuesday, March 9, 2010 at All Saint's Episcopal Church 8 AM to 7 PM.

Consideration of Minutes

➤ **February 17, 2010**

Mrs. Murray amended page six, the second paragraph after the Status of the HDC's Legal Counsel, to change the word "two" to "three" and to put a period after the word "Selectmen" and to add the following sentence, *She also provided copies of the November 5, 2008 non-public minutes and copies of just the motion to unseal the 11/5/08 non-public minutes from the April 1, 2009 non-public minutes.*

Ms. Silk amended page seven the first bullet on that page to change whatever was there to "Ms. Silk".

Member Marge Webster moved the Wolfeboro Board of Selectmen to approve the minutes of February 17, 2010 as amended. Member Sarah Silk seconded. Kristi Ginter-abstained and being none opposed, the motion passed.

Public Input

Charlene Seibel stated that at last night's Candidate Night a question was asked regarding privatizing the Municipal Electric Department. She was not able to answer the question at that time because she did not understand the question. She stated she had done her due diligence and contacted the Director of Operations of the M.E.D, Barry Muccio, and asked him what the question meant. She stated once she had understood that privatization would mean selling our Electric Department, she wanted to let the public know that she is not in favor of doing such. She noted that although the town would receive a big chunk of money in one year but over time it would not be cost effective to the town. She stated that the M.E.D. is self-sustainable and explained that she had visited several towns around the State, all of which has lost power in the last storm, but we did not. She complimented our locally owned

Department for proactive tree trimming, producing a good product, and having good employees and good equipment.

Suzanne Ryan stated that a Citizen Study Committee for the Electric Department came to the same conclusion a few years ago. She stated at the Deliberative Session she asked the Public Works Director two questions in regards to the Warrant Article for \$99,000. She asked for assurance they will move up on the list of the 10-year plan and where is Wolfeboro on the list.

Mrs. Murray replied she believes Wolfeboro is first project off the 10-year plan.

Mrs. Ryan stated that she found that answer in the Town Report under the Lakes Region Planning Commission's report. She explained that she went to the State's website to review the 10-year plan, which is a revolving plan and does not include Wolfeboro at this time. She stated that she feels this proposed Warrant Article is not an emergency as in two years Wolfeboro would be number one on the 10-year plan and she was disappointed with the response given by the Public Works Director.

Chairman Senecal stated that the LRPC brings the plans forward and that the purpose of the Warrant Article was to show the State Wolfeboro's commitment to the project.

Mrs. Murray stated that the road was recently repaired with a skim coat, but it won't be long before the damage is back. She stated that there is an option to phase the project and show the town feels strongly about the condition of that road.

Ms. Silk noted it is divided into five sections based on the funding.

Virginia Panaccione stated the following:

Commission Impossible. Twenty years ago my father, a Tuftonboro resident, told me don't ever move to Wolfeboro all they do is fight. I am afraid he was right because twenty years later, we as citizens have had to fight for our own rights in this town. If you want to see real fighting watch the HDC work session meeting of 2/11/10. This meeting gives superlative examples of why this Commission is out of control and needs to be abolished. The meeting actually begins with a fairly reasonable discussion prompted by Jim Ladd. With each moment the subject and atmosphere changes until the meeting drops to the depth of anger and hate. Chairman Fichter referring to statements from this group and makes sure to repeat constantly that he has the resounding support of the Selectmen that allows him to vent tons of anger. Fichter demands Jim Ladd why citizens complained the HDC is rude. Jim responds those questions have been answered repeatedly and are found on the website, which Silk will not allow him to name. Chairman Fichter then proceeds into a hateful intimidation of three Commission members, Roessiger, Perry and Ladd about Warrant Article 9 to abolish the HDC. Insistent repeated charged questions pouncing constantly; he's like an attack animal demanding how the Commission members feel about this article. When he is told that votes are a personal matter, Fichter gets even madder. Then Mrs. Ryan picks up the attack mode and launches into tirade against Ken Perry and Jim Ladd. She rants and accuses them of repeating long standing charges that she had built a deck without a town building permit. Sarah Silk made a motion, which passed, which thus denied Perry the right to respond to these charges. The humorous thing is that two to three members of this Commission bragged about attending a town supported seminar on ethics, what they didn't mention was the true title of the seminar was Ethics, Courtesy and Respect. It seemed they skipped the courtesy and respect part. The Board of Selectmen has allowed things to reach this point and in fact you have fueled the fire. Is that what you, as a Board wanted to happen. Watch this February 11th meeting and now tells if you think the HDC is out of control. That answer is resounding yes. The February 11th meeting should be required watching for every Wolfeboro

Candidate for Selectmen and for every sitting Selectmen. This meeting should be used at your March 16th session as a training model for how not to run a Land Use Board. If you go to openvoices.com you can click on a YouTube to see some of the very telling clips of the HDC showing the anger in their meetings. Is this the kind of image you really want to promote for the town of Wolfeboro with the distressful attitude between Commission members. Pity the poor applicants that must apply to them and get treated badly when members disagree. The HDC allowed a handicap elderly resident to sit through hours of their fighting before they even asked her for public comments. When she complained about their slow attention to her application for a new roof she was brushed off and told merely that will take that under advisement. She was ignored and treated disrespectfully. We as a neighborhood have tried a myriad of democratic ways to request the town to improve the actions of this Commission. For example, in June of 2009 Ellen Klimm resigned from the Commission out of frustration. She wrote to you about their improper actions and behavior and asked the Board of Selectmen to take action, ignored. At the same time residents began calling and writing to Board of Selectmen members about delayed and nasty behavior. I even called you about a threat Chairman Fichter made to my husband and myself, all ignored. In September a neighborhood group of 50 people wrote to the Board of Selectmen to request your help to correct the behavior an unfair treatment of residents and even suggested removing certain HDC members. That was ignored. We have appeared and spoken before this Board, we tried to communicate directly with the HDC, but they refused to absorb the information we've given them. That was ignored. Some of us even volunteered to help them with building guidelines they ignored us. We've written to the newspaper to alert the public, on December 1st we public demanded the resignation of the Chairman and Vice-Chairman of the HDC. We were ignored. After requesting your help for six months and getting nothing we were then forced to petition Warrant Article 9 to abolish the Commission. Town paid lawyers have noted that the HDC members have personality problems and animosity and lack courtesy and respect. I noticed your agenda tonight has a discussion on legal fees for the HDC. This HDC is careless and care free about hiring lawyers and running up legal costs. Who pays for that, the whole town pays for the HDC. You don't understand is a statement Silk and Ryan seem to use regularly to put people down. Sarah Silk has told us were ignorant. I'm here to tell you that the residents of Historic District really do understand the truth about the HDC. We are not ignorant nor are we uninformed. It is the HDC, which doesn't get it. There are no clear laws in this state to cover historic district building standards. When this Commission keeps stating the laws are behind them, guess what, there are no laws. Even the town paid lawyers have agreed to that. The town ordinance is general and vague. Mrs. Ryan finally admitted public in the January 21 meeting that the HDC has no written guidelines or standards. There only standard in our opinion is impolite bullying behavior in order to impose their own individual tastes. We do understand. If Warrant Article 9 fails don't think we are going to disappear into the woodwork. We guarantee we will continue to be vocal, active citizens and continue to show how the town has ignored the needs of the taxpayers of the historic district. You the Board of Selectmen could have begun to work to resolve this issue 9 months ago. You've only made it worse. As citizens we have had to act to protect ourselves. It is time for democracy to take hold, it is time for the Wolfeboro residents to vote yes for Warrant Article 9 and abolish the Historic District Commission.

Jim Ladd stated he recently attended the Candidate's Night and was impressed with their comments to be involved. He stated when he was appointed the Commission it was impressed upon him that they have rules, including a regular business meeting on the first Tuesday of the month. He explained that the regular meeting for the HDC on 3/2/10 was canceled with no reason given. He provided the Board with a copy of the canceled notice and portion of the bylaws explaining when meetings shall be held. It is frustrating to be on a Commission and have the Chairman cancel the meeting.

Public Hearings

A. Temporary Event Permit Applications

1. **Kingswood Regional High School Cross Country Team to hold the 11th Annual Muddy Moose Trail Races on April 18, 2010 (setup on April 17) from 7:00 AM-3: 00 PM with the start and finish at Kingswood.**

Chairman Senecal opened the Public Hearing.

Kara Jacobs joined the Board for discussion and explained this is the 11th annual event with no changes.

Ms. Silk noted the notes on the permit from the Department Heads.

Charlene Seibel stated that she is support of this wonderful event.

Being no others to speak for or against the request, Chairman Senecal closed the Public Hearing.

Member Sarah Silk moved the Wolfeboro Board of Selectmen to approve the temporary event permit for Kingswood Regional High School Cross Country Team to hold the 11th Annual Muddy Moose Trail Races on April 18, 2010 (setup on April 17) from 7:00 AM-3: 00 PM with the start and finish at Kingswood. Marge Webster seconded. Being none opposed, the motion passed.

Bulk Vote

A. *Property Tax Refunds/Abatements*

Approvals

- i. Abatement/Refund #33 (2009) Tax Map 274, Lot 20

B. *Supplemental Property Tax Warrant-\$20,226.000*

C. *Current Use Application-Square Hill Road Tax Map 132 Lot 5*

Member Sarah Silk moved the Wolfeboro Board of Selectmen to approve the Bulk Vote as listed above. Marge Webster seconded. Being none opposed, the motion passed.

New Business

A. *Commercial Vessel Landing Permit-M.S. Mount Washington*

Bob Reid Captain and Engineer joined the Board for discussion and noted they would have an expanded schedule this year.

Ms. Silk noted a new insurance certificate will be needed on October 1st, 2010.

Member Marge Webster moved the Wolfeboro Board of Selectmen to approve the Commercial Vessel Landing Permit-M.S. Mount Washington for the 2010 season. Sarah Silk seconded. Being none opposed, the motion passed.

Cpt. Reid noted that the pilings have been damaged and in their current condition the ship would lean against the docks.

Chairman Senecal replied they would pass that on to the Town Manager.

B. Commercial Vessel Landing Permit-Millie B

Kathy Eaton joined the Board to discuss their 13th year for such request.

Mrs. Murray noted a new insurance certificate will be needed in June.

Member Marge Webster moved the Wolfeboro Board of Selectmen to approve the Commercial Vessel Landing Permit-Millie B for the 2010 season. Sarah Silk seconded. Being none opposed, the motion passed.

C. Use of Cate Park for a wedding

James Lapierre and Bonnie Berry joined the Board for discussion and explained they would like to use Cate Park and the Community Bandstand for their wedding on June 19, 2010.

Ms. Silk suggested they contact the Director of Parks and Recreation to discuss the use of the park.

Mrs. Ginter noted that they park will remain open to the public.

Member Marge Webster moved the Wolfeboro Board of Selectmen to approve the request of Bonnie Berry and James Lapierre to use Cate Park for their wedding ceremony on the afternoon of June 19, 2010. Sarah Silk seconded. Being none opposed, the motion passed.

D. Status of HDC's Legal Counsel.

Mrs. Ginter stated she had requested this to be put on the Agenda as she was looking for clarification on how Attorney Sager became the HDC's legal counsel and she read the email from the Town Manager clarifying such and commended him on providing a straight forward answer. (See attached) She noted her purpose to clarify such was that there was not a majority vote of either the Board of Selectmen or the HDC, which she feels that there should have been.

Ms. Silk stated that the change in legal counsel goes back to November of 2008 due to the conflict with Attorney Puffer because of the Ginter's lawsuit at which they hired Attorney Slack. She noted that Attorney Slack did not perform so they went to the Town Manager to seek new legal counsel. She stated that the Town Planner forwarded all the information to Attorney Sager. She pointed out they have only used Sager for the guidelines and non-compliance issues.

Mrs. Ginter noted her issue is only the procedure in which he was retained, the HDC or Board of Selectmen did not vote to hire him.

Mrs. Murray stated the Board of Selectmen was aware that he was hired and that he was replacing Attorney Slack. She noted they did meet with him to negotiate a settlement on the Ginter case.

Mrs. Ginter replied that her only issue was the procedure in how he was hired.

Any Other Business

Ms. Silk noted the current Town and City magazine she have the following articles forwarded:

- Pat Waterman and Randy Walker page 31-34
- Police Department page 15-20
- Land Use Boards and Assessing page 19
- The cover article to the Friends of Town Hall

Ms. Silk noted the Annual Town Report is available and the Voter's Guide was in last weeks Granite State News.

Mr. Houseman noted there was an error in the Voters Guide about Warrant Article #10 and the Planning Board did not recommend such article. A correction will run in this week's paper.

Town Manager's Report

Mr. Houseman stated that as of Monday many of the Town roads will be posted with a weight limit due to the warm weather.

Committee Reports

Ms. Silk stated the following:

- LRHHPF has been discussing with NH Pesticide Control on doing a collection for agriculture pesticides for food as their seems to be a large interest in it. She noted this will be a special day for that only and it will be funded by the Department of Agriculture and the attendants.
- The Milfoil Committee met and continues to discuss the grant application.

Mrs. Ginter stated the Planning Board met last night and approved the LLK Trust lot merger, the cell tower application was postponed and Kingswood Acre area was approved.

Mrs. Murray stated the following:

- The 250th Anniversary Committee met and will be selling ads for their booklet and interviews will be airing Friday on WCTV discussing their events.

Questions from the Public

None.

Questions from the Press

Tom Beeler of the Granite State News there is letter to the editor in this week's paper regarding the frost heaves on Pleasant Valley Road.

Being no further business before the Board, Chairman Senecal entertained a motion to non-public session.

Member Marge Webster moved the Wolfeboro Board of Selectmen to non-public session at 7:21 PM to discuss personnel. Member Sarah Silk seconded. Roll call vote: Marge Webster-yes, Sarah Silk-yes, Dave Senecal-yes, Kristi Ginter-yes and Linda Murray-yes, the motion passed.

The Board re-entered public session at 7:58 PM.

Linda Murray excused herself from non-public session at 7:50 PM stating a conflict of interest.

Chairman Senecal announced that the Board sealed the non-public minutes of March 3, 2010 by a 2/3rds vote as required by law.

Being no further business before the Board, Chairman Senecal entertained a motion to adjourn.

Member Sarah Silk moved the Wolfeboro Board of Selectmen to adjourn at 7:59 PM. Member Marge Webster seconded. Being none opposed, the motion passed.

Respectfully submitted,
Amelia Capone-Muccio
Amelia Capone-Muccio

Dave Owen

From: Kristi Ginter [kginter66@gmail.com]
Sent: Saturday, January 23, 2010 10:41 AM
To: Dave Owen
Subject: Re: Sager

David, I appreciate your straightforward response. Would you please discuss with Dave S. adding this item to our agenda for our next meeting after he returns from vacation (second mtg in feb) so we may clarify the BOS role and continued role in this...I don't know if this would need to be in non-public but I would not think so as Mr. Sager is not our attorney and we would not be discussing any legal advice from him. Please let me know.
Kristi

On Fri, Jan 22, 2010 at 3:01 PM, Dave Owen <wolftwnmgr@metrocast.net> wrote:

Kristi: To the best of my recollection, the story of how Attorney Rick Sager came to be engaged by the Town dates back to last July (on or around the 24th of July), when Selectman Silk and HDC Chairman Bruce Fichter presented themselves at my office. They cited a problem that the HDC's attorney had seemingly disappeared from the face of the earth and had not filed papers that were due at court, and wanted to know what I was going to do about it. It was suggested that we find another attorney to file the papers if Attorney Slack couldn't be found. I believe that it was Sarah Silk that suggested Rick Sager. I called Rob Houseman over to join in the meeting. We discussed the possibility of having Attorney Sager file the paperwork with the court for the Town. Rob agreed to contact Attorney Sager to discuss the situation and to see if he would be available to file the paperwork for the Town. Rob later reported back to me that Attorney Sager was available to us and was willing to file the needed paperwork at court. I made the decision to engage Attorney Sager to do that work.

As you know, Attorney Sager's engagement to represent the HDC expanded after that initial decision to include seeing that case through to its successful resolution. Since then, the HDC has called upon Attorney Sager to assist it with its efforts to develop new rules and regulations, and has continued to use Attorney Sager as its legal counsel. To my knowledge, there has been no vote by the Board of Selectmen to hire Attorney Sager as the HDC's attorney, as it had when Attorney Susan Slack was hired, nor has there been any vote of the HDC to request to the Board of Selectmen that Attorney Sager be hired as their legal counsel. Neither is there any agreement that has been signed to hire Attorney Sager, so I am unable to provide you a copy of any such agreement. Relative to your Right-to-Know request for documents relative to Attorney Sager's engagement, all that I can offer you is copies of Attorney Sager's bills, which we have continued to honor and pay. Dave Owen

-----Original Message-----

From: kginter [mailto:ckginter1@earthlink.net]
Sent: Thursday, January 21, 2010 2:58 PM
To: wolftwnmgr@metrocast.net; wolftwnplnr@metrocast.net
Cc: Tom Beehler
Subject: RE: Sager

Hi Dave and Rob...As you are aware, several citizens's, as well as members of the HDC itself have questioned how it came to be that Mr. Sager was hired, how that process happened and if he was even legally hired by either a quorum vote of the BOS and/or the HDC. I believe it is quite clear that it was not a decision of a quorum of the HDC and as far as I am aware it was NOT authorized by a quorum of the BOS either. Ms. Slack was the only attorney authorized by the BOS and it was specific to the Ginter case alone-not for other expenditures of funds. I would appreciate a complete accounting and/or timeline of who authorized this and why we are continuing to pay the HDC's legal bills now that the above case has been settled. Is there a contract

and/or agreement for services with Mr. Sager-similar to the agreement he has with the Town of Wakefield as their attorney and what is his fee agreement, etc? I am requesting a copy of all e-mails, correspondence, etc. between any town agent, BOS representative, HDC representative, yourselves, or any other town employee regarding this matter under the right to know law. I would also like a copy of the agreement signed with Mr. Sager outlining his representation, fee's and expectations related to his services with the town, the HDC and the BOS. I would like to know who signed this agreement with him. If such an agreement does not exist-I would like an explanation as to why this has not occurred? Thank You-Kristi Ginter