

**Board of Selectmen  
August 8, 2018**

**Present:** Lino Avellani, Chair; Connie Twombley; Vinton Wallace; and Toni Bodah, Secretary.

Mr. Avellani called the posted meeting to order at 6:31 p.m. **Ms. Twombley moved to enter Non Public Session under RSA 91-A:3, II (b). Mr. Wallace seconded the motion. Roll call vote: Ms. Twombley – ‘aye’; Mr. Wallace – ‘aye’; Mr. Avellani – ‘aye’. The motion passed 3-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:33 p.m. During the immediately preceding Non Public Session, the Board voted to hire Loghan Major as a fulltime patrol officer at the probationary rate of \$19.29 per hour. **Ms. Twombley moved to enter Non Public Session under RSA 91-A:3, II (b). Mr. Wallace seconded the motion. Roll call vote: Ms. Twombley – ‘aye’; Mr. Wallace – ‘aye’; Mr. Avellani – ‘aye’. The motion passed 3-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:35 p.m. During the immediately preceding Non Public Session, the Board voted to hire Bart Bentz as a part-time patrol officer at the rate of \$17.50 per hour. **Ms. Twombley moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Wallace seconded the motion. Roll call vote: Ms. Twombley – ‘aye’; Mr. Wallace – ‘aye’; Mr. Avellani – ‘aye’. The motion passed 3-0, and the Board immediately entered Non Public Session.**

The Board returned to public session at 6:48 p.m. During the immediately preceding Non Public Session, the Board voted to authorize an increase to \$21.33 per hour for Officer Matthew Martino, effective as of August 13, 2018. The Board recessed until 7 p.m., when the meeting was called back to order in the Conference Room.

Those now present included: Mike Watkins; Ed Noble; Leigh Nichols; Robert & Rose Baxter; Ed Comeau (videographer); Niko Giokas (videographer); Jim Miller; Police Chief John Ventura; Richard Sager, Town Counsel; and Tom Beeler. Joining the session in progress were Lt. Chris Waldron, Relf Fogg, Ruben Knisley, Hope Jahn, and Angie Nichols. Attorney Sager led all present in the Pledge of Allegiance.

Mr. Wallace spoke to the bracelet he wore with the phrase “Sassa Strong” in honor of a local youth who has been diagnosed with lymphoma. All are wishing her a speedy recovery.

**1. Appointments**

**a) Richard Sager, Town Counsel** – Attorney Sager stated he is present to read a statement relating to actions at the previous Selectmen’s meeting, which statement he proceeded to read aloud. He first referred to the 2 public input sessions included on the Selectmen’s agenda, stressing that these sessions are provided as a courtesy by the Board to receive input on matters being discussed by the Board. The Board is under no obligation to allow the public to speak at a public meeting, as opposed to the public’s right to speak at a public hearing. The public is present at a meeting to listen and observe, whether it is a meeting of the Board of Selectmen or a session of Congress. The Board does not want to curtail public input; however, neither does it want the public to abuse the privilege by creating a Facebook-like forum to lash out against others, including Town employees. Attorney Sager indicated that the Selectmen would limit public input to one session to be limited to 3 minutes each. The Chair can limit discussion at any time for any reason.

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Attorney Sager then referred to Leigh Nichols' letter regarding the Town Administrator, in which he inferred that the Town Administrator's effort to get his wife, the Tax Collector, fired related to the termination of Mr. Nichols. Attorney Sager spoke to his friendship with Ms. Nichols, as well as the Town Administrator's opinion that Ms. Nichols is the best tax collector with whom she has worked. He then spoke to Ms. Nichols' lapse in her statutory obligations. According to Attorney Sager, the Town Administrator is not interested in having the Tax Collector removed. In fact, the Board is unable to do so (without going through an involved process) as she is an elected official.

Attorney Sager stressed that he represents the Board of Selectmen, not the Town Administrator. He spoke to the qualifications of the current Town Administrator. He concluded by suggesting it is time to stop making Wakefield look like a dysfunctional family and instead work together toward a positive goal.

With the Chair's permission, Attorney Sager welcomed questions/comments from the public. Mr. Nichols stated that the Town Administrator's letter did refer to "grounds for immediate dismissal", and he noted that only the Tax Collector, Deputy or Treasurer can collect taxes. Attorney Sager explained that in helping write the letter to which Mr. Nichols refers, law was quoted in order to ensure that Ms. Nichols was aware that if more than \$1500 is received per day, it must be deposited that day. He stated that Ms. Nichols chose not to have a deputy in her office during her absence. Mr. Nichols referred to other towns that only have part-time tax collectors. He also asked where the results of his investigation are. Attorney Sager is not concerned with other towns—he is looking out for his client. Debate ensued about the law and its intent.

Mr. Fogg asked whether there is a law that prohibits an unbonded agent of the Town from opening mail addressed to the Tax Collector. He added his belief that Tax Collectors can set their own hours and wages. Attorney Sager stated that the situation was not ideal; however, the funds that came in that day should have been deposited. Mr. Fogg questioned who authorized anyone other than the Tax Collector to open the Tax Collector's mail. Attorney Sager did not know the answer; however, he is aware that 2 people were in that room when the mail was opened. Perhaps all tax payments do not come in an envelope addressed to the Tax Collector. He stated it would have been easy for Ms. Nichols to have her deputy come in to open mail. Attorney Sager stressed that the Board tried to deal with the situation quickly and privately and to then move on.

Mr. Fogg questioned whether a taxpayer has ever been penalized when an envelope was not opened or a deposit not made on a specific day. Attorney Sager advised this has occurred and referred to a scenario whereby a tax payment was not received on the date/time required and the taxpayer lost their property. He did note that this Board tries to work with its taxpayers.

Mr. Wallace questioned who made the decision to have the letter written that was read by Attorney Sager. Attorney Sager stated that he communicated with the Chair as to how to address the actions at the previous Selectmen's meeting and offered to make a statement. Any Board member could have made a statement.

Mr. Nichols stated that tax payments are entered into the computer based upon the postmark.

Mr. Miller stated he is appreciative that the Board has asked Town Counsel to clarify the law. He added that he is uncomfortable with inappropriate behavior at public meetings. He is certain that the Board wants to hear from the public. He questioned whether the Board could create a policy as to how to address concerns with public employees. Attorney Sager suggested such concerns should be addressed to the Town Administrator or a letter could be sent to the Board of Selectmen. Mr. Nichols referred to having written 2 letters to the Board of Selectmen, having still not received a response. Attorney Sager referred to Mr. Nichols being the complaining party and the complaint being protected as a personnel issue. Mr. Nichols noted that at the time of his complaints, he was an employee of the Town and following the chain of command.

Mr. Miller requested clarification to a section of RSA 91-A:3, II which refers to adversely affecting an individual's reputation. Attorney Sager indicated there are several reasons under which the Board can go into Non Public Session, including the potential of adversely affecting a reputation. He presented a scenario whereby such a complaint is brought to Town officials rather than being splashed on the front page of a newspaper. Mr. Miller read aloud from RSA 91-A:3, II (c), then added that a public setting is not a forum to bash your neighbor. Attorney Sager agreed, but noted that a complaint against a member of the Board of Selectmen must be aired in public.

Mr. Fogg suggested the Board adopt a policy that all government employees take the same oath as elected officials. All should go by the same rules. Attorney Sager stated that the Town has a personnel policy to which all public employees must adhere. Individuals have been fired when they don't do their job. Ultimately, it is up to a department head to determine whether an employee is doing appropriate work. It could end up on the Selectmen's desk, as the authority to hire and fire. Mr. Fogg stated that each elected member of a board, commission or office has an equal amount of power but separate. He referred to a previous warrant article to eliminate the Board of Assessors. Attorney Sager agreed that one Board should not tell another Board what to do. However, that was not the case in the present instance.

Ms. Baxter questioned how Attorney Sager can be unbiased since he lives in this town. Attorney Sager stated that he is biased on behalf of the Board of Selectmen. Where a town attorney should live is a matter of opinion. He has been Town Counsel for Wakefield since 1989 and has worked with a number of Town Administrators, whom he has historically tried to assist. Ms. Baxter asked whether Attorney Sager auctions off properties taken by the Town. Attorney Sager stated he auctions property on a list provided by the Board when the Board hires him to do so. Ms. Baxter referred to Attorney Sager helping to develop payment plans for those with delinquent property taxes. Attorney Sager stated that if he wanted to auction more property, he would not assist with a plan to obtain payment for the Town.

Mr. Fogg questioned whether Attorney Sager would assist with the Master Plan. Attorney Sager suggested that Mr. Fogg contact him to discuss the process.

Ms. Jahn referred to only 2 of the Board members being aware of a change in public comment policy. Attorney Sager noted that the Board is not even required to post an agenda; it must post the date, time and place of the meeting. Responsibility for an agenda usually defaults to the chair.

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If the Chair/members want to give the public an opportunity to speak, it is up to them. However, all comments should be appropriate. Ms. Jahn questioned when the public would have an opportunity to voice their concerns. Mr. Sager stated that most boards do not have 2 public comment section, and he recommends this Board eliminate one of them. Mr. Wallace stated that he is not in favor of eliminating any public input session. He has been told that one member cannot act alone, but it seems like that is what is happening here. Mr. Wallace noted that he is still learning about his position and hears that the agenda is the responsibility of the Chair; however, one should not state an action is the decision of the Board if it was not discussed by all Board members. Mr. Avellani noted that he believes Town Counsel is making a recommendation regarding conduct during the public input sessions. Attorney Sager understands Mr. Wallace's concerns and agreed he should have been more clear with his language. The decision is up to the Board.

Mr. Fogg asked whether Town Counsel's services in this regard were covered by a monthly retainer. Attorney Sager indicated that he has not had a monthly retainer with the Town for several years.

Ms. Baxter asked, if one is discontented with Town officials, how to have that discussion. Attorney Sager stated that residents always have an opportunity to seek an appointment with the Board. Mr. Wallace noted that Ms. Baxter is really seeking what would be better classified as a citizens' gathering. Ms. Baxter indicated she might need to know what is legal or not legal. Attorney Sager reminded Ms. Baxter that she can use her voice by electing a member of the Board of Selectmen, Planning Board, etc. If you don't like the job they are doing, you vote them out of office, or even run for that office yourself.

Mr. Comeau advised that the Effingham Board of Selectmen ask the public in attendance at their meetings if they have a comment or complaint about a Town employee. If so, they go into Non Public session for discussion. It was noted, however, that this may be a violation of the Right-to-Know law.

**b) Police Chief John Ventura**

--Emergency Management Performance Grant \$4000 – Chief Ventura advised that execution of this documentation would complete the process of applying for a grant in order to have a third party update the Town's Local Emergency Operations Plan prior to year-end. **Mr. Wallace moved to accept the terms of the Emergency Management Performance Grant as presented in the amount of \$4,000 to update the Town's Local Emergency Operations Plan. Furthermore, the Board acknowledges that the total cost of this project will be \$8,000, in which the Town will be responsible for a 50% match (\$4,000); and further to authorize Lino Avellani, Chair, to execute all documents related to the grant. Ms. Twombly seconded the motion, which passed 3-0.**

--Highway Safety Grant - \$9277 (Radar Signal & Trailer) – Chief Ventura noted that the 50/50 grant for this project was previously approved with the Town's share being \$9277. The Chief has obtained a number of quotes; however, only one company, All Traffic Solutions, provides both a trailer and a message board. He recommends the Board accept the quote of All Traffic Solutions in the amount of \$16,700 (for which the Town would pay half). The Board reviewed the quotes obtained. **Ms. Twombly moved to accept the quote of All Traffic Solutions in the amount of \$16,700 as presented. Mr. Wallace seconded the motion.** Mr. Wallace stated that he understands why we need this equipment; however, he would rather see the funds in the budget used to increase pay for the police officers.

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Therefore, he will not support this expenditure. **The motion then passed 2-1 (Mr. Wallace voting against).**

--Body Cam Quotes (Warrant Article 20) – Chief Ventura presented quotes for body cams, as approved in Warrant Article #20 of the 2017 warrant in the amount of \$54,000. He believes the products of Watch Guard have been improved by use of a thumb drive vs. a cd and recommends the Board accept that quote. **Mr. Wallace moved to approve the quote of Watch Guard in the amount of \$43,190 as presented. Ms. Twombly seconded the motion, which passed 3-0.**

### **2. Unscheduled Matters/Public Comment**

--Mr. Fogg questioned why the School provides copies at .06 of a cent per page while the Town charges \$0.25 per page.

### **3. Unfinished Business**

**a) Town Hall Window Project** – Mr. Avellani noted that the Town Administrator has reworked the project to fit into the available funding. **Ms. Twombly moved to authorize Kelley Collins to move forward with this revised project. Mr. Wallace seconded the motion, which passed 3-0.**

**b) Director of Public Works** – Mr. Avellani advised that Brock Mitchell has accepted the position of Director of Public Works and will start on August 27.

**4. New Business** – None scheduled.

### **5. Proposed Capital Reserve Fund Expenditures**

**a) Invasive Species \$10,000** – This expenditure to Belleau Lake Property Owners Association has already been approved at the relevant public hearing. The funds now need to be released. **Mr. Wallace moved to release the \$10,000 to BLPOA as requested. Ms. Twombly seconded the motion, which passed 3-0.**

### **6. Correspondence**

**a) Warren Winn Notification of Retirement** – Mr. Winn has notified the Board that he will retire as of September 1, 2018. The Board thanks Mr. Winn for his service and wishes him well.

**b) Christine Tyrie re: Student Resource Officer** – Ms. Tyrie thanks the Board, and Ms. Collins in particular, for supporting the Student Resource Officer position at the Paul School.

**c) Right to Know Request – Stephen Brown** – This is provided for the Board's information only and the Board has taken that information under advisement.

**d) NH DoT Highway Block Grant Aid** - \$139,165 is estimated to be paid to the Town of Wakefield for FY 2019.

### **7. Unscheduled Matters/Public Comment #2**

--Mr. Fogg asked about plans to update the Master Plan given action with the CIP. Mr. Avellani noted that update of the Master Plan is handled by the Planning Board.

--Mr. Beeler asked whether the Board would take a vote regarding the public input section of the meeting. Mr. Avellani stated there will be no change as long as the privilege is not abused.

**8. Administrative Matters**

**a) Town Administrator's Update**

--The Tax Collector was experiencing some computer problems. CCS has taken the computer to fix, which should be returned sometime this week.

**b) Conservation & Heritage Commissions Membership Appointments** – Mr. Wallace moved to appoint David Tinkham as a full member (from alternate) to the Conservation Commission, as recommended. Ms. Twombly seconded the motion, which passed 3-0.

Ms. Twombly moved to appoint Ann Bell as an alternate to the Heritage Commission as recommended. Mr. Wallace seconded the motion, which passed 3-0.

**c) Tax Collector's July Summary 2018/2017** – Provided for the Board's information.

**d) Building Permit Releases** – Ms. Twombly moved to approve the release for Mello on Fisher Road. Mr. Wallace seconded the motion, which passed 3-0.

**e) Payment Manifests** – Mr. Wallace moved to approve AP #39 in the amount of \$6055.69. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Wallace moved to approve AP #38 in the amount of \$3097.45. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Wallace moved to approve PR #19 in the amount of \$77,234.91. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Wallace moved to approve PR #18 in the amount of \$92,482.44. Ms. Twombly seconded the motion, which passed 3-0.

The Board reviewed AP #40. Mr. Wallace questioned two charges on Town credit cards, both to different eating establishments. Ms. Twombly believes one charge was for a gift card for a generous volunteer from the Heritage Commission. Ms. Bodah will have the Finance Clerk check the charges and advise the Board members. The relevant check will not be released without the Board's permission. Mr. Wallace moved to approve AP #40 in the amount of \$836,055.73. Ms. Twombly seconded the motion, which passed 3-0.

Ms. Twombly moved to approve AP #34 as revised, a void in the amount of \$915.23. Mr. Wallace seconded the motion, which passed 3-0.

**f) Minutes** – Mr. Wallace moved to approve the public minutes of July 25, 2018, as presented. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Wallace moved to approve the non public minutes of July 25, 2018, #'s 1, 3, 4, 5, 6, 7 and 9, as presented. Ms. Twombly seconded the motion, which passed 3-0.

Mr. Wallace moved to approve the sealed non public minutes of session #2 of July 25, 2018, as presented. Ms. Twombly seconded the motion, which passed 3-0.

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Mr. Wallace moved to approve the sealed non public minutes of session #8 of July 25, 2018, as presented. Ms. Twombly seconded the motion, which passed 3-0.

Ms. Twombly moved to adjourn at 8:33 p.m. Mr. Wallace seconded the motion, which passed 3-0.

Respectfully submitted,  
Toni Bodah, Secretary

Approval of Minutes:

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Lino Avellani, Chair

\_\_\_\_\_  
*Connie Twombly*  
Connie Twombly

\_\_\_\_\_  
*Vinton Wallace*  
Vinton Wallace