

Minutes of Wilmot Selectboard Meeting - 09/06/23

Date and time: 09/06/23 06:00 pm to: 09/06/23 08:00 pm

Present: Town Administrator, Tom Schamberg, Jonathan Schwartz, Glynis Hart

CC: Bill Chaisson

Location: Wilmot Town Office, 9 Kearsarge Valley Road, Wilmot NH 03287 and via remote access Zoom ID# 324 091 722. Other call-in details included on the agenda posted on our website - <http://wilmotnh.org/>.

Zoom chat function will not be available. NOTE BELOW

Topics

1. Remote meeting access

Note Zoom chat function will not be available. Please note anyone who wants to speak at a public meeting or hearing must identify themselves by name and address and such information must be recorded in the minutes in accordance with RSA 91-A:2, II

2. PUBLIC COMMENT PERIOD - This time is reserved for questions and/or comments from the public relating to items NOT on the agenda. Time is limited to three minutes per person.

Note Mary Fanelli, 115 Village Road - 14 N Wilmot Road - you can really see knotweed that is growing out of control on the property. She would like the selectboard to consider knotweed abatement and consider including it in the 2024 budget process.

3. Review/Signature Items

3-1. Intents/Permits/Assessing Items

Decision Correction of timber yield tax - 22 483 03 T - PID# 013 048 0001 and 0002

Selectboard Member Hart moved to approve, Selectboard Member Schwartz seconded. ALL IN FAVOR.

 [ASSESS timber levy corrected Tremonte 22 483 03 T.pdf](#)

3-2. Town Departments

Note POLICE - August monthly report

 [PD 2023 August monthly report.pdf](#)

Note HIGHWAY - August monthly report

Paving project on Village Road to begin on Friday and continue into next week. Topping of Cross Hill on Friday.

 [HWY 2023 August monthly report.pdf](#)

4. New and/or Old Business

4-1. Old business for review -

Note QUESTIONS FROM THE SELECTBOARD

The selectboard posed the following questions to the Town Administrator following their non-public session and asked that she research them and provide answers. The Town Administrator asked whether they should discuss these items in non-public session as they related to a personnel matter. The board members indicated they were simply questions for which they wanted answers, so no non-public session was necessary.

Prior to sharing the data, the Town Administrator again asked if the board preferred to discuss these items in non-public session. The sense of the board was no, because they pertain to a position and not a specific person, they should discuss them in public session.

1. HOW WOULD THE SELECTBOARD CHANGE THE ROAD AGENT POSITION BACK TO AN HOURLY PAID POSITION?

1/10/2018 – Minutes reflect the board accepted the designation of the Road Agent position as Supervisory and changed the pay method from hourly to salary. The motion was made by then- Selectman Schamberg and agreed upon unanimously. It should be noted the review process for employee benefits and pay rates began in earnest in October of 2017 after extensive research by the Town Administrator. The subject was mentioned in meetings on 11/1, 12/13, 12/20, and 12/27 of 2017 prior to the vote on 1/10/2018.

Provided are the job description updated following the 2018 Town Meeting and also approved by the board in July 2018.

A total compensation summary provided notes the overall adjustment including an adjustment to reflect consideration of overtime hours worked in the several years prior to 2018.

A summary of available types of paid time off is provided to reflect the number of sick hours available at the time of the switch to using a payroll company. This data is included as an explanation for the sick leave policy applied to this employee as sick leave is not paid out upon departure. A shift in clarification of the policy was made to protect the finances of the town as any “unpaid leave” may be considered a financial liability carried by the town.

Generally, the select board has full authority to set compensation and benefits for town employees, subject to any applicable employment law provisions. The vote in 2018 indicates the board chose to classify the Road Agent position as “exempt” from minimum wage and overtime pay for certain classifications of employees. In this case, the position meets the qualifications outlined in “Administrative Exemptions” (US Department of Labor Wage and Hour Division Fact Sheet #17A).

The board would need to vote to change the classification of the Road Agent position to be non-exempt.

As to back pay, counsel noted the following: “If there is a desire to provide back pay, that can be complicated, putting aside it is changing what has been said all along. It will be tough to calculate, to verify, and to document. Ideally he should sign something with all of the hours under penalty of perjury. In addition, we would want to document what this is and what it isn't to protect the Town from a later claim and using this as an admission. We would want to make sure the documentation (a formal agreement between the Town and the employee) clarifies that he was not entitled to the wages so the DOL does not see this as untimely payment of wages due.

2. WHAT WOULD THE TIMELINE FOR THIS BE?

The board has an appropriated budget for 2023 as voted on at town meeting in March 2023. The board is bound to operate within this appropriation but has wide latitude as to the ability to spend money from the overall budget as it sees fit.

The board, once voting to change the classification of the position, may do as it sees fit and notify the Town Administrator as to payroll changes and directions for payments.

3. HOW DOES THE SELECTBOARD DETERMINE FAIR PAY FOR ANY HOURS IN EXCESS 40 HOURS PER WEEK ALREADY WORKED IN 2023?

That would be up to the board as it has wide latitude as noted above.

4. THE SELECTBOARD WOULD LIKE TO ADVERTISE FOR THE COMBINED HIGHWAY DEPARTMENT/TRANSFER STATION POSITION IN THE VALLEY NEWS AND THE CONCORD MONITOR.

The board simply needs to notify the Town Administrator of what it would like to include in the advertisement. These two publications noted are the most expensive in the area.

The change from salary to hourly for a supervisory position such as the Road Agent has significant

potential budgetary impacts. The board has not to date directed the Town Administrator to review these potential impacts as they would relate to the 2024 budget planning process. The board would be cautioned to review employee histories and overall departmental adjustments prior to action to change a classification.


Town of Wilmot Personnel Policy (rev June 2022) – relevant references

- Page 3 for definitions
- Page 5 – 3.05 Purpose of Personnel Policies
- Page 6 – 3.06 Scope of Policies
- Page 9 – 6.05 Overtime (3)
- Page 10 – 7.01 Performance Evaluations (1, 2 and 3)

Note UPDATE ON SIGNAGE for North Wilmot and Atwood Roads

Highway comments included in memo linked

Road Agent and Police Chief are happy with the improved visibility and hope this improves the situation. Chief Domey asked Road Agent Martin if one is putting up a sign, how far from an intersection must it be? The Road Agent did not know if there were regulations that specified the placement. Chief Domey will check to see if he can find regulations.

 [PD comments re Atwood NWR 09052023.pdf](#)

Note FOLLOW-UP on Gill request for road grading on Breezy Hill resulting from conversation the Road Agent about the increase in the height of the road and an update on re-establishing property line markers moved by Highway Department.

Selectboard asked the Town Administrator to change the coding on the tire replacement to Exec Misc Expense - 4130-1-690.

Highway Department provided a hard copy of a revised response to Jeff Gill's query about follow-up.

 [MEMO re Gill complaints 09062023.pdf](#)

 [MEMO re Gill complaints 09062023_rev1.pdf](#)

Note SEALED MINUTES - from NHMA "many municipalities choose to assign a single select board member to review sealed minutes and if they identify certain minutes that they believe should be unsealed, they then will bring those minutes to the attention of the whole board for a vote at the next meeting. There is nothing wrong with having one member go through this process on their own time as opposed to requiring the entire board to potentially dedicate dozens of full meetings to this process.

That being said, the decision as to whether or not to unseal the minutes must be made by a vote of the board, and any minutes that are being reviewed should be kept at a municipal building and should not be taken home by any board member unless they have made copies and left the originals with the town clerk"

More from NHMA -

 [NHMA HB 321 Sealed Meeting Minutes Procedure Change 09062023.pdf](#)

Note TOWN BUILDINGS MAINTENANCE

Insulation has been installed under the far back office extension at 9 Kearsarge Valley Road.

Still no word from residents who had committed to paint buildings at ball field and no word on replacement of scoreboard.

According to the Highway monthly report, the floor work at the Highway Department has been completed.


Update from Chairman Schamberg about town green ground work. The person who was to do the work is not able to at this time, we need to find another contractor. The Town Administrator will reach out to some other prospects.

4-2. New business for the floor -

Note Town of Wilmot Alcohol Policy (on town owned and controlled properties) - begin discussion.

Selectboard Member Schwartz suggested wording for a change to the policy, to allow consumption on town property at private events.

There was brief discussion about the process for moving forward. Selectboard Member Schwartz will provide a revised draft to share with the board for their review at next meeting. Once the board is comfortable with draft language, the administrator will share with town counsel for input and then bring back to the board for review prior to a public hearing on the policy

 [BOS_current_ordinance_and_minutes_with_vote.pdf](#)

 [BOS_current_app_and_permit.pdf](#)

 [BOS_proposed_language.pdf](#)

 [BOS_insurance_and_legal_comments.pdf](#)

5. Manifests and Minutes

5-1. A/P Manifests

Decision Approve the accounts payable for September 6, 2023

Selectboard Member Hart moved to approve, Selectboard Member Schwartz seconded. ALL IN FAVOR.

 [BKP_APManifest_09062023.pdf](#)

Decision Approve the Bandstand accounts payable for September 6, 2023

Selectboard Member Schwartz moved to approve, Selectboard Member Hart seconded. ALL IN FAVOR.

 [BKP_Bandstand_APManifest_09062023.pdf](#)

5-2. Minutes from Previous Meeting

Decision Accept as presented and approve the minutes of the meeting of Wednesday, August 23, 2023.

Selectboard Member Schwartz moved to approve, Selectboard Member Hart seconded. ALL IN FAVOR.

 [BOS_DRAFT_Minutes_08.23.2023.pdf](#)

6. Upcoming Events

Note FYI - Wilmotpalooza to be held on Sunday, September 10, 2023 on the town green - please check the Wilmot Community Association website for more details.

Note FYI - September 11 observance will be held on Sunday, September 10, 2023 at noon at the town green.

Note FYI - Elkins Fish & Game will be using the town ball field for a yard sale on Saturday, September 16, 2023 from 9 until noon.

6-1. Next Meeting

Note Wednesday, September 20, 2023 from 6:00 PM to 8:00 PM in-person meeting at 9 Kearsarge Valley Road and via remote access Zoom ID# 324 091 722. Call-in details included on the agenda posted on our website - <http://wilmotnh.org>

7. Old Business continued from above

Decision At the request of the Town Administrator citing RSA 91-A:3, II(c)

NON-PUBLIC SESSION - TIME? pm Selectboard Member Hart moved to enter non-public session, Selectboard Member Schwartz seconded. Chairman Schamberg, Selectboard Member Schwartz and Selectboard Member Hart all voted YES.

Decision 7:54 pm Board returned to public session. Selectboard Member Schwartz moved to seal the minutes, Selectboard Member Hart seconded. Chairman Schamberg, Selectboard Member Schwartz and Selectboard Member Hart all voted YES.

Note SELECTBOARD ROAD AGENT QUESTIONS - discussion continued after above items were acted upon.

Chairman Schamberg indicated there is money in the highway department budget for payment to the Road Agent. Chair noted he relies upon the administrator of a department's budget to say whether the money is there for certain expenditures and the Road Agent is making the request.

Selectboard Member Schwartz indicated that given the type of work the Road Agent does here in Wilmot, it would be more fair to provide the ability to pay overtime.

Selectboard Member Hart asked Selectboard Member Schwartz about the data he collected data and which is more prevalent, hourly or salary? Selectboard Member Schwartz indicated it is mixed.

Chairman Schamberg said the current request involves the additional work at the Transfer Station, which was never considered in the switch from hourly to salary in 2018.

Chairman Schamberg asked for the feeling of the board, should it proceed with changing the classification of the Road Agent from salary?

Selectboard Member Schwartz posed that Chairman Schamberg was the only one at the current table present for the discussions in 2018, so what happened in 2018? Chairman Schamberg said it was all discussion about the highway role, there were many times when the road agent would have to fill in for certain jobs, it was decided by the board to switch to salary and make the position "exempt from minimum wage and overtime pay under Fair Labor Standards Act (FLSA).

Decision At the request of the Road Agent citing RSA 91-A:3, II(a)

NON-PUBLIC SESSION - 7:56 PM Selectboard Chair Schamberg moved to enter non-public session, Selectboard Member Schwartz seconded. Chairman Schamberg, Selectboard Member Schwartz and Selectboard Member Hart all voted YES.

Note 8:08 pm Board returned to public session.

8. Adjourn

Decision 8:09 PM Selectboard Member Schwartz moved to adjourn, Selectboard Member Hart seconded. ALL IN FAVOR.