

**Wolfeboro Board of Selectmen
Meeting Minutes
Unapproved
April 17, 2013**

Members present: Chairman Sarah Silk, Vice-Chairman Linda Murray, Dave Senecal, Brad Harriman and Dave Bowers (arrived at 6:50PM).

Members absent: None.

Staff present: Town Manager David W. Owen, Director of Parks & Recreation Ethan Hipple, Public Works Director Dave Ford, Fire Chief Phillip Morrill and Recording Secretary Amelia Capone-Muccio.

Chairman Silk opened the meeting at 6:30 PM. She asked for a moment of silence in respect to the Boston Marathon bombings.

Mr. Owen noted the flags are at half-staff per order of the Governor.

Non-Public Session

Mr. Owen stated a non-public session is needed to discuss litigation.

Consideration of Minutes

➤ **4/3/13**

Member Linda Murray moved the Wolfeboro Board of Selectmen to accept the minutes of April 3, 2013 as written. Brad Harriman seconded. Members voted and being none opposed, the motion passed. (Dave Bowers not present for this vote)

Public Input

None.

Public Hearings

Temporary Event Permits

A. Wolfeboro Area Recreation Association to hold a Family Fun Day on July 13, 2013 from 10:00 AM-2:00 PM at Monument Field, Brewster Academy.

Chairman Silk opened the public hearing.

Holly Williams addressed the Board and stated they will run the event the same as in the past, but have moved the location to Brewster Academy to draw more people. She stated this is a major fundraiser for the Nick.

Being no others to speak for or against the request, Chairman Silk closed the public hearing.

Mrs. Murray noted the notes on the permit.

Member Dave Senecal moved the Wolfeboro Board of Selectmen to approve the issuance of a Temporary Event Permit for Wolfeboro Area Recreation Association to hold a Family Fun Day on July 13, 2013 from 10:00 AM-2:00 PM at Monument Field, Brewster Academy. Brad Harriman seconded. Members voted and being none opposed, the motion passed (Dave Bowers was not present for this vote).

B. Wolfeboro Area Recreation Association to hold the Chunky Dunk Duathlon on July 27, 2013 from 7:30-10:30 AM at Albee Beach and Bridge Falls Path.

Chairman Silk opened the public hearing.

Holly Williams addressed the Board for discussion and stated this is the 3rd annual event and fundraiser for the Nick.

Being no others to speak for or against the permit, Chairman Silk closed the public hearing. She questioned the paddle board portion.

Ms. Williams replied that is separate and will be coming back in a separate permit request.

Member Linda Murray moved the Wolfeboro Board of Selectmen to approve the issuance of a Temporary Event Permit for Wolfeboro Area Recreation Association to hold the Chunky Dunk Duathlon on July 27, 2013 from 7:30-10:30 AM at Albee Beach and Bridge Falls Path. Dave Senecal seconded. Members voted and being none opposed, the motion passed. (Dave Bowers not present for this vote)

C. Lakes Region Humane Society to hold 5K Road Race/Walk on July 20, 2013 from 7:00-11:00 AM starting and ending at Albee Beach.

Chairman Silk opened the public hearing.

Holly Williams addressed the Board for discussion and stated this is an event that has not been run since 2011, but they are bringing it back. She noted the change to the event is starting and ending it at Albee Beach to eliminate the need for a Police Officer.

Being no others to speak for or against the permit, Chairman Silk closed the public hearing.

Member Dave Senecal moved the Wolfeboro Board of Selectmen to approve the issuance of a Temporary Event Permit for Lakes Region Humane Society to hold 5K Road Race/Walk on July 20, 2013 from 7:00-11:00 AM starting and ending at Albee Beach. Brad Harriman seconded. Members voted and being none opposed, the motion passed. (Dave Bowers not present for vote)

D. Hospital Aid Association, Inc. to hold a Spring Fundraiser on May 2-3, May 10-11, May 17-18, May 24-25, May 31 and June 1 and June 7-8, 2013 from 10:00 AM-3:00 PM at 65 Pine Hill Road.

Chairman Silk stepped down from discussion and vote.

Vice-Chairman Murray opened the public hearing.

Jane and Bob Wass addressed the Board for discussion and stated this is part of the fundraising efforts for hospital equipment.

Being no others to speak for or against the permit, Vice-Chairman Murray closed the public hearing. She noted a new insurance certificate is needed by May 29th.

Member Dave Senecal moved the Wolfeboro Board of Selectmen to approve the issuance of a Temporary Event Permit for Hospital Aid Association, Inc. to hold a Spring Fundraiser on May 2-3, May 10-11, May 17-18, May 24-25, May 31 and June 1 and June 7-8, 2013 from 10:00 AM-3:00 PM at 65 Pine Hill Road . Brad Harriman seconded. Members voted, Sarah Silk abstained (Dave Bowers not present) and being none opposed, the motion passed.

Bulk Vote

A. Weekly Manifests:

1. Manifest dated April 12, 2013
2. Manifest dated April 19, 2013

B. Property Tax Abatements/Refunds

Approvals

- | | | |
|------|--------------------------|---------------------|
| i. | 45 Umbrella Point (2010) | Tax Map 213, Lot 27 |
| ii. | 45 Umbrella Point (2011) | Tax Map 213, Lot 27 |
| iii. | Stoney Field Farm Road | Tax Map 237, Lot 3 |
| iv. | 41 Walker Road (2010) | Tax Map 210, Lot 1 |
| v. | 41 Walker Road (2011) | Tax Map 210, Lot 1 |
| vi. | 41 Walker Road (2012) | Tax Map 210, Lot 1 |

C. Property Tax Credits/Exemptions

- | | | |
|------|-------------------------|-----------------------|
| i. | 55 Pleasant Valley Road | Tax Map 245, Lot 34 |
| ii. | 112 Trotting Track Road | Tax Map 147, Lot 7 |
| iii. | 19 Timber Lane | Tax Map 252, Lot 10 |
| iv. | 525 Beach Pond Road | Tax Map 67, Lot 18-15 |

D. Notices of Intent to Cut Wood or Timber

- | | | |
|-----|-----------------|---------------------------|
| i. | North Line Road | Tax Map 99, Lot 3-19 |
| ii. | North Line Road | Tax Map 67, Lot 1-2 & 1-3 |

E. Timber Tax Levies

- i. \$1,315.60
- ii. \$79.85

F. Raffle Permits

- i. American Legion Harriman-Hale Post 18
- ii. Perform It! Young People's

Mr. Owen provided an additional Timber Tax Levy in the amount of \$8,090.47

It was moved by Linda Murray for the Wolfeboro Board of Selectmen to add the additional timber tax levy in the amount of \$7, 591.48 (totaling the amount of Timber Tax Levies to \$8,090.47) to the Bulk Vote item E iii. Brad Harriman seconded. Members voted and being none opposed, the motion passed. (Dave Bowers not present for vote)

It was moved by Linda Murray for the Wolfeboro Board of Selectmen to approve the Bulk Vote items as submitted. Dave Senecal seconded. Members voted and being none opposed, the motion passed. (Dave Bowers not present for vote)

Mrs. Murray noted that the number of court cases for abatements and it is possible they may go over the budget for abatements.

Chairman Silk noted that is over numerous years, not just last year.

Appointments

A. Agricultural Commission

Chairman Silk requested to table the appointment to the Agricultural Commission as she may have misled the applicant as to the date of the meeting.

It was moved by Linda Murray and seconded by Dave Senecal to table the appointment to the Agricultural Commission. Members voted and being all in favor, the motion passed. (Dave Bowers not present for vote)

B. Milfoil Committee Ken Marschner

Ken Marschner addressed the Board and stated that he has taken on another project and has had to step down from Chairing the Committee, but is willing to be a member for a one year term.

Mrs. Murray stated they appreciate him continuing on the committee for a one year term.

It was moved by Linda Murray and seconded by Dave Senecal to appoint Ken Marschner to a 1-year term on the Milfoil Committee (exp. 2014). Members voted and being none opposed, the motion passed. (Dave Bowers not present for vote)

New Business

A. Request to Use Wolfeboro Community Bandstand for a Wedding

Diana Randazzo and Victor Doucette addressed the Board.

Ms. Randazzo stated they are requesting permission to hold their wedding ceremony on August 11, 2013 from 1:00 PM to 3:00 PM at Cate Park.

Mrs. Murray noted they cannot close the park to the public.

Chairman Murray noted they will need to be sure to clean up the park after their ceremony.

It was moved by Dave Senecal for the Wolfeboro Board of Selectmen to approve the request of Victor Doucette and Diana Randazzo to use Cate Park and the Wolfeboro Community Bandstand for purposes of their wedding on August 11, 2013 from 1:00-3:00 PM, subject to the condition of cleaning up the area of any trash from their event. Brad Harriman seconded. Being none opposed, the motion passed.

B. Taxi License- I Ride NH

Tom Bryant addressed the Board and noted this will be their second year running the taxi service and it has been working out well.

Chairman Silk questioned if the service runs year round.

Mr. Bryant replied it does not run in January and February.

Mr. Owen noted that he checked with the Police Department and is happy to report no complaints.

It was moved by Linda Murray and seconded by Dave Senecal to approve the issuance of a Taxi License to I-Ride NH, Inc. for 2013. Members voted and being no opposed, the motion passed. (Dave Bowers not present for vote)

C. Annual Concurrence-Emergency Operations Plan

Chief Morrill joined the Board.

Mr. Owen stated the Emergency Operations Planning Committee met and reviewed the plan, the only update needed is contact information and he recommends the Board approve the an annual concurrence.

It was moved by Brad Harriman and seconded by Dave Senecal to approve and sign the Annual Concurrence with Wolfeboro's Emergency Operations Plan. Members voted and being none opposed, the motion passed. (Dave Bowers not present for vote)

D. NH Reverse 9-1-1 Program-Designation of Authorized Officials

Chief Morrill stated they have been notified by the State that the reverse 9-1-1 system is ready to be implemented for an emergency warning system. He stated that this will allow Town Officials to notify the residents of a real emergency and he believes it may even be able to be isolated to specific areas of Town. He noted that the State is also working on allowing cell phone users to "opt in".

Chairman Silk noted that it would make sense to allow cell phone users to "opt in" as many people use only a cell phone vs. a landline.

*Secretary's note: Dave Bowers joined the meeting (6:50 PM)

It was moved by Linda Murray and seconded by Dave Senecal to approve participating in the State's reverse 9-1-1 program and to authorize the Emergency Management Director/Fire Chief, Town Manager, and Police Chief to have access to the State's reverse 9-1-1 program. Members voted and being none opposed, the motion passed.

E. Letter of Support for Moose plate Grant Application

Mr. Owen stated this is the second application for the Moose plate Grant Program sponsored by the Friends of the Town Hall and the Town. It seeks an additional \$10,000 to restore the wooden arched doorways on the front of the building and at the old entrance of the Library. A letter of support has been drafted for the Board's approval.

Joyce Davis addressed the Board and stated this is part of the public/private partnership for Brewster Memorial Hall and they have already received a grant to restore the clock and were encouraged to apply for an additional grant.

It was moved by Linda Murray and seconded by Dave Bowers to approve and sign the letter of support for the Moose plate Grant application for funds to restore the arched wooden doors on the front of Town Hall and the annex. Members voted and being none opposed, the motion passed.

F. Capital Projects Update Reports

➤ Parks & Recreation

Ethan Hipple addressed the Board and summarized his projects status as follows:

- Parks Maintenance Building: scheduled to go out to bid April 19th with construction to start in June.
- Abenaki Lodge: architect Vaune Dugan, commissioned wetland permit, commission site survey and will commission a soil survey once final complete design phase. He noted a public meeting on May 20th at 7 PM on design of the lodge and to take public input.
- Middleton Road Cemetery: will go out to bid in July with construction of the roadway in August or September.

➤ Public Works

Dave Ford addressed the Board. He started with an update on the Rapid Infiltration Basin lawsuit and he read a memo outlining the history and status of such dated April 17, 2013. (See attached memo #1) He next reviewed his Capital Projects Status Update Report (See attached report #2).

Mrs. Murray questioned if the Glendon Street parking lot is salted.

Mr. Ford replied it is.

Mrs. Murray stated that it was a question the Milfoil Committee had.

Mr. Ford replied that such is a good point and they can discuss that further. He continued with an update on the fire and insurance settlement for the Public Works Highway garage noting they received an offer from Primex for \$150,000, but such will not bring the building to code. He stated that Primex now has gone back to their re-insurer and he expects more review to be done by the insurance companies and hopes to have a settlement in the next 60 days. He also noted that CCI will be doing a construction management project for replacing the building and he plans to visit some other town buildings to get an idea of what to replace it with. He also provided an update on the snow budget. The February 8th snowstorm has been declared by the State and Federal government as a disaster enabling them to apply for Federal Funds for reimbursement and they stand to receive \$35,000 in reimbursements for Public Works and Fire. He stated at this point the Snow and Ice removal budget is \$27,382.78 over budget, but the FEMA reimbursement should cover that overage.

➤ ***Other items from Public Works***

Mr. Ford stated that on April 27th they will hold roadside clean up and anyone interested can pick up bags at the Public Works Garage. He announced street sweeping will begin this week.

➤ ***Building Maintenance Capital Update Report***

Mr. Owen stated that the replacement windows have been ordered and are scheduled for delivery on April 25th. The basement sump pump will be installed later this week and the ERV will be installed next week. The fire alarm project is complete. The Clock work will be done in May with a targeted completion date for Memorial Day weekend.

➤ ***Repeater project***

Mr. Owen stated that they are waiting on approval from the owners to amend the license agreement to include the installation of an emergency generator on the site and once that is received it will take 2-way Communications several days to install the equipment.

G. Capital Improvements Planning (CIP) Process Guidelines

Mr. Owen provided last year's guidelines and noted this is a yearly process.

The Board reviewed the guidelines.

Mrs. Murray amended bullet six to add that "new submittals need to be placed in out years". She also suggested limiting funding requests to one major building project per year.

H. Amendment to the Intermunicipal Agreement-Joint Milfoil Board of the Towns of Moultonborough, Tuftonboro, and Wolfeboro

Mr. Owen stated the Joint Milfoil Board has requested amending the agreement so that the DASH units can be used out of the three towns' waters in order to allow them the opportunity to gain some revenue by leasing out a DASH unit.

Mrs. Murray stated this amendment will allow them to gain \$5,000 in revenue for one of the DASH units they will not be using this season as they will rent it from May 6th to August 15th.

It was moved by Linda Murray and seconded by Dave Senecal to approve the following amendments to the Intermunicipal Agreement for the Provision of Aquatic Nuisance Plant Control between the Towns of Tuftonboro, Moultonborough, & Wolfeboro:

- 1) **Strike Section 4.3 in its entirety and insert in lieu thereof the following section: 4.3 Property: The Joint Board may not acquire real property but may acquire personal property. Any such personal property (hereinafter the "Property") used in this joint undertaking shall be acquired and held in the name of the Joint Board. The Property may be used within the Towns for the purposes established herein and consistent with a DES approved five year management plan for the treatment of the Nuisance. The Property may also be rented or leased to a third party to fulfill the purposes of the Agreement and, if used in waters outside of those established in the Agreement, whenever the Joint Board shall determine that it is in their best interests to do so as it will (a) generate income to fund the efforts of the Towns or (b) educate others on its cooperative program in combating the Nuisance. The Property shall be disposed of in accordance with the general laws of the State of New Hampshire and with the most stringent of the applicable votes, rules, regulations and By-Laws of the Towns. Upon disposition of the property the proceeds shall be deposited into the special revenue fund established herein.**
- 2) **Complete Agreement:**

This Amendment shall be considered to be a full and effective part of the original Agreement as if set forth in full and at length therein.

Members voted and being none opposed, the motion passed.

I. Ambulance Service Contract Update

Chief Morrill joined the Board.

Mr. Owen stated that, as stated at a previous meeting, the Ambulance Service contract is due to expire in December from a 5 year term. He noted the contract has gone smoothly with no complaints and he provided the statistics of such service noting an average of slightly more than one transport daily. He stated the Town currently contracts for two ambulances housed in Wolfeboro 24 hours per day, but do have access to a third ambulance that is contracted to Huggins Hospital. He compared Wolfeboro's current contract costs to the surrounding communities and compared to those Wolfeboro has received a favorable rate for two ambulances. He presented the Board with three options as follows: 1) waive the procurement policy and extend the contract with Stewart's Ambulance which has provided an offer of \$234,865 (a 13.6% increase); 2) put the services out for bid; and 3) negotiate a joint contract with the Town of Tuftonboro to split the two ambulances' costs.

Mr. Senecal stated he prefers to keep with the same services they have provided in the past as Wolfeboro needs access to two ambulances seeing they have the Hospital, two school systems, numerous nursing facilities, etc. He feels that they should enter into a new 5 year agreement with the current provider, Stewart's Ambulance.

Chief Morrill stated that he had an informal discussion with the Fire Chief of Tuftonboro on sharing the cost of ambulances, but noted that such would need approval by both towns. He also looked into the times they used two ambulances and 9.6% of the time they are using both ambulances at the same time.

Mrs. Murray agreed with Mr. Senecal's comments.

Mr. Bowers also agreed with Mr. Senecal's comments.

Mr. Harriman stated he also agrees with Mr. Senecal and based on the comparison they are getting a better deal by not sharing the services.

Chairman Silk agreed as well and by sharing with Tuftonboro they would add to the response time with is not a benefit for Wolfeboro residents.

Mrs. Murray stated they have had poor experience in the past taking the low bidder for ambulance service and feels they should waive the procurement policy.

It was moved by Linda Murray and seconded by Dave Bowers to waive the procurement policy for Ambulance Services for the Town of Wolfeboro and to direct the Town Manager to negotiate a contract with Stewart's Ambulance Service. Members voted and being none opposed, the motion passed.

Justin Van Etten, Chairman of Stewart's Ambulance, addressed the Board and thanked them for their consideration. He noted that with the new ownership of Stewart's they have had a great working relationship with the town and the owner of the former Lord's Ambulance and are looking to get a 24 hour ambulance housed in Wolfeboro for Huggins Hospital.

J. Board of Selectmen's Goals and Objectives for 2013-2014

The Board reviewed and revised the 2013-2014 goals and objectives.

K. Commendation for Janet B. Douglas

Chairman Silk stated that Janet B. Douglas has been recognized as the oldest citizen of Wolfeboro and will be presented with the Boston Post cane on April 30th at 2:00 PM at Mountain View Nursing Home.

Old Business

➤ HHHW

Chairman Silk noted that April 27th is the DEA Drug Take Back Day at the Public Safety Building from 10:00 AM to 2:00 PM for medication only.

Any Other Business

Mrs. Murray stated she received a call from Josh Arnold of GALA for permission to put a table at Town Hall and the Town Garage to hand out gloves, bags and vest for Town Clean Up day on April 27th from 9:00 AM to 12:00 PM. He also invited the volunteers to Cate Park for ice cream donated by Bailey's Bubble.

It was moved by Linda Murray and seconded by Dave Senecal to allow GALA to put tables up at Town Hall and the Town Garage on April 27th, 2013 and to have an ice social at Cate Park following the town clean-up day. Members voted and being none opposed, the motion passed.

Chairman Silk stated the Town of Tuftonboro's Selectmen will be at the Board's next meeting to discuss the issues with Lang Pond Road.

Town Manager's Report

Mr. Owen reported the following:

- Noted the Board received their invitations for the Mt. Washington's Shake Down Cruise on April 29th at 10:00 AM.
- The Lakes Region Planning Commission will be holding a meeting on April 29th at 6:00 PM at the Library.
- The Police Department has received two out of three of their new cruisers and those will be incorporated into the fleet soon.
- The bids were received for the new Fire Engine to replace Engine 1. One bid was received at \$401,500 less the \$25,000 trade in.
- He contacted Metrocast Cablevision regarding recently complaints of the screen freezing and was advised it was a system-wide problem and took some time to resolve.
- The Building Department's Codes forum will be April 30th at 8:30 AM.

Committee Reports

Dave Bowers stated he attended the Library meeting.

Linda Murray stated she attended the following:

- She provided copies of the Variable Milfoil Management Plan and stated the plan for the Milfoil Committee for 2013 is to use the suction harvesters from 6/3-6/18th and chemically will treat Back Bay on September 10th.
- She attended the Joint Milfoil Board meeting.
- She attended the EDC meeting and Zack Tartar is the new Chair with Denise Roy-Palmer as Vice-Chair.
- She attended the Emergency Operations Planning Committee meeting.
- She attended the Chamber of Commerce Board meeting and noted the annual member mingle will be April 24th and it is open to the public with a cost of \$25 per person.

Dave Senecal stated he attended the Budget Committee's reorganization meeting.

Chairman Silk stated the following:

- She attended the Emergency Operations Planning Committee meeting.
- She attended the Human Resources seminar regarding retirement.
- The Household Hazardous Product Facility will begin the season on May 18th and will continue to October on the 3rd Saturday of every month. The medicine collections will be in June and August.

Chamber of Commerce

None.

Public Comment

Bob Lemaire questioned the public/private partnership that was discussed during their goals review and if they could elaborate on that.

Chairman Silk replied that the Friends of Town Hall have been working towards raising funds as well as applying for grant funding.

Mr. Lemaire questioned the plans that were approved and if anything further had been done.

Chairman Silk replied no.

Mr. Bowers stated the Friends are working on private donations.

Mr. Lemaire stated he tried to join the Friends and was less than enthusiastically received. He stated the plans are based on a \$4 million dollar proposal that failed town vote and those price estimates will need to be revisited due to changes in the material costs and he would like to be part of that review.

Mr. Bowers stated if he toned down his rhetoric articles they probably would be happy to have him join.

Mr. Lemaire replied that Mr. Bowers is accusing him of things that are not true and his problem is he feels discussions on the matter are not being done in a public forum.

Chairman Silk replied that there have been no discussions on the Town Hall project because they have been busy working on a lot of other projects. She stated the project is in the same stage it has been in for several years, but no new plans have been discussed.

Mrs. Murray stated the Board voted on the concept plan for the first floor last year, but that is all that has been done.

Questions from the Press

None.

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

Member Dave Senecal moved the Wolfeboro Board of Selectmen to enter non-public session at 9:41 PM to discuss litigation and non-public minutes. Linda Murray seconded. Roll call vote: Dave Bowers-yes, Dave Senecal-yes, Sarah Silk-yes, Brad Harriman-yes and Linda Murray-yes, the motion passed.

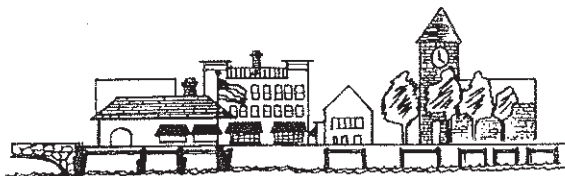
The Board re-entered public session at 10:21 PM.

Chairman Silk stated the non-public session minutes of April 17, 2013 were sealed by a 2/3rd's vote as required by law.

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

Member Dave Senecal moved the Wolfeboro Board of Selectmen to adjourn at 10:22 PM. Member Dave Bowers seconded. Being none opposed, the motion passed.

Respectfully submitted,
Amelia Capone-Muccio
Recording Secretary



*Town of
Wolfeboro*

Memorandum

Date: April 17, 2013
To: Board Of Selectmen
From: David W. Ford *DW Ford*
Subject: RIB Lawsuit – Status Report

I am writing this memo to inform the Board of Selectmen (BOS) of the latest activities and past history with regards to the Town of Wolfeboro's lawsuit against Wright-Pierce Engineers.

- 1- Wright-Pierce Engineers was selected by the Town of Wolfeboro (the "Town") through a Qualification Based process in the fall of 2005 to be the Town's Wastewater Engineer. Wright-Pierce Engineers task was; to address the Administrative Order, to study the ongoing wastewater effluent disposal problem, to evaluate the disposal options available to the Town, to provide recommendations as to the best disposal option available to the Town and to site, design and obtain a NHDES permit for the long term solution.
- 2- In total, the Town paid Wright-Pierce Engineers over \$2.2 Million from March of 2006 through 2010 for the study, design, permitting and engineering services required to design, permit and build the effluent disposal option recommended by Wright-Pierce Engineers, namely a rapid infiltration system ("RIB") at a site studied and warranted by Wright-Pierce Engineers to have a design capacity of an annual average of 600,000 gpd.
- 3- Having studied various disposal options, ultimately, Wright-Pierce Engineers recommended the use of a RIB system as the preferred method to dispose of the Town's treated wastewater effluent. Wright-Pierce Engineers also investigated and identified a site for the RIB system (the "RIB Site") and also identified a design capacity of 600,000gpd for the RIB Site. On multiple occasions, Wright-Pierce Engineers represented to the Town that the RIB Site could dispose of an annual average of 600,000 gallons per day (gpd) of treated effluent.
- 4- On March 3, 2009 the construction of the RIB at the RIB Site was completed and the Town began operating the RIB system. In March of 2009 the Town discharged an average flow of 586,000 gpd of treated wastewater effluent in accordance with the NHDES Groundwater Permit and with full knowledge and guidance from Wright-Pierce Engineers. However, as a result of an error in the flow recording



(discovered months after this time), the actual flow could have been lower than an average of 500,000 gpd.

- 5- On April 20, 2009 the Town was notified by its Contract Operator that a slope failure had occurred down-slope of the RIBs and that groundwater was breaking out. Discharge flows to the RIBs were reduced by the Town to just under 260,000 gpd average over the next 3 months. Wright-Pierce Engineers were immediately notified by the Town as was NHDES. This "Unexpected Issue" was followed by another significant event on June 6, 2009, in which a sink hole developed and soil migrated out of the hill and filled over 1,600 square feet of wetlands.
- 6- In August of 2009 the Town with the assistance of Wright-Pierce Engineers responded with the submission of a detailed "Action Plan" to NHDES, which included additional sampling and testing, construction of RIB's 4 & 5; reduced discharge flows to the RIBs, resurrecting the spray irrigation system and a commitment to mitigating impacts of these "Unexpected Issues".
- 7- The Town continued to retain Wright-Pierce Engineers as its Wastewater Engineer and paid them an additional \$91,000 (April of 2009 through 2011) to analyze the "Unexpected Issues" and to find a solution that would allow the Town to use the RIB Site at the design capacity recommended by Wright-Pierce Engineers.
- 8- In the summer of 2009, Town staff and the Board of Selectmen ("BOS") began to have concerns about the standard and quality of the engineering performed by Wright-Pierce Engineers in identifying the RIB Site and in arriving at the design capacity warranted by Wright-Pierce Engineers for the RIB Site. In short, Town staff and the BOS began to believe that Wright-Pierce Engineers' negligent engineering was the cause of the "Unexpected Issues". However, the Town continued to work with Wright-Pierce Engineers and used their services to design and permit RIBs 4 & 5, with the hope that these additional RIB basins would resolve the "Unexpected Issues" at the RIB Site.
- 9- RIB discharge flows were increased in 2010 with RIBs 4 & 5 coming on line in June. However, late in August of 2010, it was observed and reported to NHDES that soil had migrated from the western and central groundwater discharge areas and reached 19 Mile Brook. In early September an emergency Wetland Permit was obtained to remove the migrated soil from the brook and install "Sand Traps" to collect migrating soil in the future.
- 10- In September of 2010, staff and the BOS became increasingly concerned about the long term fate of the RIB Site. These concerns and the need to protect the Town's legal right to take action against Wright-Pierce Engineers in the future, if an amicable resolution to the performance of the RIB Site could not be agreed upon, lead the BOS to hire an experienced law firm. In the fall of 2010, the Town interviewed 3 law firms and based on qualifications, experience and the interview process, selected Hinckley, Allen & Snyder ("HAS") to represent the Town in its dispute with Wright-Pierce Engineers. Shortly thereafter Wright-Pierce Engineers was officially placed on notice that the Town considered its engineering to be defective and asked to place its insurers on notice of claims of negligence and for damages asserted by the Town against Wright-Pierce Engineers. While Wright-

Pierce Engineers was told that the Town was protecting its legal rights, the Town also expressly advised Wright-Pierce Engineers that it wanted to continue to work with Wright-Pierce Engineers to find a long term solution.

- 11- In 2011 the Town working with Wright-Pierce Engineers contracted with SWCole, a geotechnical engineering firm, to perform a Hydrogeological and Geotechnical investigation of the RIB Site. As part of the on-going effort by the Town and Wright-Pierce Engineers to work together to remedy the situation, it was agreed that the Town and Wright-Pierce Engineers would evenly split the cost of SWCole's services.
- 12- The report ultimately produced by SWCole concluded that the RIB Site had inherent physical constraints and that the capacity of the RIB Site was no more than 340,000 gallons/day, based on an annual average. It should be noted that SWCole's analysis was based on the RIB Site's condition prior to the initial loading and subsequent "Unexpected Issues". In short, SWCole's report confirms that Wright-Pierce Engineers' original analysis of the RIB Site was flawed and that the RIB Site could never dispose of the design capacity identified by Wright-Pierce Engineers (600,000 gpd).
- 13- The SWCole report provided few details regarding the possible remediation of the RIB Site. In addition, Wright-Pierce has provided only conceptual ideas of how the RIB Site could be modified and operated as originally recommended. The SWCole report was submitted to NHDES on December 2, 2011.
- 14- The Town and Wright-Pierce Engineers held meetings with NHDES on December 8, 2011 and January 10, 2012 and were told, in no uncertain terms, that Wright-Pierce Engineers' conceptual ideas to remediate the "Unexpected Issues" could not be permitted as verbally presented. It should be noted that after numerous request for a detail plan for remediation, the only document received by the Town in addition to the SW Cole report was a vague e-mail from Peter Atherton explaining his conceptual ideas and cost figures, asking the Town to fund this concept.
- 15- Following these meetings, Town staff met with the BOS and HAS to discuss the RIB situation and to identify the legal courses of action available to the Town. At this point, the Town had been working with Wright-Pierce Engineers for 34 months in an attempt to mitigate the damages caused by Wright-Pierce Engineers' defective and negligent design. The Town was becoming increasingly frustrated with the lack of progress and Wright-Pierce Engineers' refusal to accept responsibility for the failure of the RIB system. At that time, Wright-Pierce Engineers' offer to the Town was to provide engineering services without pay, but expected the Town to pay for all out-of-pocket expenses and for all construction costs. At this time, Wright-Pierce was continuing to push for a settlement that protected their reputation and pocket book, but left the Town responsible for funding future RIB Site remediation costs and for the risk of a long term solution to the Town's treated effluent needs. At this time the BOS decided not to continue to pay Wright-Pierce Engineers for additional engineering services and to file a legal complaint against them. The Town working through its attorney, HAS, retained Fuss & O'Neill as the initial Expert Witness, to review all project information and

- provide their opinion on the merits of our case. At a later date, Mr. Jean Benoit, Ph. D and Professor in Civil Engineering at the University of New Hampshire with a specialization in geotechnical engineering was added to the expert witness team.
- 16- On April 2, 2012 the Town filed a lawsuit against Wright-Pierce Engineers alleging among other things Negligence and a Breach of Contract arising for their failure to take into consideration site conditions that were patently evident during the study and design phase of the RIB project. The Town's Complaint further alleges that Wright-Pierce Engineers' omissions have significantly damaged the Town in amounts to be proven at trial.
 - 17- The Town filed its Initial Expert Report on October 19, 2012. In this report the Town Expert Engineer states, "As a result of Wright-Pierce's negligence and failure to meet the professional standards of care, the Town of Wolfeboro has (and continues to) suffered damages in excess of \$10.3 million."
 - 18- Wright-Pierce Engineers filed their Expert Reports on December 19, of 2012.
 - 19- The first sets of Interrogatories were exchanged between Wright-Pierce Engineers and the Town in January of 2013 as well as requests for production of documents.
 - 20- Additional Expert Reports were filed by the Town in February of 2013.
 - 21- The Town responded to the first set of Interrogatories on February 12, 2013 and Wright-Pierce Engineers has responded to our first set of Interrogatories on March 26, 2013.
 - 22- HAS has been and continues in the process of discovery, reviewing documents (hard copies and electronic) and preparing for depositions.
 - 23- The next step in the legal process is to schedule depositions.
 - 24- Wright-Pierce Engineers has made request for mediation, however, while they acknowledge their design was deficient, they contend the Town has not been significantly damaged and have brought nothing to the table to mediate. Wright-Pierce Engineers continues to contend that the RIB Site can be remediated. However, they have no plans, calculations, nor specification to show how it could be done, and more importantly cannot show how it could be permitted. HAS has repeatedly asked Wright-Pierce Engineers, through their lawyers to present a meaningful detailed plan for the RIB Site and for the Town's long term effluent disposal needs for the Town/BOS to consider as part of Wright-Pierce Engineers' request for mediation. To date nothing has been forthcoming and HAS believe that it is highly unlikely that any meaningful plan will be presented by Wright-Pierce Engineers.
 - 25- The discovery phase of this case will continue through the summer. A trial date will probably be scheduled by the end of this year. The Town is committed to resolving this matter at trial in order to recover from Wright-Pierce Engineers the damages sustained by the Town as a result of Wright-Pierce Engineer's negligence.
 - 26- The Town was granted a reduced flow Groundwater Permit for the RIB Site. However, that will expire in July of 2017. The Groundwater Permit could be modified or withdrawn at any time by NHDES, because of the problems associated with Wright-Pierce Engineers' deficient design and subsequent "Unexpected Issues".

- 27- The Town continues to be proactive with its operation of the RIB Site and provides regular updates to NHDES on its operation; however, even with reduced discharge flows, the RIB Site continues to show signs of distress. Following the first years of operation, Wright-Pierce Engineers, NHDES and the Town had hoped the RIB Site would heal itself; however, that is not occurring.
- 28- The average RIB discharge since the beginning of 2013 is below 280,000 gallons/day. The effluent storage pond is currently at 36 million gallons and our treated effluent flow is averaging around 260,000 gpd. Based on these numbers Town staff have decided to further reduce discharge flows to the RIBs in an effort to mitigate impacts from the "Unexpected Issues" and see if lowered discharge flows can be sustained without damage to the site. The Town upgraded the Spray Irrigation site in 2012 and discharged almost 30 million gallons and will do so again this year. This, along with the Town's effort to reduce infiltration into the sewer system and a few dry years, has allowed the Town the ability to reduce flows to the RIB system.
- 29- The Town has been forced to look at other long term solutions for the disposal of its treated effluent as it no longer has any confidence in the Wright-Pierce Engineers RIB design and its ability serve in a substantial way as the long term solution.
- 30- Legal costs are just over \$400,000 and tracking within our budget for 2013.

YR	Art #	Project	Budget	Spent	Encumbered	Balance	Comments
2007	7	WWTP - RIB/Clean up/Facility plan #07-57400.100	\$ 6,368,000	\$ 6,338,568	\$ 2,500	\$ 26,932	RIBs have been running on average about 245,000 gpd this year, even with these lower flows, still experiencing concerns with "Unexpected Issues" NHDDES has issued a GW Permit for 340,000, however, Town Staff has been discharging less than allowed because of concerns

YR	Art #	Project	Budget	Spent	Encumbered	Balance	Comments
2010	11	Center Street Drainage #01-57700-115	\$ 600,000.00	\$ 600,000		\$ -	Project is complete.
2010	12	Water Line Upgrades #08-57700-100	\$ 600,000.00	\$ 603,288	\$ -	\$ 96,712	Project under Lyman Contract is complete, balance for Line from Cropley Hill to Center St
2010	24	Rt 28 Study #01-57700-150	\$ 99,000.00	\$ 81,037	\$ 14,239	\$ 3,724	Steering Committee, screened segment 5 alternatives, BOS approved recommendation, Stantec submitted report to NHDOT. Need to Set up field trip to view Round-a-Bouts, then steering committee will screen alternatives for segment 4.

YR	Art #	Project	Budget	Spent	Encumbered	Balance	Comments
2011	17	Upgrade Parking lots to ADA standards #01-57750-100	\$ 150,000.00	\$ 141,444		\$ 8,556.23	Balance for repairs and modifications.
2011	22	Sidewalk Upgrades - Downtown Core #01-57700-150	\$ 100,000.00	\$ 98,236	\$ -	\$ 1,764.50	Balance for repairs and modifications.
2011	24	Design of Pine Street/Crescent Lake Ave #01-57750-170	\$ 95,000.00	\$ 9,897	\$ 21,348	\$ 63,955.00	Stantec Consultant - Topo and Boundary survey completed, preliminary engineering completed, waiting for town review. Need to schedule a neighborhood meeting.

YR	Art #	Project	Budget	Spent	Encumbered	Balance	Comments
2012	13	Wastewater Facility Upgrades 4-57760-100	\$ 180,000	\$ 115,028	\$ 16,497	\$ 48,475	Spray System Upgrade Complete. HVAC system installed and running well
2012	14	Downtown Streets Upgrade - Phase 3 1-57760-115	\$ 750,000	\$ 659,357	\$ 389	\$ 90,253	Balance for building restoration The reduced scope project is Substantially complete. Balance of funds to be used for Engineering and drainage upgrades at Lehnner/Center St and drainage swale behind Foss Field
2012	16	Water Meter Upgrades 2-57760-100	\$ 500,000	\$ 32,266	\$ 23,923	\$ 443,811	NHDDES approved Grant. Underwood Engineers issued Bid Documents. System & Software performing upgrade Sole source- negotiated price on Meters/AMR-Software. Installation Bids Due 4-17-13
2012	21	Upgrade Town Roads 1-57760-135	\$ 550,000	\$ 483,699	\$ 3,418	\$ 62,884	Balance for Cross Road, wetland permitting and Drain Improvements
2012	24	Drinking Water Treatment Facility Chemical Feed 2-57760-110	\$ 120,000	\$ 103,682	\$ 3,000	\$ 13,318	Chemical Feed System complete and running, additional electrical upgrades being worked on.
2012	25	Drinking Water Treatment Plant Energy Efficiency Upgrades 2-57760-115	\$ 150,000	\$ 150,000		\$ (0)	Project Complete - Working on warranty issue with roofing contractor
2012	Cap Outlay	WTP- Alum Bulk Tank Replacement Alum Sludge Removal	\$ 40,000	\$ 40,000	\$ -	\$ -	Staff working with Contractor successfully replaced the aging 2,000 gallon fiberglass bulk storage tank and saved enough money to remove 16 years worth of dried alum sludge to the Turnkey landfill

April 12, 2013

YR	Art #	Project	Budget	Spent	Encumbered	Balance	Comments
2013	5	Center Street Reconstruction 01-57770-100	\$ 2,100,000		\$ 105,809	\$ 1,994,191	PO issued to Startec for Engineering Scope of work approved by NHDOT. Construction no earlier than 2014, depending on NHDOT funding. Will meet with Stakeholders on design issues this Spring. Construction no earlier than 2014, depending on NHDOT funding.
2013	6	Sewer Collection Upgrades	\$ 400,000		\$ 84,400	\$ 315,600	PO issued to Underwood Engineers for If evaluations. Ted Barry w/ Town Staff has completed 40 hours of sewer cleaning & assessment.
2013	7	PW Facility Upgrades 04-57770-100	\$ 400,000		\$ 91,479	\$ 308,521	Waiting for report, next phase will be spot repairs and defining Pilot Study area for Private If remediation.
2013	10	Town Road Upgrades 01-57770-120	\$ 600,000			\$ 600,000	PO issued to Rotary Lift for new equipment, staff working with vendor, will demo old lift, prep site and sub out electrical.
2013	11	Middleton Road - Design 01-57770-125	\$ 150,000		\$ 30,000	\$ 120,000	Fuel Dispensing Units - working with consultant on permitting. Final location on hold until Garage Fire settlement reached.
2013	12	Town Hall Parking Lot Upgrades to ADA Stds. 01-57770-130	\$ 100,000			\$ 100,000	Town Staff preparing bids for Cotton Valley Road, Percy Drive and Interlakes Way Overlays. Fork Hill Road and Stoneham Road Rebuilds.
2013	15	Libby Museum Building Study 01-57770-135	\$ 40,000		\$ 11,000	\$ 29,000	Additional Road work to go out to bid includes Chip Seal- Guard Rails and Crack Sealing.
2013	15	Library HVAC Upgrades	\$ 60,000			\$ 60,000	Issued PO to Underwood Engineers. Walked road with Engineer and surveyor. Survey work to begin shortly. Construction schedule ???
2013	16	Highway & Solid Waste Capital Reserve 01-57770-140	\$ 460,000	66,715.00	350,084.00	\$ 43,201	Staff has received original 2007 Topo survey from Doucet Survey. Need to select consultant for design. Need to coordinate future TH upgrades. Need to locate and size upgraded water, sewer and electrical lines to building prior to paving. Earliest construction schedule will be in Fall.
							Met w/ Meridian Survey and issued PO to them for laser surey of building and development of building plans. Staff met w/ Friends of Libby and in process of preparing RFP for Architect.
							Met w/ AEC and contractor on replacement system (Air Supplied Heat Pumps) and quoted \$150k.
							Met w/ Stogens HVAC Service and discussed replacement of numatic controllers, valves and dampers. Meeting w/ controls company on 4-17-13.
							Anticipate a sole source contract with Stogens to be lowest capital costs to repair and be within authorized budget.
							NOTE: 2013 Appropriation of \$180,000 to go into Capital Reserve Account, with a proposed Budget Expenditure of \$460,000.
							See summary below for actual cost vs. budget

Highway Capital Reserve - 2013 Actual Purchase vs Budget

Unit	Budget	Actual Costs	Comments
HD-20	\$ 200,000	\$ 192,946	MacK Truck ordered (\$125,125) Trade HD-20 for \$7,500, add \$6,000 for 6 yr extended warranty + \$69,321 for Truck set up (Dump Body/Plow Grear)
HD-18	\$ 25,000	\$ 25,000	Dodge Pick up on Order. \$2k allowance for lights and radio
HD-14	\$ 150,000	\$ 135,641	Trackless MT-8 (low qualified bid at \$143,391) Trade in Hilder for \$9,700
H-Baler	\$ 85,000	\$ 86,715	Atlantic Recycling Equipment received bid on Bailer, working w/ Staff on building modifications (\$20k not yet encumbered)
	\$ 460,000	\$ 440,302	

Other Projects

Cap Outlay	Water System Asset Management Project	\$ 30,000	\$ 30,000	\$ -	Scope of work approved by NHDES, issued PO to Underwood Engineers. Note: Received \$15,000 grant to fund 50% of Project.
	Leak Detection of Water System				Work to start later this month.
	Water Main Cleaning	\$ 11,000		\$ 11,000	Town staff applied and received 100% funding on water system leak detection project.
	Anaigance & Canopache				Contractor is m2 Services goup, selected and paid for by State, work to start this summer.
Cap Outlay	Purchase PW Service Truck	\$ 35,000	\$ 30,336	\$ 4,664	Staff working with Utility Services on Sole Source of Ice Piling. Staff will Extend water line and install new Hydrant Work scheduled for May.
					Dodge 2500 on order, trade HD-18 (\$1,500). Balance for Truck set up (equipment, lights, radio)