

1 **MINUTES OF THE**  
2 **Town Council**

3  
4 **Regular Meeting of**  
5 **May 22, 2023**

6  
7 The Town Council held a meeting on Monday, May 22, 2023 at the Media Center at Salem High  
8 School Salem, NH.

9  
10 **PRESENT:** Chairman Robert Bryant, Councilor Joe Sweeney, Councilor Keith Stramaglia,  
11 Councilor Cathy Stacey, Councilor Lisa Withrow, Councilor Paul Pelletier, Councilor Bonnie  
12 Wright, Councilor D.J. Bettencourt, and Chris Dillon (Town Manager).

13  
14 **ABSENT:** Councilor Jim Keller

15  
16 **CALL TO ORDER:**

17 Chairman Bryant began by calling the meeting to order at 6:30 p.m.

18  
19 **1. Pledge of Allegiance**

20 Councilor Stramaglia led the Town Council in the Pledge of Allegiance.

21  
22 **2. Chairman Comments:**

23 Chairman Bryant stated that everyone asking questions of the Town Staff needed to copy him  
24 and send the request through the Town Manager. He asked the Town Manager to copy everyone  
25 on the response. Chairman Bryant stated that there would be opportunity for each Councilor to  
26 report back on items from their respective committee assignments.

27  
28 **3. Town Consider Temporary Appointment of Secretary to Town Council**

29 Chairman Bryant stated that the Charter did not list a Secretary position. They had always had  
30 one on the Board of Selectmen. It was necessary to have someone in charge of taking the  
31 Nonpublic Session minutes and keeping track of the regular minutes. He requested that they  
32 appoint one on a temporary basis until the Charter can be amended.

33  
34 **MOTION:** by Councilor Bettencourt

35 *Move that the Salem Town Council appoints Bonnie Wright to serve as temporary Secretary to*  
36 *the Council until such time as the Town Charter is amended to include this position on the*  
37 *Council.*

38 **SECOND:** by Councilor Withrow

39  
40 Councilor Bettencourt stated that Councilor Wright was the Secretary on the Charter  
41 Commission and did a great job there, so he supported her for the job here. He appreciated her  
42 willingness to take on the position.

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

45 **The motion passed unanimously.**  
46

#### 4. Discussion on Ethics Committee Membership

Councilor Withrow stated that she wanted to discuss the Ethics Committee because she felt they made a mistake in appointing relatives of the Councilors last week. She felt it was a conflict. Her concern was what would happen if there was a tie because someone recused themselves. It would also create conflicts when the Ethics Committee presented recommendations to the Town Council. Councilor Withrow apologized for not catching that last week. She stood by her comment about not appointing someone who was not present. It looked wrong to do that overqualified people who were present at the meeting. People could take it as a backroom deal. She was open to discussing whether or not to reconsider the appointments. She appreciated that one of the relatives was stepping down from the Ethics Committee.

**MOTION:** by Councilor Withrow

*Move that the Town Council reconsider the appointments to the Ethics Committee.*

**SECOND:** by Councilor Pelletier

Councilor Stramaglia stated that Mr. Wei was appointed despite not being present.

Councilor Withrow stated that he was not appointed over people who were present at the meeting.

Councilor Stramaglia stated that Mr. Breen showed up after the vote was over. They did vote for someone who was not present to be appointed to a committee.

Councilor Wright stated that the Agenda did not call for a vote on the applications. They voted on appointments instead of postponing the decision or discussing them further. The Charter only allowed for appointments to be removed for bad behavior. She felt that they could not revisit the appointments.

Councilor Bettencourt stated that last week was unprecedented. He agreed that it was an awkward situation. He only found out who applied when walking into the meeting. There was an audience full of people waiting to see if they were appointed or not. Councilor Bettencourt tried to review them as fast as possible. Things could have been done better. He did not know the process for removal in this case.

Councilor Wright stated that the only method for removal in the Charter was bad behavior. Ms. Stramaglia was qualified based on her background.

Councilor Withrow stated that she thought several applicants were very qualified. She asked the Town Manager to confirm that they had an opinion from the Town's attorney that stated that the Council could revisit the appointments of the Ethics Committee.

Manager Dillon stated that legal counsel gave advice that they could revisit the Ethics Committee appointments since the Ethics Committee had not met yet.

Councilor Wright asked what difference it made whether the Ethics Committee had a meeting or not. If they were going to revisit appointments, then they should revisit all of them. It was not

1 right to focus on just the Ethics Committee. She stated that the attorney was the person who did  
2 not believe an Ethics Committee could be done when they were creating the Charter. The  
3 Attorney General's Office stated that an Ethics Committee was allowable.

4  
5 Councilor Sweeney felt that they should post the vacancy and go through the process again. He  
6 felt that they should allow that person to recuse themselves if they felt it was necessary.  
7 Councilor Sweeney did not feel that they could revisit the appointments. One person stepped  
8 down. The other person had not but he expected that person to recuse themselves if there was a  
9 conflict in the future. The Council should not fill that vacancy tonight.

10  
11 Chairman Bryant stated that the interview process was always done upstairs and then announced.  
12 In an effort to have greater transparency, the Town Council made the appointments in public. He  
13 felt that it would not change the result.

14  
15 Councilor Withrow stated that she did not like questioning the attorney.

16  
17 Councilor Bettencourt asked if Marybeth Stramaglia had been given the memo from the attorney.  
18 He asked if they could make her aware of what it said. Councilor Bettencourt felt that she was  
19 very qualified for the Ethic Committee based on her experience. There were some other  
20 considerations that had come up. She should have the opportunity to review it.

21  
22 Councilor Pelletier stated that there seemed to be a lot of work to be done. There were opinions.  
23 He wondered if this should be tabled until the next meeting.

24  
25 Councilor Withrow offered to pull back the motion.

26  
27 Councilor Stacey stated that the Attorney was asked a question and responded. She agreed that  
28 the appointment had been made and did not think anything would change. If the person chose to  
29 resign after considering everything, then that was okay. Councilor Stacey felt that they should  
30 vote on the motion and address it this evening.

31  
32 **VOTE: 1-6-1**

33 **The motion failed with Councilor Withrow in favor and Councilor Stramaglia abstaining.**

34  
35 Chairman Bryant stated that they should do a new call for candidates to fill the vacancy on the  
36 Ethics Committee.

37  
38 Manager Dillon stated that he would do the call for candidates and notify those who were not  
39 selected previously that there was a new vacancy.

#### 40 41 **5. Workshop Session – New Hampshire Municipal Association**

42 Manager Dillon stated that the Town of Salem was a member of the New Hampshire Municipal  
43 Association. That membership included a free training. They delayed selecting the training until  
44 they saw what happened with the Charter vote. They invited NHMA to come in to do the training  
45 related to Charters.

1 Steve Buckley, NHMA, stated that they did training to cities and towns around the State. They  
2 also answered questions from local elected officials. He would cover Town Charters generally  
3 and then Jonathan Cowal would cover tips for meetings. They would also cover the Right-to-  
4 Know Law. RSA 49-D set out Charter options. Salem chose the Town Council-Town Manager  
5 format. The Town Manager would be the Chief Administrative Officer in this format and the  
6 responsibilities of the Town Manager Statute are then incorporated into the Charter. Charters  
7 could not exceed or conflict with State Law. Several court cases were cited as examples of what  
8 Charters could not do. Revisions and amendments were covered next. A revision to the Charter  
9 meant that the form of government was changing while an amendment made a change to the  
10 Charter while keeping the form of government the same. This was clarified in 2014 through a  
11 change to the Statute. RSA 49-D:4 was important to remember because it set out the non-  
12 interference requirement. It was intended to place a barrier between elected officials and the staff  
13 by making it clear that interference with the Town Manager's performance of their duties by  
14 individual members could cause them to forfeit their elected office. Mr. Buckley covered the  
15 Organizational Meeting requirement from Salem's Charter. It was important to have rules of  
16 procedure. He then turned to the Right-To-Know Law and how it affected meetings. The purpose  
17 of 91-A was to ensure public access to actions, discussions, and records of public bodies to  
18 maintain their accountability. A meeting was a quorum of a public body that convenes so that  
19 they can communicate contemporaneously to discuss or act upon a something over which the  
20 public body has supervision, control, jurisdiction, or advisory power. Not every occasion where a  
21 quorum was present was a public meeting and an example of a Christmas Party was given. A  
22 quorum was a majority of the members, but other statutes may impact the quorum. A public  
23 body included subcommittees of a committee of a political subdivision. There was a recent court  
24 case that defined what was not a public body. Any time that members are communicating  
25 contemporaneously whether by phone, email, or in person and discussing the body's business a  
26 meeting is occurring. The Statutes also listed things that did not constitute a meeting such as a  
27 social or other encounter with no decisions being made, collective bargaining, consultation with  
28 legal counsel, or the circulation of draft documents. These were different than Nonpublic  
29 sessions. The requirements for a public meeting were that public notice was provided, it was  
30 open to the public, and there were minutes taken. An Agenda was not required but it was  
31 advisable to have one posted so that people knew what was going to be discussed. They could  
32 not have secret ballot votes or send text messages between members during the meeting. The  
33 minimum posting notice was twenty-four hours in two public places but other laws set longer  
34 notice requirements based on the action being taken. Public bodies must have a physical location  
35 for a meeting with a majority physically present there although virtual access can be allowed.  
36 Remote participation was allowed with certain conditions including taking all votes by roll call.  
37 They should make a motion so that it was in the minutes showing where the approval was given.  
38 There were circumstances where an emergency meeting could be called and a majority would  
39 not have to be physically present at the location. Mr. Buckley then covered electronic  
40 communications again and spoke about the reply all issue where it could lead to the  
41 communication being determined to be a meeting. Emails should be sent by 'bcc' from the staff  
42 member or the Chair so that replies did not go to everyone. Open meetings required allowing the  
43 public the ability to record the meetings. The public did not have a right to speak unless they are  
44 given the opportunity. The Council could set up a system for public comment. They needed to  
45 have established rules for it because it triggered the First Amendment once public comment was  
46 allowed. There were things you could not do under First Amendment rights. They could not

1 control the content, but they could control how it was done such as the amount of time and the  
2 order of speakers. They had the ability to enforce the rules. There was a court case on it. They  
3 could not limit it to positive comments or prevent discussion of public employees. A police  
4 officer can remove people who disobey; however, the officer would only have probable cause if  
5 they were in the meeting room. Mr. Buckley covered what was required to be in the minutes  
6 such as a record of actions taken and a list of speakers. They had to be done in five days. They  
7 were only required to post approved meetings. He did not feel that a recording of the meeting  
8 was sufficient to serve as the minutes. Nonpublic Sessions only took place in a public meeting.  
9 They had to vote to go into Nonpublic Session and come out. They were not required to have a  
10 nonpublic session. He gave the reasons that they might go into nonpublic session which included  
11 discussing a public employee (it had to be a specific employee), hiring, reputation, real or  
12 personal property, lawsuits, emergency preparation, legal advice, or student tuition contracts.  
13 They had to state the reason and take a vote by roll call to enter Nonpublic session. The minutes  
14 required that they needed to record how each person voted. They could make a decision in  
15 Nonpublic session. If a member objected to a Nonpublic session they could note it in the record.  
16 If penalties were assessed in the future then that person would be exempted. They had to return  
17 to public session. They should list the Nonpublic sessions on the agenda or give a warning that  
18 they might do that so that the public was not surprised. Only essential personnel should be part of  
19 the Nonpublic session. Minutes should be sealed once the Council came out of Nonpublic  
20 session otherwise the minutes are public. There was a law passed that took effect last year  
21 requiring towns to keep a list of their Nonpublic sessions which included the identity of the  
22 public body, the date & time of the Nonpublic session, the exemption for the Nonpublic session,  
23 the date of the decision to seal the minutes, and the date of any subsequent decision to unseal the  
24 minutes. If the session was to consider acquiring property, then the minutes automatically  
25 became unsealed once the transaction was completed or the attempt is abandoned.

26  
27 Jonathan Cowal, NHMA, covered how to have effective meetings. They had suggestions based  
28 on statutes and personal experiences from questions they had received. Preparation was  
29 important and could help the meetings run smoothly. That did not mean discussing the items  
30 among members before the meeting. Rules of procedure were a must because they were the most  
31 effective tool in keeping meetings on track. Having an Agenda put people on notice as to what  
32 would be discussed. It also kept everyone on track. They could circulate the documents  
33 beforehand, but the town should be careful to do them by 'bcc' so that no one used reply all.  
34 Everyone should read the documents but not discuss them with other members beforehand. Mr.  
35 Cowal covered rules of procedures along with suggestions on what should be in them. Election  
36 of officers was not covered in statute so the rules of procedures should clarify the process for  
37 how and when the officers were elected. He spoke about Robert's Rules of Order and the Right  
38 to Know Law. Sometimes the public submitted documents and they became a public record. The  
39 rules could address when appointments took effect and how to adopt ordinances. If you have an  
40 Agenda then it should be posted when the meeting notice was posted They should have rules  
41 about how items were placed on the Agenda. The Agenda could not be used to silence members.  
42 They could require public speakers during public comment to stick to the Agenda or items  
43 discussed at the meeting. Mr. Cowal spoke about conducting the meeting and things like starting  
44 on time and making sure that the minute taker could record the meeting. He gave comments  
45 about member decorum as the Councilors represented the Town of Salem. Riggins' don'ts were  
46 presented regarding what should not be done during a meeting such as using first names and

1 interrupting presentations along with a couple of things to do. Mr. Cowal then gave advice for  
2 dealing with difficult people such as treating them with respect, remaining calm, applying the  
3 rules evenly, and showing that you are listening. He spoke about the importance of meeting rules  
4 and cited a court case as an example. Ethics and Conflicts of Interest were covered next. Ethics  
5 included avoiding conflicts of interest, avoiding criminal behavior, upholding confidentiality,  
6 fairness, and avoiding the appearance of conflict. Incompatibility referred to specific positions  
7 which one person could not hold at the same time. There was no conflict of interest law. Only a  
8 judge could rule on whether or not someone should have recused themselves. Mr. Cowal listed  
9 statutes that listed incompatibility of offices including one allowing town ordinances or Charters  
10 to set conflicts and incompatibilities. There were limits on employment in cities if you were on a  
11 board.

12  
13 Mr. Buckley stated that Town Councilors were prohibited from having full-time employment  
14 with the Town.

15  
16 Mr. Cowal stated that councilors could not be paid full-time employees of the town. There were  
17 limits on how many land use boards people could serve on. There were two standards for  
18 conflicts with one being a general standard. Atherton was a court case where a perceived conflict  
19 of interest was found not to be an actual conflict. It was different from when acting in a judicial  
20 capacity. They had to meet the juror standard as well in that circumstance because these were  
21 about a specific individual's rights. If they failed to meet the juror standard, then they should  
22 recuse themselves. He gave a comparison of legislative versus quasi-judicial procedures. Mr.  
23 Cowal gave areas that tended to present conflicts such as prejudice or employment  
24 relationships. Salem's Charter provisions were covered next. He then covered the consequences  
25 of conflicts. If it was a legislative conflict, then it only mattered if they were the deciding vote. If  
26 it was quasi-judicial then the decision could be invalidated simply due to the participation  
27 because indifference was important. Recusal was the way to go if there was a conflict.  
28 Abstaining did not mean that they did not influence the decision in a quasi-judicial setting.

29  
30 Councilor Wright asked about reaching out to the other Communications Committee members  
31 even though they did not yet have Town emails.

32  
33 Mr. Cowal asked about having staff send the communications. It was not required that board  
34 members have town emails.

35  
36 Mr. Buckley stated that it was better to send communications through the administration so that  
37 they were aware of it. He did not recommend individual councilors running things for  
38 committees.

39  
40 Councilor Sweeney stated that they would be making a list of housekeeping fixes. He asked  
41 about it being done in one amendment.

42  
43 Mr. Buckley stated that they could link items if they have a common topic. The better practice  
44 might be individual amendments, but he understood it might be an issue if there were a lot of  
45 articles.

1 Councilor Withrow asked about responding to an email from the Town Manager.

2  
3 Mr. Buckley stated that she could respond to the email. The problem was responding to everyone  
4 instead of just the Town Manager. He encouraged them to go through staff or the Chair to  
5 distribute information to the Council members.

6  
7 Councilor Withrow asked if they could limit who could speak to just residents.

8  
9 Mr. Buckley stated that if they allowed public comment then they had to let everyone speak.

10  
11 Chairman Bryant thanked them for the presentation.

12  
13 **6. Additions and/or Requests by Public or Council by Vote**

14 Councilor Bettencourt asked if they wanted to have a central repository for By-Law suggestions  
15 or bring them at the meeting.

16  
17 Chairman Bryant asked if he had received the suggestions from Councilor Sweeney or Councilor  
18 Wright.

19  
20 Councilor Bettencourt stated that he had one set.

21  
22 Councilor Sweeney stated that was his set.

23  
24 Councilor Bettencourt suggested sending his comments to Councilor Sweeney to compile.

25  
26 Councilor Sweeney stated that was fine.

27  
28 **MOTION:** by Councilor Sweeney

29 *Move to seal the minutes from the May 22, 2023 Nonpublic Session #1.*

30 **SECOND:** by Councilor Withrow

31 **VOTE:** 7-0-1

32 **The motion passed with Councilor Stacey abstaining.**

33  
34 Chairman Bryant asked if they had a limit on how long people could speak.

35  
36 Councilor Stacey stated that the Charter set a two-minute limit.

37  
38 Claire Karibbean, 56 Atkinson Road, stated that she knew they had only been organized for a  
39 week but there were some inconsistencies in the Charter that were not immediately apparent.  
40 There was an issue with the number of people on the Conservation Commission. Since they had  
41 appointed an interim Secretary, she was looking for an interim Conservation Commission  
42 member to be added in order to bring it back to a seven-member board. Ms. Karibbean listed the  
43 error that reduced the number of members from seven to six. The Council was aware of it. She  
44 asked them to add another member to the Conservation Commission and for a reply to her  
45 request.

1 Councilor Sweeney stated that they appointed alternates, but he did not believe they could  
2 expand the size of the board.

3  
4 Councilor Stacey asked if the makeup of the Conservation Commission was in State Statute.

5  
6 Ms. Karibbean stated that it was in the By-Laws and the RSA set a range for the number of  
7 members.

8  
9 Councilor Stacey stated that because the RSA gave a range then it did not overrule the Charter.

10  
11 Ms. Karibbean stated that they trumped the Charter by appointing the Secretary.

12  
13 Chairman Bryant asked about the alternate voting on the Conservation Commission items.

14  
15 Ms. Karibbean stated that would work.

16  
17 Councilor Wright stated that they could only step up if someone was absent.

18  
19 Ms. Karibbean asked what the difference was between the Secretary and the appointment of  
20 Board.

21  
22 Councilor Sweeney stated that the Charter did not say that the Town Council could not have a  
23 Secretary. It did specifically set the number of members on the Conservation Commission.

24  
25 Councilor Withrow stated that they were required to have someone take the minutes.

26  
27 Ms. Karibbean stated that they were still adding a person that was not in the Charter. It would not  
28 harm the Town and it would make it better from a voting standpoint.

29  
30 Councilor Pelletier stated that when he started on the Planning Board he was the only alternate  
31 and ended up voting because they ran down a member for much of the year.

32  
33 Councilor Withrow stated that the Charter limited them regarding the Conservation Commission.  
34 They were not limited by the Charter.

35  
36 Ms. Karibbean stated that it was a two-faced situation. They could correct the situation but were  
37 choosing not to.

38  
39 Chairman Bryant stated that they were not able to do anything about it.

40  
41 Jeff Hatch stated that they did not create a voting position with Councilor Wright, they just  
42 assigned her an additional duty. They could not add a voting member to the Conservation  
43 Commission because the Charter did limit the number of voting members.

44  
45 Chairman Bryant stated thank you.



1 Brian Thornock stated that the Municipal Association covered things very well. Transparency  
2 was important. It was hopefully clearer. They had a lot of ordinances that were still on the books  
3 that should be reviewed. They had an ordinance that required partisan elections even though that  
4 was not how the local elections were run. If the ordinance was wrong, then it should be fixed. It  
5 should be addressed by the Council or the voters. He offered copies of the ordinance.

6  
7 Chairman Bryant asked him to provide them through the Town Manager.

## 10 7. Upcoming Meetings

- 11 • June 5, 2023
- 12 • June 12, 2023 (Town Council Planning and Goal Setting Session)
- 13 • June 26, 2023
- 14 • July 10, 2023
- 15 • July 24, 2023
- 16 • August 7, 2023
- 17 • August 21, 2023

18  
19 Chairman Bryant asked about the June 5<sup>th</sup> Council Meeting that was not on the list.

20  
21 Manager Dillon stated that the June 5<sup>th</sup> meeting should still be on the list.

22  
23 Councilor Pelletier asked about the meeting start time.

24  
25 Chairman Bryant asked if it mattered if they had the Nonpublic sessions before the main  
26 meeting. He felt it was better if Town employees were involved to have them at the start of the  
27 meeting.

28  
29 Manager Dillon stated that they posted Nonpublic session in the Agenda so that they were  
30 following the Statute. The one issue was the sealing of the minutes in Public instead of in  
31 Nonpublic which was corrected.

32  
33 Councilor Withrow stated that as long as they opened the building to the public they were okay.

34  
35 Councilor Wright stated that NHMA was doing a local officials workshop on June 1<sup>st</sup>.

### 37 **ADJOURNMENT AT 9:00 P.M.**

38 **MOTION:** by Councilor Bettencourt

39 ***Move to adjourn at 9:00 PM.***

40 **SECOND:** by Councilor Wright

41 **VOTE:** 8-0-0

42 **The motion passed unanimously.**

43  
44 Notes/minutes taken by: Jeremiah Lamson

45 Approved: Board of Selectmen

46 Date Approved: June 5, 2023