

**Wolfeboro Board of Selectmen  
Meeting minutes  
Unapproved  
January 13, 2011**

**Members present:** Chairman Linda Murray, Vice-Chairman Sarah Silk, Chuck Storm and Dave Senecal.

**Staff present:** Town Manager David W. Owen and Recording Secretary Amelia Capone-Muccio

Chairman Murray called the meeting to order at 6:30 PM.

**Non-Public Session RSA 91-A: 3II**

Mr. Owen stated a non-public session is not needed.

**Public Input**

None.

**Public Hearings  
Proposed 2011 Bond Issues**

- A. For the 2011 Bond Issue in the amount of one million six hundred thousand dollars (\$1,600,00) an amount which includes a 10% contingency fee, including but not limited to the purpose of building a new town hall facility and to do minor repairs in the Brewster Town Hall. A breakdown is as follows: to build a new 6,000 square foot energy efficient town hall facility for certain employees for the sum of \$975,600 with an extra \$100,000 to install a geothermal heating and cooling system in this building, to build this building on land owned by the Town of Wolfeboro commonly known as and identified as 263 South Main Street, lot 61. Additional costs for landscaping/parking. Reimbursement to the Library Trustees for costs they incurred to retain library/parking privileges on the land, for a total sum of \$174,460. Also included are costs for some minor repairs to the Brewster Town Hall amounting to \$100,000 for a geothermal heating and cooling system, for energy efficiency, and \$15,000 to remove the asbestos in the building. To fit-up the new town hall facility, to move certain employees, records and equipment from the current Brewster Town Hall to the new town hall facility location, for a sum not to exceed \$60,000. Finally, to authorize the issuance of not more than one million six hundred thousand dollars (\$1,600,000) of bonds or notes to fund this appropriation in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Board of Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon, maturity, and other terms and conditions of such borrowing. (Submitted by Petition)**

Chairman Murray opened the Public Hearing and read the article.

Josephine Amatucci joined the Board for discussion and stated she would like to refer to her letter to the Editor of the Granite State News, but was not included in the paper this week and she read it as follows:

*I am presenting to this newspaper a legal letter from an unbiased Attorney stating that according to the language of the master deed, the library does not have the only or exclusive use for occupancy on the Ida Glidden lot, which*

*means that if the taxpayers vote for my proposal for a new town hall on this lot, which also proposes to keep the Brewster Town Hall and do some minor renovations on it, then the taxpayers are free to use this lot for a new town hall for a total cost to the taxpayers of \$1,600,000.00. Besides the master deed reads as follows: "This deed was prepared by Helme, Cole & Smith, and P.C. from information supplied by the Grantor. No Independent title examination was undertaken by the preparer, nor did the preparer otherwise verify the accuracy of the representations contained herein."*

*As can be seen the language of the deed is supplied only by the Grantor, which is the town, which are the citizens of the town. The "intent" of Ida Glidden, the Grantee, is never mentioned in the deed. Therefore, we are the only ones who have the right to determine the "intent" in the restriction language of the covenant, which would not be the exclusive use and occupancy for the library ONLY. Our "intent" would be that the library has parking privileges as needed, if and when they expand the library.*

*The courts will have to uphold the intent of the Grantor only, as there is no language in the deed that expresses the "intent" of the Grantee. And once the people have made their determination of the language, the courts will uphold the intent of the Grantor, who is the town, who are the people of the town.*

*The courts do not favor restrictive covenants of land, in a deed, as they are viewed with disfavor. Hicks v. Cox, 978 S.W.2d 544, 548; Hillis v. Powers, 875 S.W. 2d 273, 275. The courts will uphold the intent of the people by the language of the covenant and the circumstances of its making. In which the circumstances are the town approached Ida Glidden and asked her if she would sell her property to the town so that they could build a new town hall on her lot, that was the intent.*

She further stated the Town Selectmen should prioritize projects connected to energy solutions. In proposing the renovations of Brewster Town Hall, they should have first considered how to remove municipal energy consumption and by not giving this priority, they have placed the property owners and residents in serious financial uncertainty by arbitrarily choosing to recommend a project during these current economic conditions that is not energy efficient. She stated everyone discredited her regarding the geothermal system and Mrs. Murray, Mr. Pijoan and Mr. Senecal gave personal opinions that are not viable. She stated that she spoke to the engineer that did the High School's geothermal system and he advised her that the lot at Brewster Hall and the proposed lot are adaptable for a geothermal system.

John Sandeen, Chairman, Board of Trustees of the Wolfeboro Public Library, joined the Board and made the following statement on behalf of the Library Board of Trustees:

*The Board's intent always has been to use the 263 S. Main Street property to expand the library building. From first knowledge of the Board that 263 S. Main Street property was available for purchase to the final signing of the deed, our vision has been unanimously focused on expansion of the library building. Our building expansion intent was clearly stated to the Selectmen and to the Town citizens in multiple public meetings over the past three years. Our expansion intent was brought to a vote of the Wolfeboro citizens last March and overwhelmingly approved to proceed to develop conceptual architectural plans for the expansion of the library. These conceptual plans are now complete and were brought to the Selectmen at their December 1<sup>st</sup> meeting and are now publicly available. These conceptual plans show unambiguously the Library Board's intent to expand the library building using both the 259 and 263 S. Main Street properties.*

*A further statement needs to be made about 263 S. Main St. deed restricting the property use "for Library purposes". The 263 S. Main St. property was purchased using only Library Building Fund money, not taxpayer money, and received the approval of the Library Trustees, the Board of Selectmen and the residents of Wolfeboro*

*via public hearings. Therefore, the deed restriction for library use was made an important part of the purchase agreement negotiation with the seller. The Board of Trustee's legal counsel advised us to ensure that the deed was restricted to protect the long-term rights of the Library and provided the Board with the specific wording of the restriction. Based on the Trustee Board's legal and fiduciary responsibilities for the support of the Wolfeboro Public Library and the funds entrusted to us, we are compelled to uphold the rights of the Library as set forth in the deed. Therefore, we will take all necessary steps including legal action to oppose the taking of 263 S. Main St. for any other purpose. Any use of the 263 S. Main St. property other than for library expansion violates the terms of the agreement.*

*We further recommend that the Selectmen vote against this Warrant Article due to the resulting inherent and unplanned 2011 legal expenses. Large legal expenses will be incurred by the Town and by the Library Board of Trustees in defending the 263 S. Main St. property from the illegal use stated in this warrant article. Based on the Town Attorney's opinion on the deed to 263 S. Main St., the Library Board of Trustees has the authority to legally challenge any attempt to subvert these deed restrictions. In addition, the cost of defending the restrictions can be recovered from the petitioning parties seeking to overturn the deed restrictions.*

*This Warrant Article proposing the taking of 263 S. Main St. for a Town Hall Annex is clearly illegal and, if approved, will be vigorously contested by the Wolfeboro Library Board of Trustees.*

Mr. Sandeen further stated that if Ms. Amatucci has an unbiased letter from an Attorney such should be entered into the public record. He also noted that Ms. Helme of the firm Helme, Cole & Smith was Ida Glidden's Attorney, who prepared the deed for Ms. Glidden and not the Library. He also noted that Ms. Amantucci is interpreting the language of Grantor and Grantee backwards, the Grantor is Ida Glidden, and the Grantee is the Town of Wolfeboro.

Josephine Amatucci questioned the purchase of the McBride property and the intentions of such purchase.

The Board agreed not to discuss that property and to only address the Warrant Article above.

Ms. Amatucci questioned if they intend to purchase the McBride property.

Chairman Murray called a point of order and stated that she must speak to the hearing on the Warrant Article.

Mr. Sandeen stated in regards to the portion of the Warrant Article stating that the Library will be reimbursed \$174,000, the Library Trustees have agreed not to accept that compensation.

Judy Breuninger stated that this is the time every year when people submit letters to the paper and submit Warrant Articles that only confuse the public. She stated they have viable plans to renovate Brewster Hall.

Mr. Sandeen stated the Town Attorney's opinion states the proposed use of the property for town offices clearly violates the condition in the Glidden deed "that said tract be used and occupied for Library purposes" and he further states " it is not easy to subvert a deed restriction, the guiding rule is that the intent of the parties through a deed must be determined and effectuated whenever possible and the intent of the language of the Glidden restrictive covenant is clear that the property in question should be used for Library purposes only".

Being no others to speak for or against this article, Chairman Murray closed the public hearing.

Chairman Murray stated the Board of Selectmen released the December 14, 2010 Town Attorney opinion which states this petition Warrant Article is illegal and you can not build a town hall on that lot. She pointed out that Ms.

Amatucci's Attorney said that it could be read that the deed does not have exclusive library use, but there is no sentence to go on to say and therefore it could be used for a town hall. She explained that RSA 30:3 requires the Board of Selectmen to put a petition Warrant Article on the warrant as long as it meets the 25 required signatures of registered voters, even though it is an illegal article. The Town Attorney verified they need to do such and if they don't they will be violating RSA 30:3-b. She also referred to an article in the December 23, 2010 Granite State News by Elissa Paquette, who interviewed Ida Glidden "Glidden, the neighbor, who sold the property to the Library Trustees said that when she entered into this discussion with John Sandeen, the Chairman of the Trustees, about purchasing of the land, she said "I don't want the town to put a town hall or anything like that on it" and as to whether the land is deeded for Library purposes only she said " I thought it was kind of clear".

Ms. Silk stated they also have additional information from the Town Attorney on December 30, 2010 stating the Moderator at the Deliberative Session should make it clear that 263 South Main Street property may not be used to build town offices. She noted although the Board can not modify petition Warrant Articles, the public can at the February 8, 2011 Deliberative Session.

**Member Dave Senecal moved the Wolfeboro Board of Selectmen not to recommend Warrant Article 15 Petition Warrant Article for Town Offices. Chuck Storm seconded. Members voted and being none opposed the motion passed.**

#### **New Business**

##### **A. *Petition Warrant Article for General Wolfe Memorial.***

***To see if the Town will vote to raise and appropriate the sum of ten thousand dollars (\$10,000) for the purpose of mounting a permanent memorial to General Wolfe in a prominent public location in Wolfeboro, said sum to consist of the balance of \$4,224 from the 2010 warrant article No. 31 for the celebration of the 250<sup>th</sup> anniversary of Wolfeboro's naming plus an additional appropriation of \$5,776 such sum to be used in conjunction with other funds raised by the Wolfeboro Historical Society and other private donations to mount an appropriate memorial to Wolfeboro's namesake.***

Ms. Silk pointed out that they would only be raising \$5,776 new dollars.

**Member Chuck Storm moved the Wolfeboro Board of Selectmen to recommend Warrant Article 32 Petition Warrant Article for the General Wolfe Memorial. Sarah Silk seconded. Members voted and being none opposed the motion passed.**

##### **B. *Petition Warrant Articles received on January 10, 2011.***

***To see if the town will vote to direct the Board of Selectmen to adopt and implement a formal written Public Advertized (sic) Sealed Bid Policy to include but not limited to purchase of goods and services, leases and sale of real estate and assets so as to secure the highest and best terms and value for the taxpayers of Wolfeboro.***

Suzanne Ryan joined the Board and stated she submitted this petition, but was not aware the town already has a purchase policy; therefore, she will amend such at the Deliberative Session. She questioned the policy on selling property.

Mr. Owen replied the town does have a policy for selling tax deeded property and he provided a copy of such for the Board and any other sale of town property is done so in accordance with RSA 41:14-a, requiring a public hearing process for disposition of real estate.

Chairman Murray pointed out that if anytime during those public hearings a petition of 50 signatures is received it would force it to the next town warrant.

Ms. Ryan stated she is looking for the mechanism to put it out to bid, not the procedure. She questioned the Board putting comments on the articles other than to recommend or not recommend. She also questioned the tax impact listed on the article.

Chairman Murray replied each Board has the right to choose what they want to do each year.

Mr. Owen stated the intent of this petition is good, but the town already has written policies, procedures, and statutes in place and such is not needed.

Ms. Ryan stated Mr. Owen is missing the point; this is procedure for transparency on an action in light of the current discussion on five-year leases.

Chairman Murray provided an example from a previous year where they had a strip of land in front of someone's home which only has an interest to that property owner. She noted putting such out to bid would not be efficient.

Ms. Ryan pointed out there will always be exceptions.

The Board agreed not to take a position on this article.

***To see if the town will vote to raise and appropriate the sum not to exceed Two Hundred and Fifty thousand dollars (\$250,000) for the express purpose of replacing and upgrading the electric service and wiring in the basement, first floor and Annex of the Brewster Memorial Town Hall for safety and code compliance, also said sum includes installation of a insulation cap to said building. This Warrant Article is separate and apart from any other associated with Brewster Memorial Hall, should any other pass this article is negated and the sum shall not be raised and appropriated.***

Ms. Ryan stated she has been on all the previous committees except this last one and although it was in the intent when they purchased the building to use the \$30,000 rent towards maintenance, such has not been done. She can not speculate on the feeling of the voters, but she feels the previous plan did not pass due to cost and feels giving the voters a choice for incremental upgrades to protect the building is a fall-back idea. She noted the wiring in this building, is a safety hazard and she is not opposed to amending the article to add anything else. She also noted that Mr. Kasewicz's recent comments in the paper have some good ideas to help draw this building for tourism and as the hub of downtown.

Joyce Davis, Chair of the Friends of Town Hall, questioned if this article will have a public hearing.

Chairman Murray replied one is not required for this article.

Mrs. Davis stated she appreciates Mrs. Ryan's comments, but she is concerned this article will muddle the vote for the town hall article. She stated they had agreed having one article is the best interest for the community. She

noted that although the electric wiring is a concern in this building, the energy efficiency, code compliance and ADA accessibility are concerns as well.

Judy Breuniger stated that this building has been studied over and over and they have a plan that will address all the issues and she is upset that the public adds these topics that confuse the issue.

Mr. Senecal pointed out if the town hall article passes, this article would be null and void. He noted this article will give a fall back to do some maintenance to the building, if the town hall article does not go through.

Ms. Silk questioned the impact on the taxes.

Mr. Owen replied roughly five cents for every \$100,000, or about 12.5 cents per thousand.

Chairman Murray pointed out the town hall article would be nineteen cents and would decrease as the years go on.

Ms. Silk stated that although this article's intent is good, any work done to the building will trigger the need for a sprinkler system, which there is no funding for.

Chairman Murray replied such is correct, the Board had looked into doing some repairs and discovered once work starts on the building they would need to meet current code compliance.

Mrs. Ryan pointed out that when the Board put out the article for minor repairs to the building, it only lost by 24 votes, which shows sentiment that the public is interested in an incremental project.

Russell Schumer stated that he feels that renovations to the town hall are an investment to the community.

**Member Sarah Silk moved the Wolfeboro Board of Selectmen to not to recommend Warrant Article 34 Petition Warrant Article for the repairs to town hall. Chuck Storm seconded. Members voted and being none opposed the motion passed.**

### ***C. Operating Budget***

Chairman Murray stated the Budget Committee has completed their review of the budget and voted to set the Operating Budget at \$25,498,128 and the Board of Selectmen previously voted to set the default budget at \$24,967,575.

**Member Chuck Storm moved the Wolfeboro Board of Selectmen to accept the Budget Committee's recommendation of \$25,498,128 for the Operating Budget. Sarah Silk seconded. Members voted and being none opposed the motion passed.**

### **Any Other Business**

Chairman Murray announced the Budget Committee will meet to discuss the same Warrant Articles discussed tonight following this meeting at 7PM at the Wolfeboro Inn.

### **Chamber of Commerce**

None

**Questions from the Public**

None.

**Questions from the Press**

None.

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

**Member Chuck Storm moved the Wolfeboro Board of Selectmen to adjourn at 6:05 PM. Member Dave Senecal seconded. Being none opposed, the motion passed.**

Respectfully submitted,

**Amelia Capone-Muccio**

Recording Secretary