

**Wolfeboro Board of Selectmen
Meeting minutes
Approved
October 21, 2010**

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

Staff present: Town Manager David W. Owen, Director of Parks and Recreation Ethan Hipple, Finance Director Pete Chamberlin, Wolfeboro Fire Chief Phillip Morrill, Deputy Fire Chief Tom Zotti and Recording Secretary Amelia Capone-Muccio

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

Budget Hearing

Culture and Recreation

Mr. Hipple joined the Board for discussion.

➤ ***Administration***

Chairman Murray stated that in line 1-45201-434 Office Equipment there is more expended to date than what is budgeted for next year.

Mr. Hipple replied that they had some unexpected items this past year, but doesn't foresee the need to increase the budget.

Ms. Silk questioned line 1-45201-440 Rentals & Leases.

Mr. Chamberlin replied that the copier needs to be replaced.

Ms. Silk questioned if another Department could use this copier.

Mr. Chamberlin replied that the copier is beyond its useful life.

Chairman Murray questioned line 1-45201-810 travel & meetings and asked if only one employee would be attending the conference.

Mr. Hipple replied it is only funded for one employee.

➤ ***Maintenance***

Chairman Murray questioned line 1-45202-117 part time wages.

Mr. Hipple replied that they are making an effort to work on the back log of maintenance from past years.

Chairman Murray stated she only supports a 1% increase in salaries, not a .25 cent per hour increase.

Member Linda Murray moved the Wolfeboro Board of Selectmen to amend line 1-45202-117 part time wages to reflect a wage of \$10.91 per hour. Member Chuck Storm seconded. Sarah Silk, Marge Webster and Dave Senecal opposed and Linda Murray and Chuck Storm in favor, the motion failed.

Chairman Murray questioned line 1-45202-380 Outside Services and that it hasn't been spent to date.

Mr. Hipple replied he waits until the end of the year to expend these funds for routine tree work and such to allow funds for any unforeseen emergencies.

Ms. Silk questioned line 1-45202-412 Water.

Mr. Chamberlin replied he believes that those services are billed for the year in October.

Ms. Silk questioned the large increase in line 1-45202-680 Safety Equipment.

Mr. Hipple replied he is purchasing additional safety equipment for two part-time staff members as well as upgrades to some of their other safety equipment.

➤ ***Patriotic Purposes***

Jeff Adjutant of the America Legion joined the Board for discussion and presented the budget with no changes from last year. He did note the flag pole was not put back up at the Highway Garage after repairs were made and questioned if they wanted to put it on another building.

Mr. Owen replied he would check with Public Works.

Mr. Adjutant stated that if upgrades to Town Hall should pass he and his wife would like to donate a new larger flag pole.

Mr. Hipple stated that the fireworks would be the same as last year, but noted a RFP was put out as they have ended the three-year contract.

➤ ***Beaches***

Chairman Murray stated line 1-45203-117 part-time wages includes a wage increase and she only supports a 1% increase, especially when it is proposed to shorten the beach schedule.

Mr. Hipple replied that this was a place he has as number one on his priority list to be included back to the budget. He stated being faced with a 0% increase for the budget was difficult and the beaches would still be open for use, just not staffed with lifeguards for one week at the beginning and one week at the end of the season.

Chairman Murray questioned if the maintenance staff will keep the beaches clean during those weeks.

Mr. Hipple replied he would have them do that.

Ms. Webster questioned the amount in savings by not providing lifeguards those two weeks.

Mr. Hipple replied \$9,823 for wages of the lifeguards.

Chairman Murray questioned line 1-45203-341 telephone.

Mr. Hipple replied he believes it may be a posting error in that line.

Ms. Silk questioned line 1-45203-351 medical supplies and the amount spent.

Mr. Hipple replied it has not been spent due to his concern of overages in other lines of the budget.

Chairman Murray questioned line 1-45203-431 grounds maintenance and when the last time the swim docks were replaced.

Mr. Hipple replied that he would need to revisit that question.

Ms. Silk questioned the amount spent in line 1-45203-560 dues & subscriptions.

Mr. Hipple replied he would need to check into that.

Chairman Murray questioned line 1-45203-710 land improvements and the number of recycling containers needed.

Mr. Hipple replied they propose to increase each beach by one container.

Ms. Silk questioned if he has looked into getting those containers from Northeast Resource Recovery.

Member Linda Murray moved the Wolfeboro Board of Selectmen to reduce line 1-45203-710 land improvements by \$500. Member Dave Senecal seconded. Being none opposed, the motion passed.

Chairman Murray suggested adding language to show that the t-shirt purchases have revenue and are essentially a pass through.

➤ ***Ski/Skate***

Chairman Murray questioned the overtime.

Mr. Owen replied that employees that work for another Department can work occasionally and sporadic without being paid at an overtime rate.

Mr. Hipple replied that one employee would not be returning based on that change.

Chairman Murray stated she would also only support a 1% increase in salaries in this budget as well. She questioned line 1-45204-380 outside services for the outdoor rink.

Mr. Hipple replied that due to lack of use they are discontinuing an outdoor rink at Pop Whalen Ice Arena, but have proposed to make an outdoor rink off Brewster Beach. He proposes to hire someone to clear the area and flood it for skating.

Chairman Murray suggested having staff do that.

Ms. Silk questioned line 1-45204-431 and the need of a tent for the groomer.

Mr. Hipple replied that the groomer is an expensive piece of equipment that should be covered.

Chairman Murray questioned the funds for fireworks in line 1-45204-830.

Mr. Hipple replied that is an error those should not be included in the budget.

Member Linda Murray moved the Wolfeboro Board of Selectmen to reduce line 1-45204-830 programs by \$ 1,856 removing the fireworks. Member Marge Webster seconded. Being none opposed, the motion passed.

➤ ***Hockey Rink***

Ms. Silk questioned if this budget receives revenue.

Mr. Hipple replied they do for public skating fees and season passes, he could provide back up for such.

➤ ***Playground***

Chairman Murray stated at this point the Board would need to post-pone the rest of the Culture and Recreation Budget Hearing until Monday, October 25, 2010 to move to the Hearing for Tom Bickford. She suggested the Board take a recess to meet with Dan Schwarz, Town Labor Counsel, before the hearing in non-public session.

The Board moved to take a recess at 6:50 PM and re-entered public session at 7:07 PM.

➤ ***Tom Bickford Hearing***

Chairman Murray opened the Hearing at 7:07 PM on Thomas Bickford's appeal of his termination as a Call Firefighter for the Wolfeboro Fire Department. On October 7, 2010 Town Manager David W. Owen held a hearing on Thomas Bickford's appeal of his termination. After said hearing David W. Owen issued a denial letter of Thomas Bickford's appeal. Thomas Bickford received notification of the denial of his appeal first by e-mail on October 8, 2010 and by mail on October 13, 2010. On October 13, 2010 Thomas Bickford sent to the Board of Selectmen a written letter requesting an appeal of his termination of employment. On October 14, 2010 the Board of Selectmen discussed Thomas Bickford's request for an appeal hearing on his termination as a Call Firefighter for Wolfeboro's Fire Department. Thomas Bickford requested that the meeting be open under RSA 91-A: 3- II a. The Board of Selectmen granted Thomas Bickford request for an open meeting and set October 21, 2010 at 7 PM at the Community Center as the date and place. Thomas Bickford requested that Community Television station be present or allow Mr. Bickford to video tape the hearing. The Board decided it was up to Thomas Bickford to arrange for WCTV to tape or to tape it on his own. The Board of Selectmen will handle this hearing a quasi-judicial hearing, the procedure for the hearing will be that Chief Morrill will present his case, call his witnesses, provide the chair with any evidence to be included in the hearing as an exhibit and we will then give Mr. Bickford the opportunity to cross examine the Chief or any of his witnesses. Mr. Bickford will state his case, call his witnesses, and provide the Chair with any evidence to be included in the hearing as exhibits and then Chief Morrill will be given the opportunity to cross examine Mr. Bickford or any of his witnesses. I will allow any of the Selectmen to ask questions as the hearing goes on, then the Board will deliberate in non-public session to either uphold the termination or reinstate Thomas Bickford as a Call Firefighter. She called Chief Morrill to the table.

Thomas Bickford stated Section E of the Wolfeboro Personnel Policy states that they have a hearing of facts to Mr. Owen and then they have a hearing of his decision. He felt they would be discussing Mr. Owen's decision.

Town Labor Counsel Dan Schwarz stated he disagrees with that opinion. This is a hearing on the original decision, as well as Mr. Owen's decision and the Chief would provide the basis of those facts. He stated Mr. Owen does not have first hand knowledge of the facts.

Chief Morrill joined the Board and submitted five packets of information. (*See attached packets*)

Mr. Bickford questioned if the Board had been provided with the documents. He stated he had not seen the documents and that he had requested to receive all documents prior to this hearing.

Mr. Owen replied that he received the Chief's materials this afternoon and feels such documents are being delivered in a timely manner.

Mr. Bickford disagreed and stated twenty four hour notice should have been allowed to give him an opportunity to review the materials and feels this is violating Section 7-c of the Personnel Policy.

Attorney Schwarz suggested taking a recess to allow Mr. Bickford time to review the materials. He stated that if Mr. Bickford feels these documents are prejudicial he can request the Chief to withdraw them or he can choose to post-pone the hearing to allow time for him to review the documents.

Chairman Murray called a recess to allow Mr. Bickford some time to review the documents and re-opened the hearing at 7:30 PM.

Mr. Bickford objects to packet #3 that the documents are hearsay. He stated these documents should have been provided in advance for fairness and that these documents were not deliberated on by Mr. Owen. He stated they are supposed to be hearing the appeal of the Town Manager's decision and the underlying facts of self deployment and freelancing.

Attorney Schwarz stated that this is a hearing of the Board of Selectmen to hear all the evidence. He explained the Board would dictate the relevance of the information and if he is objecting to any of the documents he has the choice to adjourn the hearing to allow time to review the documents.

Chairman Murray questioned how Mr. Bickford would like to proceed.

Mr. Bickford replied he would like to move forward with the hearing, but that he objects to the documents.

Chief Morrill stated that he was not notified to provide such documents in advance. He refereed to the packets he provided outlining his reason for terminating Mr. Bickford as going out of the chain of command when he discussed the need for Call Firefighters with the Board of Selectmen. He reviewed the highlighted sections of the packets, particularly to packet #2 and stated his disagreements with Thomas Bickford's appeal of termination. The Chief closed his presentation by referring to the highlighted statement on the last page of packet # four, application of employment signed by Mr. Bickford, and that when any member goes outside the chain of command he or she puts the entire team in jeopardy of safety.

Mr. Bickford questioned Chief Morrill and if he terminated him because he went outside the chain of command by reporting his concern of dangerous levels of Call Firefighters to the Board of Selectmen.

Chief Morrill replied he should have brought those concerns to him; he went out of the chain of command.

Mr. Bickford questioned Chief Morrill on his familiarity with the Town Personnel Policy and if he had any prior offenses in his Personnel file.

Chief Morrill replied that due to the seriousness of the offense any prior offenses would be irrelevant.

Mr. Bickford stated that the Deputy brought his concerns of dangerously low level of Call Firefighters, which would be in the chain of command.

Chief Morrill replied that the Deputy had advised him on what Mr. Bickford said, but noted Deputy Zotti told him he needed to bring those concerns to the Chief directly.

Mr. Bickford continued to question Chief Morrill on his reasons for termination, specifically to going out of the chain of command by speaking to a Board of Selectmen member. He also questioned the Chief on other matters of concern about "freelancing" by going to a fire in another town and wearing the jacket from his Wolfeboro Fire Department turn out gear and also manning the fire substation when he is not called to do so. He also questioned the Chief on another issue that he can not wear air packs.

Chief Morrill replied that going out of the chain of command is not tolerated. He stated that he had spoke to Bickford in the past regarding "freelancing", and the Department has a verbal policy that Firefighters are to wear full turn out gear. In regards to the air packs issue, the Department made accommodations when Bickford had advised them he could no longer wear air packs.

Mr. Bickford referred to the Firefighter one manual and questioned the Chief on definitions.

Attorney Schwarz reminded Mr. Bickford that he should be questioning Chief Morrill's testimony and any other information should be provided in Mr. Bickford's testimony.

Mr. Bickford continued to question the Chief on his decision to terminate him for going out of the chain command as well as manning the substation on standby.

Chief Morrill replied that standby would be answering the tone to man the substation. He explained the main reasons for the termination is freelancing outside the Department and going outside the chain of command.

Mr. Bickford questioned the chain of command.

Chief Morrill replied that it is the Department Head, Town Manager then the Board of Selectmen.

Mr. Bickford continued to question the Chief on definition of "freelancing".

Chief Morrill refereed to Mr. Bickford's definition, which is self deploying to an emergency scene.

Mr. Bickford continued to question the Chief on "freelancing" and "chain of command" definitions and scenarios. Chief Morrill continued to reply that Mr. Bickford went out of the chain of command when he discussed the status of Call Firefighters with the Board of Selectmen and that Mr. Bickford "freelanced".

Mr. Bickford presented his case to the Board of Selectmen disagreeing with Chief Morrill's decision to terminate him for going out of the chain of command and "freelancing". He read a statement detailing his education background and his fire/rescue experience. He provided a timeline of his notice of termination from the Chief to the process of

appealing the decision to the Town Manager who upheld the Chief's decision. He also provided his explanation of responding to the substation during a storm and familiarizing himself with the equipment while being on standby. He also stated that he went to a Board of Selectmen meeting on September 1, 2010 questioning an agenda item and ironically received a letter for his termination the next day. He noted the acts in which he was terminated for happened a month and a year prior to his termination and he feels he was terminated for free speech.

**(Secretary's Note: The testimony of this meeting is summarized as permitted by RSA 91: A)*

➤ **Questions from the Board**

Chairman Murray questioned how many Departments meet the two in and two out standards.

Mr. Bickford replied maybe Laconia.

Chairman Murray read to RSA 508: I 2-b giving the definition of a Call Firefighter. She stated she understands a Call Firefighter only responds to an emergency when called to it and is only paid when called to an emergency. She explained her reason for researching this information was to clarify when he was or when he was not a town employee.

Mr. Bickford replied he believes a volunteer gets first amendment rights.

Chairman Murray refereed to RSA 154:7 defining the authority of a Fire Officer and questioned when he was at the scene that he was wearing the turn out jacket if he checked in with the Fire Officer on that scene.

Mr. Bickford replied he did not check in.

Ms. Webster questioned if he read his application of employment when he filled it out and signed it.

Mr. Bickford replied he presumed he did.

Being no other questions from the Board, Mr. Bickford called his witness, Delina Bickford.

Delina Bickford joined the Board.

Mr. Bickford questioned if she attended a training session where the Chief had provided a statement regarding going out of the chain of command.

Mrs. Bickford replied that she is a Call Firefighter and attended a training session that was changed from the original plan and that the Chief was there to provide a refresher. She felt uncomfortable when he spoke about going out of the chain of command and freelancing and she felt he was looking at her when he spoke about it.

Mr. Bickford questioned the terminology the Chief used.

Mrs. Bickford replied that freelancing will not be tolerated and is grounds for termination and the same with self deployment.

Mr. Bickford questioned the date of that meeting.

Mrs. Bickford replied August 3rd.

Mr. Bickford stated in closing that whether the Board chooses to reinstate him or not, he wanted to bring forth his concern that having only 8 Call Firefighters is dangerous and that is why he choose to bring this out in a public forum.

Chairman Murray stated that the Board would deliberate on the issue in non-public session and would provide a written response.

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

Member Marge Webster moved the Wolfeboro Board of Selectmen to enter non-public session at 10:18 PM to meet with labor counsel. Sarah Silk seconded. Roll call vote: Sarah Silk-yes, Chuck Storm-yes, Dave Senecal-yes and Linda Murray-yes, the motion passed.

The Board re-entered public session at 10:59 PM.

Chairman Murray announced that the Board sealed the minutes of the October 21, 2010 non-public session with a 2/3rd 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 11:00 PM. Member Sarah Silk seconded. Being none opposed, the motion passed.

Respectfully submitted,

Amelia Capone-Muccio

Recording Secretary