

**MINUTES OF THE
Town Council**

**Regular Meeting of
November 6, 2023**

The Town Council held a meeting on Monday, November 6, 2023, at the Media Center at Salem High School Salem, NH.

PRESENT: Councilor Joe Sweeney, Councilor Cathy Stacey, Councilor Keith Stramaglia, Councilor D.J. Bettencourt, Councilor Lisa Withrow, Councilor Paul Pelletier, Councilor Jim Keller (arrived at 7:55 PM), Councilor Bonnie Wright, and Chris Dillon (Town Manager).

ABSENT: Chairman Robert Bryant

CALL TO ORDER:

Vice Chairman Sweeney began by calling the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

Councilor Pelletier led the Town Council in the Pledge of Allegiance.

2. Meeting Minutes

MOTION: by Councilor Wright

Move to approve the sealed Town Council Non-Public Session Meeting Minutes from October 16, 2023.

SECOND: by Councilor Withrow

VOTE: 5-0-2

The motion passed with Councilor Stacey and Councilor Bettencourt abstaining.

MOTION: by Councilor Wright

Move to approve the Town Council Public Session Meeting Minutes from October 11, 12, and 16, 2023.

SECOND: by Councilor Stramaglia

VOTE: 7-0-0

The motion passed unanimously.

3. Chairman Comments:

Vice Chairman Sweeney stated that he was filling in for Chairman Bryant this evening.

4. Approve Consent Agenda

Manager Dillon stated that the packet had a list of the Consent items.

MOTION: by Councilor Wright

Move to approve the November 6, 2023 Consent Agenda.

SECOND: by Councilor Stramaglia

VOTE: 7-0-0

The motion passed unanimously.

1 **5. Additions and/or Requests by Public or Council by Vote**

2 Chairman Sweeney stated that they would hold off on the public comment related to Item 8 until
3 they got to Item 8.

4
5 Rob Morin, Pelham resident, stated that the former HR Director had recently settled a
6 discrimination claim for \$175,000. The Town Manager did not have the authority to settle the
7 case on his own. Mr. Morin asked if the Town Council was aware of or had approved the
8 settlement. He did not believe that was the case. Mr. Morin stated that his 91-A request was
9 denied. The claims filings were referenced in the settlement agreement therefore there was no
10 confidentiality for the agreement. The Council should release the information. He stated that the
11 taxpayers had a right to know what happened and what the claims were. Mr. Morin called for the
12 Town Council to fire Town Manager Dillon. He spoke about dismissing Councilor Keller if he
13 ran for reelection next time.

14
15 **6. Police Department – Announce Retirement of K9 Apollo and Authorize Release of Dog
16 to K9 Officer Daniel Nelson**

17 Manager Dillon stated that the packet had a memo from Police Chief Dolan.

18
19 Joel Dolan, Police Chief, stated that this was a customary procedure. They had looked to
20 transition Apollo to another role, but it was not feasible given Apollo's age. They were looking
21 to match Apollo's retirement with Officer Daniel Nelson's retirement. He expected that Apollo
22 would be re-homed after retirement.

23
24 Councilor Bettencourt stated that it was unfortunate that Apollo was not present for them to offer
25 thanks.

26
27 **MOTION:** by Councilor Stacey

28 *Move to authorize the Town Manager to sign any and all forms necessary to formalize the
29 release/purchase of Police K9 Apollo to K9 Officer Daniel Nelson.*

30 **SECOND:** by Councilor Wright

31 **VOTE:** 7-0-0

32
33 **7. Police Department – Accept Donation of \$1,000.00 from Avon Ceradyne for Special
34 Services Unit**

35 Manager Dillon stated that the packet had a memo from the Police Chief.

36
37 Chief Dolan stated that they initially thought it was a payment for a bill instead of a donation so
38 that was why it had taken so long to be brought forward.

39
40 **MOTION:** by Councilor Wright

41 *Move in accordance with RSA 31:95(b) that the Town Council accepts with gratitude a
42 donation of \$1,000.00 from Avon Ceradyne to the Police Department Special Services Unit.*

43 **SECOND:** by Councilor Pelletier

44 **VOTE:** 7-0-0

45 **The motion passed unanimously.**

8. Assessing Department – Discussion on Tax Exempt Organizations

1 Manager Dillon stated that the packet had information regarding the tax-exempt organizations.
2 They had a discussion at the last meeting regarding this topic.
3
4

5 Joe Lessard, Interim Chief Assessor, stated that when he arrived in this role, he discovered that
6 there was no review documentation for the tax-exempt organizations even though this was
7 supposed to be done annually. They sent out letters to all of the organizations asking for their
8 paperwork but due to the lateness in the tax cycle, the Board of Selectmen was asked to approve
9 the exemptions for the 2022 tax year even though some of the organizations might not have
10 qualified. In the same year, BTLA dealt with several tax-exempt issues in the towns of Ossipee
11 and Center Harbor on the review. As a result of the several orders pertaining to those two towns,
12 more towns began a thorough review of requests for tax exemptions in 2023. Many towns were
13 doing the annual review, but this led to more doing it, most likely because of the BTLA's
14 statements in its Center Harbor order dated April 19, 2023 where it stated that the "Town" has
15 specific obligations under RSA 72:23 to determine, each and every tax year, whether the
16 property is entitled to an exemption applied for, and cited four requirements the town must do.
17 On page 9 of that same decision, it noted that the DRA is obligated to review a municipality's
18 assessing practices and consider whether exemption and credit procedures substantially comply
19 with applicable statutes and rules. Another reason why other towns may be doing a better job is
20 because of the board's comments in its Ossipee order dated August 10, 2022, which stated,
21 "Municipalities should devote at least the same care and diligence to institutional exemptions as
22 they do to individual (elderly, disability, veteran, etc.) exemptions (which generally have lesser
23 impacts on total tax revenues)."
24

25 Prior to the review process being conducted for 2023, another letter was sent to each
26 organization in February explaining, among other things, that they needed to file timely and
27 requesting certain information from them. The letter pointed out that the deadline was April 15th
28 and that it was the organization's responsibility to file on time regardless of whether the Town
29 requested the information or not. The letter indicated that if another tax-exempt organization was
30 using the property, then they needed to file the appropriate forms as well. Once the review
31 process began, it was discovered that several organizations had not timely filed. A memo dated
32 April 26, 2023, was provided to the Board of Selectmen. Mr. Lessard recommended several
33 organizations be denied for failure to timely apply, one organization be denied as it was not
34 occupying the property, one organization be denied as it did not own the property, one
35 organization be denied because, although the owner filed timely, the user of the property did not
36 file timely, and one organization be denied an exemption as I believed that it filed in a category
37 of the statute that was not applicable. Those recommendations were approved by the Board.
38 Subsequently, a memo dated June 28, was provided regarding a request for reconsideration by
39 three organizations that had been denied. Memos dated July 3, 2023, were provided for each of
40 those three organizations. My recommendation was that two of the requests be denied and one be
41 approved. The Town Council agreed with my recommendations. Subsequent to that, this office
42 vetted the organization whose reconsideration was granted, and it was recommended and
43 approved for the exemption.
44

45 Memos dated August 14, 2023, provided recommendations for the granting of total exemption
46 for a number of organizations and partial exemptions for a number of organizations. The Town
47 Council approved those recommendations. Subsequent to notifying the organizations of the

1 various decisions; either to grant, deny, or grant a partial exemption, two organizations appealed
2 to the Board of Tax and Land Appeals (BTLA). The BTLA ordered one to provide the reason for
3 late filing so that it could be determined if it met the requirement of an "accident, mistake or
4 misfortune" wording which comes from one of the statutes that I will be referring to shortly. In
5 the other appeal the BTLA found that the organization had failed to comply with the timely filing
6 requirements and consequently, "since the requirement for timely filing both forms is a
7 prerequisite for the board having jurisdiction over the appeal, the appeal is hereby dismissed."
8 He had not listed all of the statutes and cases that related, but some of the RSAs were presented.
9 RSA 72:23, Paragraph 3 covered religious organizations, Paragraph 5 covered charitable
10 organizations, and Paragraph 5-a covered organizations using property owned by another
11 organization. Mr. Lessard then covered the RSA governing late filing. It states that no exemption
12 shall be granted after the tax rate is set. He cited the Court language on the meaning of accident,
13 mistake, or misfortune. Mr. Lessard stated that his recommendations were made after review of
14 the rules and court cases. The review was done to be focused on the middle ground. The review
15 was not a fun process. He agreed that these organizations did good work. If they had filed on
16 time, then those organizations would have been given an exemption for the property used for
17 those good works. The appeal process was to the BTLA or Superior Court, unlike with
18 abatements which first went to the Town Council. Now that the tax bills were sent, the
19 organizations could request an abatement. Abatements could be filed until March 1, 2024, and
20 appeals could be filed until September 1, 2024.

21
22 Councilor Bettencourt stated that he was struggling to find the problem here. There was no
23 judicial case that caused this. It was based on what happened in Ossipee and Center Harbor.
24 Those towns were different than Salem. He was trying to understand why this happened. The
25 groups felt that they were under attack. That was not the Assessor's intent. The Town had tried
26 to work collaboratively with the organizations over the years. He felt that they needed to go back
27 to the drawing board regarding the review. The approach should be to look for consensus versus
28 looking at it as black and white. Councilor Bettencourt spoke to the people involved. His
29 understanding was that the Council was in a holding pattern as they were still gathering
30 information. He felt that they were still working it through and would address it again in two
31 weeks.

32
33 Chairman Sweeney stated that there had been some new information, and the next step was for
34 the organizations to file for an abatement.

35
36 Mr. Lessard stated that he based his review on the statutes. He spoke about the BTLA cases
37 which looked at the statutes to see if the towns had done the review that they were supposed. Mr.
38 Lessard spoke about meetings with the groups on a number of occasions. He asked who was in a
39 holding pattern. The abatement process would go forward with his office reviewing the
40 applications and then they would go to the Council with a recommendation on the applications.

41
42 Councilor Wright stated that she reviewed the information and felt that Mr. Lessard interpreted
43 the law correctly. She felt that the problem was with the RSAs. Veterans should not have to
44 prove that they were veterans each year. Councilor Wright asked Representative Sweeney to
45 review the laws for changes.

1 Councilor Withrow stated that she was in the middle. She spoke about the need for the
2 organizations to file on time. Councilor Withrow stated that she had a hard time with the partial
3 exemptions. It seemed odd that wetlands and parking lots suddenly needed to be justified. She
4 felt it was misconstrued. The next step was the abatement process. This needed to be cleaned up.
5

6 Mr. Lessard stated that the abatement process was the next step at the local level.
7

8 Councilor Bettencourt stated that the interpretation of the statute by the towns of Ossipee and
9 Center Harbor were not binding on Salem. He felt that decision going forward needed to rest
10 with the Town Council. There was a way to improve the law without legislation. The Legislature
11 could also ask the State Supreme Court to give an advisory opinion. It was the type of
12 clarification they would find helpful.
13

14 Councilor Pelletier stated that the land of the organizations was part of the organization. He
15 stated that those organizations were using all of their land. They should be exempted as a whole
16 rather than partially.
17

18 Councilor Stacey stated that the Supreme Court issued a decision last week regarding Rochester
19 and the Rochester Fairgrounds. She felt that if they were exempt then they should be exempted.
20 Mr. Lessard came into a mess and was trying to clean it up.
21

22 Councilor Wright asked how the BTLA decision was different than a court decision.
23

24 Councilor Pelletier stated that the BTLA was a quasi-judicial entity so it was not a binding
25 decision on other towns like a court decision would be.
26

27 Chairman Sweeney asked how many organizations had received an exemption in the past but
28 were denied one for this year.
29

30 Mr. Lessard stated that there were close to two dozen organizations total and there were seven or
31 eight that were either denied because of a late filing or were granted a partial exemption.
32

33 Chairman Sweeney asked about the Town assisting these organizations with the abatement
34 process.
35

36 Manager Dillon stated that the assessing office would provide assistance with the process. He
37 stated that Counsel had informed them that the motion made at the last meeting was nullified by
38 the Statute because it prohibited granting exemptions after the tax rate was set. The process
39 going forward was either to file an appeal or to file for an abatement.
40

41 Chairman Sweeney stated that he felt that the abatement process was the best path forward for
42 these organizations. Chairman Sweeney stated that he was going to let people speak but he
43 wanted the Town's process to be heard first.
44

45 Zachary Crowell, Reverend, Centerpoint Church, stated that they were taken aback by the
46 assessing process when they were first notified about it. The Church needed to understand how it
47 would be assessed going forward. Most of the usage by other community groups was free usage.

1 If that usage was going to be taxed, then they would have to make decisions on how to proceed.
2 It would determine whether or not they would have to charge a fee for that usage.

3
4 Betty Gay, 10 Woodmeadow Drive, stated that the vote was to revert to last year's assessment at
5 the last meeting. She did not see any paragraph in the RSA punished a church for allowing
6 community groups to meet there. A 501c was not usually something that people got if they just
7 met to discuss town items. Churches have had thousands of years of history as meeting places.
8 Ms. Gay stated that the applications were submitted in April or May which were late by a couple
9 of weeks. It fell under the accident, mistake, or misfortune exemption. She cited one case where
10 the application was not received but it should have been sent by email. Ms. Gay had a hard time
11 with two churches being taxed. It was an accident or mistake not a deliberate act.

12
13 Chairman Sweeney stated that his motion was to allow for reapplication. That motion was not
14 consistent with the law. The process forward was to file for an abatement at the local level.

15
16 Ms. Gay stated that she found it strange that this law had been on the books since 1994 and it
17 was only now being applied.

18
19 John Ryan, Commander, American Legion, stated that he had a couple of questions. He felt that
20 the mistake exception was more than what the law said. It was a volunteer that made a mistake
21 that adversely affected the organization. They should have been reinstated. He also stated that he
22 would be willing to go to court to get a clarifying decision if needed. He thanked the Woodbury
23 School for the breakfast they provided to veterans and the voters for supporting the veteran's
24 exemption change. Mr. Ryan stated that he did counseling and working with veterans at the VA
25 because there were a lot of suicides among veterans. He felt that the misfortune exception should
26 apply to their situation.

27
28 Chairman Sweeney thanked him and the veterans for serving.

29
30 Mr. Ryan stated that he hoped to see everyone at the Veteran's Ceremony on Saturday. The
31 veterans really appreciated seeing their elected representatives there. He spoke about the trouble
32 with coming up with \$7,000 for their tax bill.

33
34 George Preston, 12 Norwood Road, stated that he was under the impression that the vote last
35 week was binding. They were told that it was not. There was a jaundiced eye. It was growing and
36 needed to be brought back to normal.

37
38 John Janigian, 25 Liberty Street, stated that he was on behalf of the Ararat Armenian
39 Congregational Church because they had received their tax bill. There was a 36% increase in
40 their taxes which was difficult to take. The increase seems to be from the land being taxed. The
41 land had always been used for the church. He asked about the Council making a motion on the
42 abatement process going back to what had been done in the past. Mr. Janigian asked to have the
43 abatement review follow the 2022 tax process going forward.

44
45 Chairman Sweeney stated that they had to review each abatement application individually so
46 they could not issue a blanket statement. They were there to help organizations with the process.

1 He spoke about the work of the organizations as being important to the community. Chairman
2 Sweeney spoke about the abatement process.

3
4 Councilor Withrow stated that they had limited avenues available. The Council had given their
5 opinions and made it clear they understood the plight of the organizations.

6
7 **9. Fire Department - Accept Donations**

- 8 • **\$200.00 Gift Card to Suppa's from Farrell Family**
9 • **Materials Valued at \$2,488.82 from Lowes for Use by Station 3**
10 • **Install a Concrete Pad for a Gas Grill**
11 • **Flooring Materials for Improvements to Kitchen and Dining Room**

12 Manager Dillon stated that the packet had a memo from the Interim Fire Chief.

13
14 **MOTION:** by Councilor Stacey

15 *Move in accordance with RSA 31:95(b) that the Town Council accepts with gratitude a*
16 *donation to the Fire Department (Central Station) of a \$200.00 gift card to Suppa's from the*
17 *Farrell Family; and further in accordance with RSA 31:95(e) a donation of materials from*
18 *Lowes to install a concrete pad at Fire Station 3 along with lumber, tile and other materials to*
19 *construct a roof over the grills, and replace flooring in the kitchen and dining room.*

20 **SECOND:** by Councilor Wright

21 **VOTE:** 8-0-0

22 **The motion passed unanimously.**

23
24 **10. Finance Department – Authorize Withdrawal of \$70,000.00 from the Depot Trust Fund**
25 **and \$215,797.96 from Zone Two Traffic Impact Fees to Offset Cost of Depot Land**
26 **Acquisition**

27 Manager Dillon stated that the packet had a memo from the Finance Director.

28
29 Nicole McGee, Finance Director, spoke about how the Board of Selectmen had authorized
30 overages in the Depot Land Acquisition to be paid from the Depot Trust Fund. They had just
31 received a large invoice and so it was coming to the Town Council to authorize the payment.

32
33 **MOTION:** by Councilor Wright

34 *Move that the Town Council hereby authorizes the withdrawal of \$70,000.00 from the Depot*
35 *Trust Fund and \$215,797.96 from Zone Two Traffic Impact Fees to offset the cost of the*
36 *Depot Land Acquisition invoice dated June 30, 2023*

37 **SECOND:** by Councilor Stacey

38 **VOTE:** 8-0-0

39 **The motion passed unanimously.**

40
41 **11. Finance Department – Discussion/Approval of 2024 Default Budget**

42 Manager Dillon stated that the packet had a memo from the Finance Director.

43
44 Ms. McGee presented the Default Budget which was \$58,586,310.00.

45 **MOTION:** by Councilor Wright

1 ***Move that the Board of Selectmen does hereby approve the 2024 default budget inclusive of***
2 ***the operating budget, water fund, and sewer fund for a total of \$58,586,310.00.***

3 **SECOND:** by Councilor Stramaglia

4 **VOTE:** 8-0-0

5 **The motion passed unanimously.**

6
7 **12. Assistant Town Manager – Continued Discussion and Updates to Town Policies**

8 Manager Dillon stated that the packet had a memo from the Assistant Town Manager.

9
10 Joe Devine, Assistant Town Manager, stated that there were four more policies that they were
11 looking to update. The major change was going from listing the Board of Selectmen to listing the
12 Town Council.

13
14 Councilor Stacey stated that there were references in the Fraud Policy that did not point to
15 somewhere else in the policy. She cited an issue with the banking policy where it said
16 inappropriate instead of “in appropriate.”

17
18 Councilor Bettencourt asked if Mr. Devine had reached out to the Ethics Committee regarding
19 the Fraud Policy.

20
21 Mr. Devine answered no.

22
23 Councilor Bettencourt stated that it would be a good idea to reach out to them.

24
25 Councilor Stacey stated that they should circle back when the changes were made.

26
27 **13. Finance Department – Discussion/Approval of Amendment to Procurement Policy**

28 Manager Dillon stated that the Finance Director was here to propose adjusting the procurement
29 policy.

30
31 Ms. McGee stated that they reviewed the policy thresholds. She was looking to have the
32 thresholds be in line with other towns and take into account the impact of inflation.

33
34 Councilor Stacey asked about the procedure for sole source bids and if there was a waiver.

35
36 Ms. McGee stated that it was not required if there was a single source. There was a form that
37 required the Town Manager’s approval regarding the bid process.

38
39 **MOTION:** by Councilor Stacey

40 ***Move that the Town Council adopts the proposed Procurement Policy and Procedures as***
41 ***amended.***

42 **SECOND:** by Councilor Stramaglia

43 **VOTE:** 8-0-0

44 **The motion passed unanimously.**

1 **14. Municipal Services Department - Proposed Amendment to Salem Municipal Code**
2 **(SMC) Chapter 477 (Water) to Consider Waiver Provision of Requirement to Purchase**
3 **Lawn Meter for Residential Irrigation Systems**

4 Manager Dillon stated that the packet had a memo from the Municipal Services Director.

5
6 Roy Sorenson, Municipal Services Director, thanked them for approving the new purchasing
7 policy. He thought this item had been tabled previously.

8
9 Manager Dillon stated that they would have to take it off the table. It could be the first read that
10 was required by the Charter if there were no changes.

11
12 **MOTION:** by Councilor Stacey

13 *Move that the Town Council takes discussion of the proposed amendment to Salem Municipal*
14 *Code Chapter 477 off the table.*

15 **SECOND:** by Councilor Wright

16 **VOTE:** 8-0-0

17 **The motion passed unanimously.**

18
19 Mr. Sorenson stated that he was presenting what he hoped was satisfactory language. They did
20 not have language for a waiver of the requirement of a separate meter for residential lawn
21 irrigation. The case that came before the Town had specific circumstances which did not allow
22 them to follow the usual process. Mr. Sorenson had a cost component in the proposed
23 amendment now. This provision was not likely to be used often.

24
25 Councilor Bettencourt stated that he felt that this was a reasonable approach. He felt that the case
26 that came in now had some time to prepare to file for the waiver.

27
28 **MOTION:** by Councilor Stacey

29 *Move that the Town Council hereby approves adding language to Amend Chapter 477 of the*
30 *Municipal Code, specifically, §477-14 Application for service; installation, as described here*
31 *by Municipal Services for consideration of waivers for the requirement of a second meter for*
32 *residential irrigation purposes; and further to schedule a public hearing for final adoption.*

33 **SECOND:** by Councilor Withrow

34
35 Chairman Sweeney asked to have the party that had requested the waiver notified of the Public
36 Hearing.

37
38 **VOTE:** 8-0-0

39 **The motion passed unanimously.**

40
41 **15. Municipal Services Department – Discussion on Winter Weather Operations**

42 Manager Dillon stated that the packet had a memo from the Municipal Services Director.

43
44 Mr. Sorenson stated that he would turn it over to Mr. Benson and then take over to finish the
45 presentation.

1 Geoff Benson, Deputy Director of Public Works, stated that winter operations was one of their
2 major functions. They had a Winter Operations Plan. Everyone in Public Works and the Utilities
3 Divisions were called in when there was a winter storm. They treated the main roads first. The
4 GIS Manager mapped out the routes which they provided to the employees and the contractors as
5 well. They had nine plans for operations covering everything from small storms to sidewalks.
6 They started responding after two to three inches were on the ground. The Department focused
7 on clearing the roads during the storm and then did the cleanup afterwards. They had seventy-
8 five pieces of equipment and sixty-four personnel. They added the Boulevard this year, so they
9 had one new plow route and three new salt routes as a result Mr. Benson covered the goals which
10 started with maintaining the roads in an acceptable condition for the public to use.

11
12 Mr. Sorenson stated that they had a lot of new employees. They had the drivers getting familiar
13 with their routes now. It would be different during the storms, but it helped with preparations.
14 They also had seasonal people. The Winter Operations Budget was already in the red for the
15 current year. Mr. Sorenson covered the inflation impacts which were positive at the moment.

16
17 Councilor Stramaglia asked if the dump bed full of salt would be available.

18
19 Mr. Sorenson answered yes. It would be a mix of salt and sand.

20
21 Councilor Pelletier asked about the Boulevard and where the State's responsibility ended.

22
23 Mr. Sorenson stated that it would be at the Mall Road intersection and described the plow routes.
24 The intersection was not finished. The Tuscan was trying to make it ready for winter.

25
26 Chairman Sweeney asked about the jersey barriers being clearly marked.

27
28 Mr. Sorenson answered that they would have to put some markers out there. The barriers had to
29 be up to protect the signal equipment.

30 31 **16. Town Manager's Report/Questions from Town Council**

32 Manager Dillon stated that the Transfer Station would be closed on Friday, but it would be open
33 on Saturday, and it would be closed on Thanksgiving. The Town Offices would be closed on
34 Friday and Thanksgiving and the day after. There would be a ceremony on Saturday at the Pine
35 Grove Cemetery. The Budget Committee would meet this Wednesday. He wanted to thank the
36 employees. Manager Dillon spoke about the challenge of following the law and the difficulty of
37 doing that as part of their job.

38
39 Councilor Stacey stated that she had received calls about cell reception near Lawrence Road.

40
41 Manager Dillon stated that the Town had been experiencing the issue and were looking into
42 resolving the problem.

43 44 **17. Old Business/Tabled and Pending**

45 None

- 1 **18. Upcoming Meetings**
- 2 • November 20, 2023
- 3 • December 4, 2023
- 4 • December 18, 2023

5
6 **ADJOURNMENT AT 8:35 P.M.**

7 **MOTION:** by Councilor Stacey

8 *Move to adjourn at 8:35 PM.*

9 **SECOND:** by Councilor Withrow

10 **VOTE:** 8-0-0

11 **The motion passed unanimously.**

12
13 Notes/minutes taken by: Jeremiah Lamson

14 Approved: Board of Selectmen

15 Date Approved: _____

