

FINAL



WEARE BOARD OF SELECTMEN
MEETING MINUTES
April 3, 2006

PRESENT: LEON METHOT, CHAIRMAN; HELEEN KURK, VICE CHAIRMAN, JOSEPH M. FIALA, SELECTMAN; TOM CLOW, SELECTMAN

TOWN ADMINISTRATOR:

RECORDING SECRETARY: Cherry Palmisano

GUESTS: Forrest Esenwine, Ginger Esenwine, Chip Meany, Tina Pelletier, Carl Knapp, Greg Begin, Paul King, Richard Butt, Frank Campana, Will Ottery, D. Hewey Sr., Malcolm Wright, Bill Tiffany, Terry Knowles, Evelyn Connor, George Malette, Sherry Butt Dunham, Susan Morin, Lynn Hanna, Chris Hague, Newell Bailey Jr.

6:40 p.m. Chairman Methot called the meeting to order.

1. PUBLIC PARTICIPATION – Mr. George Malette asked the BOS the proper procedure for establishing a bike committee and Heritage Committee. Chairman Methot said no there is no official procedure. Vice Chairman Kurk asked to have it posted on the cable channel. Selectman Fiala said have volunteers fill out a form just like any other committee. Mr. Malette asked if the BOS usually handles this. Chairman Methot said this is new to us. Mr. Malette informed the Board the article as it appeared on the ballot read “to be appointed by the Board of Selectman.” It was determined Mr. Malette will write up the wording for the volunteer requests.

Mr. Frank Campana informed the Board he tried to retrieve minutes via the town website but they were not there. Mr. Campana questioned the proposal to purchase the Fire Chief vehicle and commented on the new vehicle purchased for the Building Inspector. Mr. Campana was wondering if the Building Inspector came before the Board. Chairman Methot said he did not come in person but it was run through the Selectman and the Board voted on it.

Mr. Paul King, Emergency Management Director, informed the Board he has been working on a plan with Capital Area Public Health Network for mass inoculation. He was asked to present to the Board the plan which involves facilities in Hopkinton and Concord. The network realized 2 facilities were not enough and is now looking at 5 locations and he was asked to look at John Stark High School. This is in case of a major incident to take care of 20 towns in the area. They are asking the town to provide a limited amount. They have had site plan reviews for 2 facilities and will need to look at John Stark. Vice Chairman Kurk asked if they are looking at 22,000 people can that school handle that amount. Mr. King said they base there facilities on a 48 hours schedule to handle the situation. They need to make sure the process is in place. Mr. King requested the town legal advisor look at the documents, once cleared by him, they need to meet with the School Board and move forward with the process.

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2. DEPARTMENT HEAD – Mr. Carl Knapp would like to request a public hearing for no parking on East Street. Chairman Methot said they will be seeking information from the Highway Department and the Police Department. Chairman Methot requested a no parking ban for Sugar Hill South as well. The public hearing will be held on May 1, 2006. Mr. Knapp informed the Board the skate park is no longer in place and suggests they find a permanent location for the park because it is not easy to put back together. Vice Chairman Kurk thinks they need to have PARC present to discuss this issue. Selectman Clow asked if the pieces were moved without damage. Mr. Knapp said there is minimum damage. Vice Chairman Kurk said she sent a message to the schools to inform the kids they are working on a new location.

Ms. Evelyn Connor reminded the public all dogs need to be licensed by April 30, 2006.

Chief Richards received a verbally solicited quote for the thermal imaging camera which was approved by the CIP. Chief Richards informed the Board they have 3 of these cameras and would like to keep them the same. It was discussed the CIP approved \$12,500.

Chairman Methot moved, Selectman Fiala seconded to authorize the purchase of the thermal imaging cameras for \$12,499 with the funds transferred from CIP fire station. Passed 4-0-0.

3. DISCUSSION REGARDING THE RIGHT-TO-KNOW – Ms. Terry Knowles, who appeared at the invitation of the BOS, distributed materials to the Board relevant to the right to know law. Mrs. Knowles stated due to the *Weare Powerful vs. Merrill Shepard et al* case, Weare has a number of special challenges under the law. Ms. Knowles said a 5 day period should not be considered a standard delay in fulfilling a request for a document. The right to know law applies to state and municipalities but does not apply to the judicial branch of Government. In the case of the BOS anytime there are 3 or more Selectmen gathered than it is considered a public meeting and it has to be posted 24hours in advance in 2 public places, unless it is an emergency. There are consequences if steps are not followed; the court can overturn any decisions made without advanced postings. Public Body is not a non profit organization.

Chairman Methot asked if the committee or body is not elected or appointed by the BOS it is not a town entity. This included boards, commissions, agencies, sub committee, advisory boards, and if you have a subcommittee it is also subject to the right to know law. Vice Chairman Kurk asked about the Stone Fund and Ms. Knowles said it is not a public body. When a Board member attends a Stone Fund meeting he or she is attending as a Trustee of the Stone Fund and not as a Selectman. Vice Chairman Kurk asked about the Patriotic Celebration Committee. Ms. Knowles said it depends on how the boards and committees are established. Ms. Connor said in her office she has letters saying it is registered with the Secretary of State and states they are non profit and all volunteers. Vice Chairman Kurk asked if the right to know applies to them. Ms. Knowles said no it does not apply to them.

Ms. Knowles described characteristics of an open meeting and stated anyone can observe, video tape, audio, and take notes of the public body's deliberation. The public body has the right to apply or not apply times for open discussion - this is called the Sunshine Law. Ms. Knowles said you do not have to keep verbatim minutes of the discussions. Ms. Knowles said non public minutes can be ruled non public for a certain amount of time. You need to from time to time review the minutes and unseal at some point. Vice Chairman Kurk asked if you have to post a non public session. Ms. Knowles said you do have to post it if you know you are going to have a non public and this applies to any board or commission in the Town of Weare. Selectman Fiala asked if they have a meeting and it is non public can they go right into the meeting. Ms. Knowles said you have to open the meeting and then go into non public and if this is known in advance then you should inform the public in advance. Minutes need to be available within 144 hours of the meeting. Vice Chairman Kurk asked how you

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have committees make their minutes available within the time frame required. If the minutes are not available upon request then the individual requesting the minutes can take the town to court under the right to know law. This needs to be made clear to all committees.

Ms. Knowles discussed the dismissal of town employees and said an employee can choose to have a non public or public meeting. Real Estate and acquisition of sale are subjects of non public session. Litigation is appropriate for non public session. These should all be posted.

To go into non public the Board must have a roll call vote and when the Board comes out there also needs to be a roll call vote and decide whether or not to seal the minutes.

A public record is almost anything. Ms. Knowles said welfare, sealed non public minutes, and medical records are not subject to the right to know law. The burden of proof of whether things are made public falls on the BOS. Ms. Knowles said the public has the right to see just about everything unless it is statutory. Vice Chairman Kurk asked if someone sends her an email does it need to be public. Ms. Knowles said this is the subject of the new legislation.

Ms. Knowles said all requests must be made in writing. Obtain as much information as possible so you know exactly what the seeker is requesting. Ms. Knowles said the request should be date and time stamped upon receipt and entered into the receipt log and documents should be made as soon as possible and within 5 days. If you cannot make the document available within the timeframe you need to let the individual know. A fee can be charged for photocopying and researching fee.

Ms. Knowles told the Board they need to have a policy in place to make sure each right to know request is followed correctly. Chairman Methot asked if she is suggesting having 2 individuals in charge of the right to know requests. Ms. Knowles said you need a process to make sure all the requests are handled. Ms. Knowles said the request log can be made public as well. The staff will not be held legally responsible for the requests but the BOS will be held liable.

House Bill 626 in process in the legislature refers to electronic communication and documentation. Not a law - but is going through the legislature at this time and is still subject to amendment. Sherry Butt Durham asked Mrs. Knowles if present or former Selectman are allowed to disclose or talk about matters discussed in non-public if those meeting minutes are sealed? According to a response from Mrs. Knowles, present and former Selectmen, privy to issues discussed in sealed non-public sessions, cannot disclose that information to anyone. Mrs. Dunham asked what a person aggrieved by such disclosures could do, what is their recourse? Mrs. Knowles said if the Selectman is currently serving on the Board he or she would be in violation of their oath of office and could be removed. If the official who discusses sealed non-public matter is a former Selectman the person aggrieved could file a civil lawsuit. She added, ideally non-public meeting minutes should be unsealed and released to the public as soon as the exception (listed in RSA 91-A III) no longer applies.

Ms. Connor asked if there is any reason anytime minutes should not be unsealed. Ms. Knowles said if there is an issue within the court then the court could seal the minutes.

4. DEPARTMENT HEADS REVIEW BUDGETS WITH BOS – Chairman Methot said they need \$100,000 and has requested all departments review their budgets. Chairman Methot said he received suggestions from counsel and they told them to proceed with caution and keep the budget running slim. Tina Pelletier said when she ran the MS2 then she took the \$100,000 out of the largest budget. Vice Chairman Kurk said they will need to work from the budget approved by the voters which is \$100,000 less then needed.

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Chief Richards said he has some serious vehicle repairs but can give up \$4,103. Mr. Knapp informed the Board he has a grader sitting waiting to get repaired and does not have the funds to repair it. Chairman Methot asked Ms. Connor if they could trim some of the elections budget. Ms. Connor said no because there are 2 more elections this year and need training. Ms. Connor said she already slimmed her budget before presenting it to the Board and now she is unsure where they are going to get the money from to make up the \$100,000. Ms. Connor informed the Board her revenues are up for the past 3 months and on Friday they had lines all day with 3 machines going. The Board discussed possible having a separate election.

Chairman Methot said they will be receiving \$29,000 in unexpected revenue from Comcast. Ms. Connor and Chairman Methot discussed unanticipated revenues are usually grants.

Ms. Christine Hague informed the Board she was told she could not reduce their gross budgeted spending only the budget part to be raised by taxation.

Ms. Tina Pelliter said she will give up \$1,000 training.

Chairman Methot said because of the reevaluation there may be lots of abatements and suggested being frugal and sticking close to the budget. Selectman Clow said it seems like how they are trying to find \$100,000 would affect the tax rate. Chairman Methot said you are right but then we have that much less in surplus and it would effect us the following year. Ms. Connor asked how much money was left at the end of the year including the encumbered funds. Chairman Methot said there was \$150,000 and a surplus of approximately \$50,000. Ms. Connor said if everyone watches their pennies and stays frugal then could we still have the same amount. Vice Chairman Kurk compared the town clerks budget and default budget. Vice Chairman Kurk said if we mind set at the default and keep the salary increases then maybe we will be alright.

Ms. Connor said there are some things they have no control over like postage increases, phone increases. Vice Chairman Kurk mentioned restoration of documents. Ms. Connor said they have \$125.00 committed to the storage unit which holds the microphone.

The Trustees held a special meeting and they figured they could give them \$1,651 by reducing some of their spending. Ms. Connor asked if the trustees hold any money they can give up. Ms. Hague is concerned with her budget being reduced so much the default will be messed up next year.

Mr. Carl Knapp said he will be short of an employee soon and can probably go through the summer without rehiring until training for snow plowing which will give a possible \$15,000. Mr. Knapp said there is some money left in cutting edges, approximately \$4,000-\$5,000 but however the grader is sitting out back and it will cost a minimum of \$5,000 to fix. Mr. Knapp said they could possibly have \$15,000 left in the salt line but they have repairs which need to be done. This will put them behind in completing work and Mr. Knapp said he is most concerned with the fuel. Chairman Methot said overall he is not willing to compromise public safety for money. Mr. Knapp said let's get through spring and see how the roads are in need of repair. Vice Chairman Kurk asked how much money you could save by closing the transfer station for a day. Mr. Knapp said you really won't save much, just wages, but then you ask employees to give up pay.

Chairman Methot said 2/3 of the town budget is payroll. Mr. Knapp said the transfer station budget consists of mostly contracts and payroll. Mr. Knapp said bottom line is he can hold off on hiring someone throughout the summer, but is concerned with other things suffering.

Chief Begin said his 2 ½ percent reduction comes to \$24,580 will save \$5,800 because the 2 new officers that were approved will not be hired until May 1st. Chief Begin also said he won't hire the part time clerk or have

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extended hours and this will save \$7,800. He could possibly have \$7,800 in the cleaning line, but might become an issue with the union. Discussion on the 2 new officers being a separate warrant article and not being able to use the funds from article. The only other place Chief Begin can cut is overtime and he cannot control this. Discussed using officers for the patriotic celebration, Vice Chairman Kurk mentioned maybe using the CERT people. It was discussed the patriotic celebration will go on.

Ms. Naomi Bolton said they talked about this a couple of times and mentioned insurance buyouts, if you opt out of the insurance you get 50% which is cut to you at a quarterly basis and is now become taxable. Ms. Pelletier said it is considered income and will be taxable. Ms. Bolton is just suggesting this be looked at. The town pays more this way in retirement. The Board asked Ms. Bolton to look into buyouts, longevity, and bonuses all being 1099.

Mr. Chip Meany said he would like to keep his word to Matt Esenwine and will give back \$1,400 from his maintenance line since he has his new vehicle. Mr. Meany also said he can give up \$500 from his vacation coverage and if they do not replace his secretary until May then there will be some money there to give back, will give back 2.5% \$2,400 and possibly another \$1,000 later on.

Chairman Methot asked the department heads if there are any other suggestions. Chairman Methot said if everyone keeps their budget lean and slim we might just make it. Vice Chairman Kurk said we all need to sit back down on July 17 and review the budgets.

Ms. Hague informed the taxpayers what we are doing is not what it costs to run the town and they cannot continue to run this way.

5. DISCUSSION OF AMBULANCE BILLING – Chief Richards said not long ago they were forced to go to Comstar for billing purposes, everything they asked them to do has met some resistance. They contacted a different billing company with a more user friendly billing process. They have a 90 day window with the contract. At this time they have to go into the web print out the reports and send them in. He contacted Comstar and asked if they could send the reports electronically and they said no they will not do this. The State mandates they report. Captain Newell Bailey said there have been other issues from Comstar and they do not get other reporting on a regular basis so they have no idea what they are making. The new company will take 7% on what is collected just like Comstar. Chairman Methot said make sure the reports go to the Chief. Vice Chairman Kurk said there is a file upstairs which is about 3 months behind, but the finance department needs to be kept inform as well. Vice Chairman Kurk asked if the reports can be sent to Chief Richards as well as the BOS.

Mr. Bruce Johnson president of Interclaim, said they will work with the Fire Department and the Finance Department to see what the best possible situation will be. Vice Chairman Kurk asked how aggressive are they in getting the bills collected. They will be as aggressive on collections as requested by the town. Mr. Johnson informed the Board he has worked with the Fire Department on verbiage for bill collection as well as setting rates. Mr. Johnson said anyone who has an ambulance bill will also have medical bills, so we need to be patient with the billing. Vice Chairman Kurk mentioned local residents pay their ambulance fees but transits do not. Success rate is based on the quality of information they receive from the beginning of the claim. They only get paid on the money that comes through the door so they are very diligent in getting the bills collected. They are located in Wilmington, MA. They try to use the benefit of electronic transmission to make sure they collect as much money as possible.

Captain Bailey said with being able to pull it up on the computer on a weekly basis instead of a monthly basis they currently have then the bills will get paid quicker. Captain Bailey said with Comstar they billed the lowest

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rate which was Medicare rate. Captain Bailey said the taxpayers currently pay an ambulance fee through taxes but non tax paying people do not so therefore there will be a separate charge. There was discussion on who is considered a taxpayer. Mr. Johnson said there really should not be different rate structures. Mr. Johnson said in other states ambulances cannot deny services to those without insurance, he is not sure about NH. There are federal guidelines for ambulance care. The town is not required to give free ambulance care but you never want to deny care to someone in need. Captain Bailey said they are trying to get structure for the billing process. Chairman Methot asked Captain Bailey and Chief Richards for 2 weeks notice when they have everything finalized and they will set a public hearing.

6. MANIFESTS

Chairman Methot moved, Vice Chairman Kurk seconded, to authorize the Board of Selectman to sign Manifest and order the Treasurer to sign checks dated April 6, 2006. Passed 4-0-0.

Accounts payable	\$256,339.19
Gross Payrolls	<u>\$40,514.37</u>
Total	\$296,853.56

7. BID OPENINGS - Paving, Road Reclaiming, Ejector Trailer and 5 Wheel Truck

Trash Trailer Ejector Downing Sales and Service – unable to bid
Steco Division of Blue T Corp - \$47,340

Gravel Crushing Brox Industries – no bid
CJ Bolton Inc. - \$2.90 per ton/1 inch
Custom Crushing - \$2.95 per ton

Reclamation Pyke Industries - \$.73 square yard
All State Asphalt - \$.82 square yard
Murray Paving and Reclamation \$.80 square yard

Paving Pyke Industries - \$48.15 a ton in place
Advanced Excavating and Paving - \$51.50 a ton

Truck Equipment Tenco - \$52,384
Fairfield - \$57,491

Truck McDevitt Truck Inc. - \$3,000 trade guaranteed buy back \$86,187 without trade
Liberty International - \$84,255 automatic - \$73,998 manual \$4,000 grade

Mr. Knapp recommends reclamation with Pyke for \$.73 a ton and paving with Pyke.

Chairman Methot moved, Selectman Clow seconded to award reclamation at \$.73 a square yard and paving \$48.15 a ton to Pyke Industries. Passed 4-0-0.

Chairman Methot moved, Selectman Clow seconded to award the truck equipment to Tenco for \$52,384/ Passed 4-0-0.

Chairman Methot moved, Selectman Clow seconded to award crushing at \$2.90 a ton to CJ Bolton Inc. Passed 4-0-0.

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Mr. Knapp discussed possibly not paving as much this year due to price increases.

Mr. Knapp said they had to move the skateboard park today and picked up all the sections and hauled it to the highway department. Vice Chairman Kurk said it was mentioned the skateboard park has to be set up permanently at one location. Mr. Knapp said everything that was precast was salvaged the rest needs to be poured in place to set it up again. Vice Chairman Kurk informed a young resident at this time they have not determined where or when the skateboard park will be placed permanently. Mr. Knapp said when it comes time to set the park back up he would love to get input from the public who use it. Mr. George Malette asked the individual present if most of the kids who use it are located near the center of town. Chairman Methot said they heard from the School Board they were looking to make the skateboard park smaller when it goes back up. Vice Chairman Kurk said there will be a liability issue at other locations. The young individual asked if the tennis court would be suitable. Chairman Methot asked Mr. Knapp if it is something can be done at a reasonable cost. Chairman Methot said they are not trying to deny the youth the use of the skateboard park but are trying to come up with a reasonable solution.

Ms. Dawn Weber-Braun said she saw some individuals take the fence down and she is concerned with the location being in a spot where the kids are not public view. Selectman Clow said the center of town is safer than a secluded location. Ms. Weber-Braun was talking about having it in a public area but most importantly they need to have it. She said if they could raise the money and it was temporary she has space behind the center store. Mr. Knapp mentioned the location behind the Town Hall. It was discussed the school location might not have enough space for the park to be the same size. They discussed the school really does not want the skateboard park.

Malcolm Wright said there is room behind the Town Hall. They discussed there would be a cost associated with that location. It would be a good location to have the skateboard park permanently. Mr. Knapp said for the pavement it will be about \$3,000 just for blacktop and then it will need to be flattened off and put gravel down. The Board discussed the skateboard park was originally built by volunteers. Selectman Fiala suggested building the tennis court somewhere else and putting the skateboard park there. Vice Chairman Kurk said there is a large cost to rebuild the tennis court and she is unsure of how the tennis court was donated. Mr. Knapp said they need to keep reviewing the plans until they find the location. Chairman Methot said money will be needed either way. Selectman Fiala mentioned there is money in the school budget for the skateboard park. Mr. Knapp asked the young man present if the skateboard park was adequate size for the equipment. He said yes. Selectman Fiala said they would really like some new equipment. Vice Chairman Kurk was informed by the principal there are high school kids who use the park as well.

Vice Chairman Kurk recommended getting the kids, School Board, PARC, BOS, police, library and tennis players together. Selectman Clow said if the School Board has money allocated for the skateboard park then maybe it should still be used for the skateboard park. It was discussed the meeting will need to be a separate meeting not held at a Selectman's meeting. It was discussed in reality there won't be a new park until mid summer. The Board will post the scheduled meeting.

Vice Chairman Kurk mentioned to the Board they need to set their goals for 2006/2007.

Vice Chairman Kurk discussed past discussions about signs on the side of the road and mentioned signs being placed at the Town Hall. Chairman Methot said if you follow the same guidelines for the campaign signs then you need to have the owner remove the sign. Vice Chairman Kurk said her point is if they have an ordinance they then need to be able to be upheld.

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Vice Chairman Kurk talked about committees they want to be on. Chairman Methot said he will stay on ZBA and Planning Board. Selectman Osborne will remain on the Cable Committee. Vice Chairman Kurk would like to stay on Economic Development. Mr. Malette said the Heritage Commission requires an ex-officio. PARC and Benefit Review need ex-officio's. Selectman Clow will be an ex-officio to Benefit Review. Vice Chairman Kurk will be on PARC but Selectman Clow will think about it. Vice Chairman Kurk will sit in on Conservation Commission even though they are not required through statutes.

The Board briefly discussed that the leash law states the animal has to be within your control not necessarily leashed.

The Board discussed meeting with the candidates for the Town Administrator. The Board discussed calling 3 references for each candidate. Selectman Clow compiled a form of questions to ask all the references so everyone gathers the same information on all the candidates.

Chairman Methot, Vice Chairman Kurk seconded, to enter into nonpublic session @ 10:46 p.m. pursuant to the authority granted in RSA 91-A:3II(c). A roll call vote was taken. Selectman Clow – yes; Vice Chairman Kurk - yes; Selectman Fiala - yes; Chairman Methot - yes. Passed 4-0-0.

8. ADJOURNMENT

A True Record.

Cherry Palmisano, Recording Secretary