

**Wolfeboro Board of Selectmen  
Meeting Minutes  
Unapproved  
December 4, 2013**

**Members present:** Chairman Sarah Silk, Vice-Chairman Linda Murray, Dave Senecal, Dave Bowers and Brad Harriman.

**Members absent:** None.

**Staff present:** Town Manager David W. Owen, Police Chief Stu Chase, Police Lieutenant Dean Rondeau, and Recording Secretary Amelia Capone-Muccio.

Chairman Silk opened the meeting at 6:30 PM.

**Non-Public Session**

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

**Consideration of Minutes**

➤ **11/20/13**

Chairman Silk amended page four, the fifth paragraph, to add the following to the sentence “within subdivisions as they have had many issues come before the Board”. She amended paragraph eight on the same page to add “else” after the word “to”. She amended page six, fourth paragraph from the bottom to correct \$700,000 to \$720,000. She amended page eight, the second paragraph from the bottom to delete the word “other” from the second sentence and to add “the Board discussed non-performance of work and how to address such better going forward”. She amended page ten, line under O, to add “noted” after Silk.

Mrs. Murray amended section E starting on page seven to put subtitles above each Capital Project Review for Public Works, Parks & Recreation and Town Hall.

Mr. Harriman amended page ten, the second motion from the bottom to change “all” to “none”.

**Member Dave Bowers moved the Wolfeboro Board of Selectmen to approve the minutes of November 20th, 2013 as amended. Brad Harriman seconded. Members voted, and being all in favor, the motion passed.**

**Public Input**

None.

**Bulk Vote**

**A. Weekly Manifests:**

1. Manifest dated November 29, 2013
2. Manifest dated December 6, 2013

**B. Tax Abatements/ Refunds**

- i. 38 Stonehenge Road Tax Map 260, Lot 6
- ii. 98 North Main St Tax Map 217, Lot 192
- iii. Mill Street Tax Map 217, Lot 24

**C. Property Tax Credits/ Exemptions**

- i. 6 Granite Lane Tax Map 177, Lot 10-25
- ii. 12 Middleton Rd Tax Map 260, Lot 75
- iii. 11 Worcester Island Rd Tax Map 259, Lot 5
- iv. 108 Varney Rd Tax Map 189 Lot 4
- v. 18 Kenyann Dr Tax Map 177, Lot 10-73

**D. Notices of Intent to Cut Wood or Timber**

- i. Center Street (Route 28) Tax Map 102, Lot 6
- ii. Trotting Track Rd Tax Map 147, Lot 4

**E. Tax Collector's Warrants-Current Use Land Use Change Tax**

- i. \$4,350
- ii. \$3,500

**It was moved by Linda Murray for the Wolfeboro Board of Selectmen to remove item E, ii from the Bulk Vote and vote on it separately. Dave Bowers seconded. Members voted and all in favor, the motion passed.**

**It was moved by Dave Senecal for the Wolfeboro Board of Selectmen to approve the Bulk Vote items as submitted (excluding E, ii as it was removed). Linda Murray seconded. Members voted and being none opposed, the motion passed.**

**It was moved by Sarah Silk for the Wolfeboro Board of Selectmen to approve item E, ii in the Bulk Vote. Dave Senecal seconded. Members voted, Linda Murray-abstained and all others in favor, the motion passed.**

**New Business**

**A. Use of Cate Park for a wedding.**

Katherine Clark and Mark Galuzewski addressed the Board to request to hold their wedding in Cate Park on September 20, 2014 at 1:00 PM. She stated they plan to have 150-175 people attend the event, will hire a company to put out chairs and take them up as well use the Wolfeboro Trolley Co. for transportation to the event.

Chairman Silk reminded them that the park will not be closed to the public during the event.

**It was moved by Sarah Silk for the Wolfeboro Board of Selectmen to approve the request of Katherine Clark and Mark Galuzewski to use Cate Park and the Wolfeboro Community Bandstand for their wedding on September 20, 2014 from 12:00 noon-3:00 PM, subject to promptly removing all rented equipment and cleaning up after the event. Brad Harriman seconded. Members voted being none opposed, the motion passed.**

#### **B. Boat Agent Agreement for 2014.**

Mr. Owen stated this is an annual renewal to designate Goodhue Hawkins Navy Yard as Boat Agent for the Town of Wolfeboro.

Chairman Silk thanked them for doing such service and noted the Town Clerk's office is also a Boat Agent of the Town.

Mrs. Murray agreed Goodhue Hawkins stepped up to the plate when the Town did not have anyone to register the boats and thanked them for their continued service.

**It was moved by Linda Murray and seconded by Dave Senecal for the Wolfeboro Board of Selectmen to approve and sign the Boat Agent Agreement for 2014 with Goodhue Hawkins Navy Yard. Members voted and being none opposed, the motion passed.**

#### **C. Compensation of Police Chief and Police Lieutenant**

Ron Goodgame, Chairman of the Wolfeboro Police Commission, addressed the Board and stated the following:

He understands the Board has been briefed by Selectmen Senecal and the Town Manager Dave Owen as to why they are before them, to see if the Board will allow an adjustment to the Police Department's 2014 proposed budget salaries line in the amount of \$1,700 (a little less than \$900 for the Chief and a little less than \$800 for the Lieutenant), the Chief can provide the exact figures.

He went on to explain that this is the issue that came before the Commission after they had authorized the proposed budget and salaries to the Town Manager, this Board and the Budget Committee. He stated last week they brought this issue to the Budget Committee who has deferred it to the Board of Selectmen. The Budget Committee has scheduled them to come back to a meeting on December 12<sup>th</sup> to discuss the Board's recommendation on the \$1,700 request by the Police Commission as presented this evening. He stated that Mr. Senecal (Board's representative for the Budget Committee) asked "why are they just learning about this now?" Such is a good question and fair to ask. He explained the Commission moved in raising the matter as quickly as they could when the problem was discovered and gave a brief timeline of how the request to amend the salaries line came about:

- A few days before November 2, 2013, the Town Manager advised the Commission that the Board of Selectmen has approved a 2% increase for all non-union Town personnel. Union personnel had already been covered by the collective bargaining agreements for 2014 and this was true with regard to Union Police personnel.
- We were also told that the budgets for Police, Dispatch and Animal Control were due the following week.

- The Commission, in order to accommodate that deadline met in a special Non-Public meeting on Saturday, November 2<sup>nd</sup>, at which time we resolved to accept the 2% for non-union personnel including the Chief and the Lieutenant who are not union members.
- Shortly thereafter, upon learning of our action, both the Chief and the Lieutenant expressed their displeasure with our action as it pertained to them. They told the Commission they had Memorandums of Understanding (copies of which the Board should have) with the Town by the then seated Commission in 2006 which gave them not less than what the Police Union members were receiving under their Collective Bargaining Agreement from 2012 for fiscal years 2013 and 2014 and in essence told us they had “favored nations” clauses. It is noted that these MOU’s were entered into upon the hiring of Chief Chase and the promotion of the Lieutenant.
- The Chief and the Lieutenant told the Commission that their MOU’s “state(s) we receive the same adjustments that the union personnel are granted”.
- On November 8, 2012, the Commission for the year 2013 granted a 2% salary increase per the BOS recommendation to the Chief and the Lieutenant and despite the fact that the Union was getting about a 3.5% step increase. I don’t recall the Chief and the Lieutenant expressing grave dissatisfaction.
- However, and now for 2014, the Chief and the Lieutenant have balked and expressed dissatisfaction with again being limited to a 2% increase.
- It is noted that without a “favored nation’s” clause in their MOU’s, if the Union members were to continue to get raises above and beyond the Chief and the Lieutenant, they would eventually surpass the Chief and the Lieutenant in pay. Now, that wouldn’t be something anyone would agree was fair, right or just.
- On November 21<sup>st</sup>, the Police Commission met in Non-Public session and the Commission was given a copy of the MOU’s and on the morning of November 22<sup>nd</sup>, those copies were delivered by Mr. Balboni to the Town Manager with our concern as to whether the Chief or the Lieutenant could sue the Town for the difference between the 2% and the step 3.5%.
- The Town Manager rightfully sent the MOU’s to Town Labor Counsel for review who expressed an opinion (which the Board has a copy of) that the MOU’s did not require the Chief and the Lieutenant be given the “COLA adjustments negotiated by the Union” and pointed out that the Union was not in existence at the time in 2006.
- In fairness to the Chief and the Lieutenant we can see from the language of the MOU’s how it came to pass that they thought they had a “favored nation’s” clause that would, during their careers in Wolfeboro, give them annual increases consistent with at least the rank and file under their command. The language used was clearly an attempt to meet with their intent and come up with appropriate wording to treat the Chief and the Lieutenant with annual salary increases at least as well as any other Town employee. Neither the Chief nor the Lieutenant were represented by Counsel and apparently thought the MOU language carried out their intent and that the Town’s intent was consistent therewith.
- Prior to November 22<sup>nd</sup>, none of the current Commissioner’s had seen the MOU’s.
- It is the Commission’s belief that the right thing to do is for the Board of Selectmen to amend the Police Department’s proposed 2014 budget to grant the Chief and the Lieutenant what amounts to an additional 1.5% COLA or roughly \$900 to the Chief and roughly \$800 to the Lieutenant for fiscal year 2014. We respectfully request that such

amendment be forwarded to the Budget Committee with your recommendations as well as the Police Commission that they approve the same.

- We would also request that you direct the MOU's be appropriately amended with the Town Manager's assistance to reflect the intent of the parties especially in light of "after events" such as the Union coming into existence.

Chief Chase addressed the Board and stated the following:

He would like to briefly explain the history and spirit of his and the Lieutenant's "Memorandums of Understanding" or "MOU's" that have governed the terms of their employment since he was hired as a Lieutenant in 2005. He explained his MOU (for Lieutenant) was created in a telephone conference call between the owner of MRI consulting, the then Wolfeboro Police Commission and himself in the spring of 2005. At the time he was living in Strafford NH and had only met the Wolfeboro Police Commission during the assessment and selection phase. He had had a couple of prior contacts with some of the MRI staff and had no experience with negotiating an instrument of this type, particularly by telephone. He stated he essentially knew no one and had no representative or bargaining agent during the conference call. He relied on his experience, albeit out of state, in contract negotiating during this process.

When the question of cost of living increases came up in that conference call, he suggested that he would consider it reasonable to receive the same compensation as the regular, full time employees of the Police Department and that was agreed to by the Police Commission during that call. The Board will remember there was no union at that time.

He explained that clearly, when looking at paragraph 6, section b, of the MOU - that salient point - "full time employees of the police department" - never appeared in the final product prepared by MRI either in the Lieutenant's position MOU or the Chief's MOU, which had kind of "morphed" from the original and developed by a Commission with two new members and yes, he did sign both.

He explained the intent of that language was understood and accepted by him, his lieutenant (who by the way has more definitive language in his MOU than his) and the Police Commission, and even as changes in the Police Commission occurred over the next eight-plus years.

He noted that several years ago, the Town awarded a 2-3% cola to town employees. The then, police commission granted a 1% stipend not attributable to the base, to the police officers. This was acknowledged by him that the intended language of the MOU governed that our cola would be the same as the full time employees of the Police Department in spite of whatever award the Board of Selectmen provided other town employees. The current Police Commission is comprised of two respected attorneys and a successful business man with many years of experience in labor negotiations and we all agree that our MOU's are vague, porous and need precise language and is something we will be working on next spring. Lastly he stated this is not about a 1% cola not received several years ago; rather, he wanted the opportunity to explain to the Board the history behind the creation of these MOU's, the spirit and intent which governed their crafting and the Commission's past practice in interpreting that intent when awarding cost of living adjustments. He respectfully asked the Board to consider this during their deliberation. Thank you.

Mr. Owen stated he has great respect for the Chief and the Lieutenant and the job they do for the Town and his opinion of the matter is not personal. He explained the MOU's were adopted in 2006, and there was no Union at that time and as Town Labor Counsel's opinion states they are not entitled to what the Union staff received. He explained that the Union negotiated their wages and in turn essentially "gave something up" in exchange for those adjustments. He explained that non-union staff doesn't give up anything and therefore the same cannot apply to them.

Mr. Senecal stated in reading the Lieutenant's MOU, in section 5 a: it states a maximum base pay which the Lieutenant has currently surpassed and, in his mind, the Lieutenant owes the town money. He stated based on his review of the MOU's he is not in favor of providing an increase in their salaries.

Mrs. Murray stated that in 2005 the voters reaffirmed to have a Police Commission that governs the Police Department and under their powers they have the right to fix salaries and compensation and she feels this is up to the Police Commission to do within their budget what they think is best. She noted that she feels the MOU's need some updating to be clearer, but this issue is something the Commissioners need to decide and present to the Budget Committee.

Mr. Harriman agreed with Mrs. Murray, this falls under the Police Commission's realm of duty.

Mr. Bowers stated he respects the Police Department and suggest the Police Commission look into making these MOU's clearer and agreed the Police Commission has the right to make such recommendations.

Chairman Silk stated she has been on the Board since 1995 and has never received an increase and agrees with the concept of those who make less get more of an increase. She stated however, this matter falls under the duties of the Police Commission who by RSA have the right to set pay.

Mrs. Murray noted that the Board asked for a 0% increase in discretionary spending and noted the Police Department worked hard to provide a streamlined budget within that request.

**It was moved by Sarah Silk and seconded by Linda Murray for the Wolfeboro Board of Selectmen to support the decision of the Wolfeboro Police Commission in setting the salary of the Wolfeboro Police Chief and Wolfeboro Police Lieutenant. Members voted and being none opposed, the motion passed.**

#### **D. Lease Agreement with Huggins Hospital**

Mr. Owen stated that Huggins Hospital has agreed to provide temporary office space for the Town Hall staff during the renovations of Brewster Memorial Hall in an unused wing of the Hospital and the terms of the agreement are the same as proposed in 2011.

Chairman Silk questioned if the Town Attorney has reviewed the agreement.

Mr. Owen replied no as nothing has changed from the last agreement except the date.

Mrs. Murray noted that this is contingent upon the vote in 2014 for renovations of the Town Hall.

**It was moved by Linda Murray and seconded by Dave Bowers for the Wolfeboro Board of Selectmen to approve and sign the Lease and Occupancy Agreement between Huggins Hospital and the Town of Wolfeboro. Members voted and being none opposed, the motion passed.**

#### **E. Warrant Article Review-continued**

The Board reviewed the following Warrant Articles:

##### **A. Middleton Road Construction \$1,350,000**

Mrs. Murray questioned if the \$5,085 in interest for the \$450,000.

Mr. Owen replied it is.

##### **C. Reduced Scope Renovation of Wolfeboro Town Hall \$4,000,000**

Chairman Silk questioned the language amendment by Town Attorney as it seems to say the same thing twice.

Mr. Owen replied that is what Town Counsel recommended for language.

##### **D. Winnepesaukee Drive Reconstruction \$1,122,000**

Mr. Owen stated the Board has received advice from Town Counsel with regards to the additional petitions received on the layout of Winnepesaukee Drive and Town Counsel recommends the Board not layout the road without betterment assessments as requested by the third petition. He also stated it is not recommended to schedule a public hearing with regards to laying out the road as the Board has already determined they wanted to lay the road out.

Mrs. Murray agreed the developer's non-performance should not be a burden to the taxpayers.

Chairman Silk clarified for the public's information they town has received three petitions; one to conditionally layout the road with betterment assessments on the property owner's, one not to conditionally layout the road subject to betterment assessments, and one to conditionally layout the road without betterment assessments.

Robert Enos of Winnepesaukee Drive addressed the Board and stated he would like their position recorded for the record. (See attached) He stated they are appealing to the Board to not arbitrarily make a decision about the language and that they are trying to help themselves address a problem in good faith.

Chairman Silk referred to the book put out by the Local Government Center called "A Hard Road to Travel" that reinforces the Town Attorney's opinion, noting the developer does own the majority of the lots. She explained that if conditions change they can re-petition.

Mr. Enos questioned if the Board would be seeking a second legal opinion.

Chairman Silk replied no, the Board follow their Town Attorney's advice as he is who represents them in legal matters.

Mr. Senecal stated that he understands their concern, but the Board sends out legal matters to the Town Attorney for review as he is the one who would be defending the opinion and even if they don't agree they have to depend on the Town Attorney for direction.

Tom Machachonis questioned who owns the RSA's and if a question arises can they seek an opinion of the Attorney General.

Mrs. Murray stated she does not understand why the developer would not take advantage of this proposal, but she has to agree with Mr. Senecal they rely on the Town Attorney for advice and direction.

Mr. Bowers stated he supports the residents and has no opposition to doing this project and suggested maybe they just have the road reconstruction done not in the developer's portion.

John Russell addressed the Board and asked them to define "majority".

Chairman Silk replied the Town Attorney is interpreting it as the number of lot owners.

Mr. Enos requested a copy of the Town Attorney's opinion as they need to figure out what they are going to do next. He stated he respects, understands and appreciates their support but feels the Town Attorney is putting them in a bad position. He requested the Board to table their decision and ask the Town Attorney to respond to their rebuttal.

Chairman Silk asked the Board if they wish to release the Town Attorney's opinion. The Board agreed to release the Town Attorney opinion (e-mail) dated December 3, 2013. Mr. Owen provided him with his copy of such opinion.

Leo Berma addressed the Board and questioned what happened to the second petition filed by B & H Development.

Mr. Owen replied the Board has taken the position not to schedule a public hearing.

**It was moved by Dave Senecal and seconded by Linda Murray to accept the Petition Not to Conditionally Lay out Winnepesaukee Estates Subdivision's Roads subject to betterment assessments (RSA 231:28). Members voted and being none opposed, the motion passed.**

**It was moved by Dave Senecal and seconded by Linda Murray to not accept the Petition Not for Conditional Road Lay Out of Those Roads in the Winnepesaukee Estates Subdivision in Wolfeboro without betterment assessments (RSA 231:8). Members voted and being none opposed, the motion passed.**

#### **E. DPW Facilities Upgrade \$160,000**



Mr. Harriman questioned why they wouldn't do this as part of the tax levy vs. bonding it over time.

Mr. Owen replied every \$100,000 is a nickel on the tax rate, and the balance of the project was bonded while the Capital Reserves are built into the tax rate each year.

**F. Operating Budget**

Still in review by the Budget Committee.

**G. Annual Road Upgrades \$625,000**

No comment.

**H. Annual Sidewalk Upgrades \$100,000**

Chairman Silk questioned if it is both sides of the road.

Mrs. Murray replied it is.

**I. Temporary Relocation of Town Offices \$50,000**

No comments.

**J. Library Expansion Study \$30,000**

No comments.

**K. Replace the Electric Department's Digger/Derrick Truck \$200,000**

No comments.

**L. Establish Wastewater Treatment Plant Capital Reserve Fund \$125,000**

No comments.

**M. Fire Trucks and Apparatus Replacement Capital Reserve Account \$176,000**

No comments.

**N. Public Works Vehicle and Equipment Capital Reserve Account \$ 165,000**

No Comments.

**O. Abenaki Ski Area Capital Reserve Account \$15,250**

No Comments.

## **F. Set Public Hearing on Bond Issues over \$100,000**

Mr. Owen noted that in addition to posting in the local paper they will need to post this in a daily paper in order to comply with the 7 day advance notice requirement.

**It was moved by Linda Murray and seconded by Dave Senecal to approve setting the date and time of the required Public Hearing on the Proposed 2014 Bond Issues over \$100,000 at 6:35 PM on December 18, 2013. Members voted and being none opposed, the motion passed.**

## **Old Business**

Chairman Silk stated as previously discussed a Primary is scheduled for January 21, 2014 and it will be necessary to have the final election in March.

## **Town Manager's Report**

Mr. Owen reported the following:

- In response to previous comments about the town website speed, he contacted the provider and some adjustments were made to increase the speed. If such still seems slow they will have to eliminate some of the rotating pictures on the home page as that can use up a lot of space.
- The Town is still looking for a Recording Clerk for the Economic Development Committee.
- The Town Hall parking lot improvements are complete and the final report has been submitted to the Department of Justice.
- He received notice from the A.F.S.C.M.E Union they are looking to start the negotiation process.
- One bid was received for the Town Report from the same company who provided it last year and even proposed to do it for \$200 less than last year's price.
- He will be out of the office on Friday to attend a joint Town Manager's workshop as he has been appointed as a Director of the NH Manager's Association.

## **Committee Reports**

Mrs. Murray stated she will be attending the Chamber's quarterly meeting tomorrow.

Mr. Senecal stated he has been attending regular Budget Committee meetings.

Chairman Silk stated she attended the retirement celebration for Lakes Region Planning Commission Director Kim Koulet.

## **Chamber of Commerce**

None.

## **Public Comment**

None.

### Questions from the Press

Tom Beeler of the Granite State News questioned if he could also receive a copy of the Town Attorney's opinion on the Winnepesaukee Drive matter. Mr. Owen provided him with one.

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

**Member Linda Murray moved the Wolfeboro Board of Selectmen to enter non-public session at 8:00 PM to discuss personnel. Dave Senecal seconded. Roll call vote: Dave Senecal-yes, Brad Harriman-yes, Sarah Silk-yes, Dave Bowers-yes and Linda Murray-yes, the motion passed.**

The Board re-entered public session at 8:30 PM.

Chairman Silk stated the non-public session minutes of December 4, 2013 were sealed by a 2/3rds vote as required by law.

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

**Member Dave Senecal moved the Wolfeboro Board of Selectmen to adjourn at 8:31 PM. Member Sarah Silk seconded. Being none opposed, the motion passed.**

Respectfully submitted,  
**Amelia Capone-Muccio**  
Recording Secretary