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**MINUTES OF THE
BOARD OF SELECTMEN**

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**Regular Meeting of
February 22, 2010**

7 The Board of Selectmen held a meeting on Monday, February 22, 2010 at Salem Town Hall, 33
8 Geremonty Drive, Salem, NH.

9
10 **PRESENT:** Chairman Arthur E. Barnes III, Vice-Chairman Michael J. Lyons, Secretary
11 Elizabeth A. Roth Selectman Everett P. McBride, Selectman Patrick Hargreaves and Dr. H.
12 LaBranche (Acting Town Manager)

13
14 **CALL TO ORDER**

15 Chairman Barnes began by calling the meeting to order at 7:00 p.m. He began with the Pledge
16 of Allegiance and introduced members of the Board and Town staff. He then opened the public
17 hearing and recessed it until item 4 on the agenda.

18
19 **1. Meeting Minutes**

20 **MOTION:** by Selectman Roth

21 *Move to accept the minutes of the Board of Selectmen Regular Meeting and Sealed Non-*
22 *Public Session of February 2, 2010*

23 **SECOND:** Selectman Hargreaves

24 **VOTE:** 5-0-0

25 **The motion carried unanimously.**

26
27 **MOTION:** by Selectman Roth

28 *Move to accept the minutes of the Board of Selectmen Breakfast Meeting on February 6,*
29 *2010*

30 **SECOND:** Selectman Lyons

31 **VOTE:** 5-0-0

32 **The motion carried unanimously.**

33
34 **MOTION:** by Selectman Roth

35 *Move to accept the minutes of the Board of Selectmen Regular Meeting of February 8,*
36 *2010*

37 **SECOND:** Selectman McBride

38 **VOTE:** 5-0-0

39 **The motion carried unanimously.**

40
41 **2. Chairman Comments**

42 Chairman Barnes had no comments at this time.

3. Accept Donations for Police Department

Dr. LaBranche introduced the topic and handed over to Captain Patten for further information. Captain Patten requested the Board consider accepting a donation from Target for laptops for the Community Services Division of the Police Department.

MOTION: by Selectman McBride

Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a donation from Target Stores of four laptop computers valued at \$830.00 to be utilized in the detectives and community services division of the Police Department

SECOND: Selectman Hargreaves

VOTE: 5-0-0

The motion carried unanimously

Captain Patten requested the Board consider accepting a donation from Wal-Mart to be used towards the purchase of Child Identity kits.

MOTION: by Selectman McBride

Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a donation from Wal-Mart in the amount of \$1,000 for the purchase of Child Identity Kits to be used in the Police Department, Community Services Unit.

SECOND: Selectman Hargreaves

VOTE: 5-0-0

The motion carried unanimously

Captain Patten requested the Board consider accepting a donation from BJ's to purchase junior police identification cards and supplies for use by the Community Services Division during community events and school appearances.

MOTION: by Selectman McBride

Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a donation from BJ's in the amount of \$100.00 towards the purchase of materials to be handed out by the Police Department during community events and school appearances.

SECOND: Selectman Hargreaves

VOTE: 5-0-0

The motion carried unanimously

Chairman Barnes requested Dr. LaBranche send letters of thanks to all of the companies who provided the donations.

4. Public Hearing – Accept Donation from Arlington Pond Protective Association (APPA)

Chairman Barnes re-opened the public hearing. Dr. LaBranche introduced the item and handed over to Chief Breen for further information. Chief Breen introduced himself and requested the Board consider accepting a donation from Arlington Pond Protective Association (APPA) of a John Deer Gator utility vehicle, stressing the vehicle can be used to serve all citizens of the town and will assist the Fire Department with increasing their response capability in emergencies on Arlington Pond. He reported the vehicle can also be used in rescues where the patients are on trails and difficult to get to. Chief Breen handed over to the chairman of the APPA, Mr. H. Glynn, 320 North Main Street who explained the Board of the APPA decided to buy the vehicle as they felt it would be useful and its purpose

1 is consistent with the APPA's mission. He reported his organization had raised the money
2 through the games of chance at Rockingham Park, and he introduced the members of his
3 Board who were in the audience. In response to Selectman Hargreaves Chief Breen
4 explained that training on the vehicle will be done on duty and would not result in any extra
5 costs to the town. Chairman Barnes closed the public hearing.

6 **MOTION:** by Selectman McBride

7 *Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a*
8 *donation of a John Deer Gator Utility Vehicle valued at \$9,972.99 from the Arlington*
9 *Pond Protective Association to be used by the Fire Department.*

10 **SECOND:** Selectman Hargreaves

11 Chairman Barnes requested Dr. LaBranche send a letter of thanks to the APPA.

12 **VOTE:** 5-0-0

13 **The motion carried unanimously.**

14
15 **5. Accept Donation for Fire Department**

16 Chief Breen requested the Board consider acceptance of a donation from Wal-Mart for the
17 purchase of smoke detectors which will be handed out to residents free of charge by the Fire
18 Prevention Bureau.

19 **MOTION:** by Selectman McBride

20 *Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a*
21 *donation of \$500.00 from Wal-Mart to purchase smoke detectors for the Fire Prevention*
22 *Bureau.*

23 **SECOND:** Selectman Hargreaves

24 Chairman Barnes requested Dr. LaBranche send a letter of thanks to Wal-Mart.

25 **VOTE:** 5-0-0

26 **The motion carried unanimously.**

27
28 Chief Breen reported the town had received a donation from Mr. and Mrs. Hemsworth for
29 EMT training in the name of Joseph Pappalardo.

30 **MOTION:** by Selectman McBride

31 *Move in accordance with RSA 31:95(b) that the Board of Selectmen does hereby accept a*
32 *donation of \$60.00 from Mr. & Mrs. Hemsworth for EMS training in the Fire*
33 *Department.*

34 **SECOND:** Selectman Hargreaves

35 **VOTE:** 5-0-0

36 Chairman Barnes requested Dr. LaBranche send a letter of thanks to Mr. and Mrs.
37 Hemsworth.

38 **The motion carried unanimously.**

39
40 **6. Public Hearing #2 – David Demers Request to Purchase Town Owned Land**

41 Chairman Barnes opened the public hearing. Dr. LaBranche reported this was the second
42 public hearing on this topic. Chairman Barnes noted for the record that Selectman
43 Hargreaves would not be taking part in any discussion on this item. Dr. LaBranche
44 explained what additional information had been included in the Board's packet for its
45 perusal. Chairman Barnes invited input from members of the public.

Public input:

Mr. T. Hargreaves, 15 Wells Avenue introduced himself and stated he wanted it on record that he would prefer the town retain the property in question. In response to a query, Dr. LaBranche confirmed the Board had been provided with a copy of a petition opposing the sale.

Mr. D. Demers introduced himself and talked in support of his request. He stated he would be happy to include a deed and would happily sign the land back to the town if they required it at a later stage. He also requested that if the lot goes to auction the Board stipulate that it is not to be developed. He explained he wished to purchase the lot for the installation of a septic system only and would not be developing the lot. Responding to a question from Selectman Roth, Mr. Demers stated he would have no objection if the town asked for an easement. There being no further input Chairman Barnes closed the public hearing and confirmed the Board would vote on the matter during their March 1, 2010 meeting.

7. Jeffrey Gray – Challenge to Septic Regulations

Dr. LaBranche explained Mr. J. Gray had requested an opportunity to come before the Board and explain his concerns regarding the town's septic regulations. Dr. LaBranche outlined what background information had been provided to the Board in their packets on the matter, and pointed out the Health Officer Mr. Lockard's comments in his memo. Attorney A.Schuman of Getman, Schulthess & Steere of Bedford introduced himself, explaining he was representing Mr. Gray. He stated his client was not challenging the ordinance as it is written, but rather how it is being implemented. He explained Mr. Gray is a licensed septic contractor, providing information on Mr. Gray's qualifications in this capacity, as well as what he does when he investigates the suitability of an area for a septic system. He explained Mr. Gray is requesting that the town implement the ordinance as written and that the Health Inspector not engage in comments or questions when witnessing test pits.

Discussion:

Responding to a query from Selectman Roth, Mr. Gray stated the property owner of his current project is Mr. Randall Rust, but that his concern is a general one and applies to all the work he performs in the town.

Chairman Barnes talked about his understanding of the process and clarified what he thought Mr. Gray was objecting to. Selectman McBride stated he did not have a problem with the inspectors asking questions when witnessing the test pits as he felt this was what they ought to be doing. Responding to Selectman Hargreaves' question regarding the qualifications of the inspectors versus those of Mr. Gray, Mr. Gray reported the town contracts out this work and that not all inspectors have the same level of experience. Responding to a question from Selectman Hargreaves, Mr. Lockard explained how the organization has changed since the retirement of Mr. Chamberlain who previously witnessed all test pits, stating the contractors the town employs are as qualified as Mr. Gray in this area.

1 Mr. Gray talked about his own experience and how he applies the rules. He explained the
2 DES regulations do not define what ‘witnesses’ should do and he proceeded to quote from
3 the DES regulations relating to the logging of test pits. He then explained his position and
4 what he sees as his responsibilities and liabilities, stating he takes these very seriously and
5 he is professional in how he conducts his work.
6

7 Selectman Hargreaves then requested clarification as to what Mr. Gray’s expectations were
8 of the town, and Attorney Schuman clarified that he was requesting the town representatives
9 only witness the procedure without comment, interaction or negotiation. Responding to
10 Selectman Lyons, Mr. Lockard explained the town’s process and what the concerns of the
11 town were as regards test pits, explaining the process enables them to determine at the local
12 level if there is a problem and deal with it accordingly. Selectman Roth clarified that the
13 town does not require that a witness has any credentials according to the ordinance and there
14 followed a discussion between members of the Board and Mr. Lockard in which Mr.
15 Lockard confirmed the state will only accept plans once they have been approved by the
16 town. Selectman Roth explained her concern was about protecting the town and she wanted
17 to ensure the town was not being arbitrary in how they implemented their procedures and
18 policies, and to ensure the procedures are documented and followed. She suggested the
19 Board take a look at the ordinance to see whether it needs to be amended.
20

21 Attorney Schuman stated there had been an incident under the former inspector involving
22 ‘subtle negotiation’, and Dr. LaBranche objected to testimony regarding a former incident
23 which has never been documented and which relates to a former member of staff. Attorney
24 Schuman attempted to clarify what his client wanted from the Board, and Dr. LaBranche
25 agreed there may be a need to put together some regulation. He also stated the current
26 ordinance would stand until such time as there was a current issue with it. It was the
27 consensus of the Board to look at the town ordinance as it relates to sewage system disposal
28 systems and put together a regulation which will include the process currently followed by
29 the town. Chairman Barnes declared the item closed to further discussion at this time.
30

31 **8. Munismart Update**

32 Dr. LaBranche introduced the item and handed over to Ms. Crescenzi, IT Director, who
33 referred to her memo dated February 19, 2010 updating Dr. LaBranche on the current
34 situation with the MuniSmart suite. She explained that Payroll went live on the system on
35 February 1, 2010 as planned and Utility Billing went live on a parallel system on February
36 8, 2010. Ms. Crescenzi reported there are some minor adjustments which need to be made
37 due to MuniSmart making interest calculations differently and they expect to go live with
38 Utility Billing on April 1, 2010. Responding to a query from Selectman Hargreaves
39 regarding the response times for electronic communications at DPW, Ms. Crescenzi
40 explained that DPW is using a temporary system as there is currently a bandwidth issue
41 which is being addressed. She also addressed Selectman Hargreaves’ query about the length
42 of time it takes for DPW to open email etc., stating this was one reason they are pushing
43 fiber. She provided an explanation regarding the effect of distance and location of the DPW
44 building upon their service. Responding to a question from Selectman Roth, she reported
45 that fiber is in the planning stage. Responding to a question from Selectman Lyons
46 regarding going live with a tiered water rate, Ms. Crescenzi stated this would be possible

1 from a technical point of view after April 1, but that the final decision rests with the Town
2 Manager and the Finance Director.

3
4 **9. Accept Streets**

5 Dr. LaBranche reported on the location of the various roads before the Board for acceptance
6 as well as when the roads were built. He reported staff is not recommending acceptance of
7 Williston Road at this time as the developer needs to complete work on this.

8
9 Selectman Hargreaves clarified that part of Mahoney Avenue is a paper street and pointed
10 out the town would be liable for that part also if it accepted the rest. Dr. LaBranche
11 suggested qualifying the motion to say the Board is only accepting the finished part of the
12 road.

13
14 **Lemay Road:**

15 **MOTION:** by Selectman McBride

16 *I move that the Salem Board of Selectmen does hereby accept Lemay Road based upon*
17 *the implied acceptance rule due to sufficient historical evidence of town maintenance*
18 *having been provided on this road since at least 1995. Lemay Road is located off North*
19 *Main Street with a right of way being approximately 1,582' (feet) in length and 16' (feet)*
20 *in width. No damages are due to abutting property owners based upon a previous*
21 *dedication of the way, as such abutters' property has always been subject to public use,*
22 *and accordingly, no damages would be recoverable in connection with the acceptance.*

23 **SECOND:** Selectman Hargreaves

24 **VOTE:** 5-0-0

25 **The motion carried unanimously**

26
27 **MacMillan Avenue:**

28 **MOTION:** by Selectman McBride

29 *I move that the Salem Board of Selectmen does hereby accept MacMillan Avenue based*
30 *upon the implied acceptance rule due to sufficient historical evidence of town*
31 *maintenance having been provided on this road since at least 1995. MacMillan Avenue is*
32 *located off Town Farm Road with a right of way being approximately 413' (feet) in length*
33 *and 12' (feet) in width. No damages are due to abutting property owners based upon a*
34 *previous dedication of the way, as such abutters' property has always been subject to*
35 *public use, and accordingly, no damages would be recoverable in connection with the*
36 *acceptance.*

37 **SECOND:** Selectman Hargreaves

38 **VOTE:** 5-0-0

39 **The motion carried unanimously**

40
41 Chairman Barnes handed over the chair of the meeting to Selectman Lyons temporarily to
42 make a motion.

43 **Maple Place:**

44 **MOTION:** by Chairman Barnes

45 *I move that the Salem Board of Selectmen does hereby accept Maple Place based upon the*
46 *implied acceptance rule due to sufficient historical evidence of town maintenance having*

1 *been provided on this road since at least 1995. Maple Place is located off Main Street by*
2 *St. Joseph's Church with a right of way being approximately 351' (feet) in length and 15'*
3 *(feet) in width. No damages are due to abutting property owners based upon a previous*
4 *dedication of the way, as such abutters' property has always been subject to public use,*
5 *and accordingly, no damages would be recoverable in connection with the acceptance.*

6 **SECOND:** Selectman McBride

7 **VOTE:** 5-0-0

8 **The motion carried unanimously**

9 Selectman Lyons handed back the chair of the meeting to Chairman Barnes.

10
11 **Mary Ann Avenue:**

12 **MOTION:** by Selectman Lyons

13 *I move that the Salem Board of Selectmen does hereby accept Mary Ann Avenue based*
14 *upon the implied acceptance rule due to sufficient historical evidence of town*
15 *maintenance having been provided on this road since at least 1995. Mary Ann Avenue is*
16 *located off Shore Drive with a right of way being approximately 3,413' (feet) in length*
17 *and 18' (feet) in width. No damages are due to abutting property owners based upon a*
18 *previous dedication of the way, as such abutters' property has always been subject to*
19 *public use, and accordingly, no damages would be recoverable in connection with the*
20 *acceptance.*

21 **SECOND:** Selectman McBride

22 **VOTE:** 5-0-0

23 **The motion carried unanimously**

24
25 **Williston Road:**

26 **MOTION:** by Selectman Roth

27 *Move that the Salem Board of Selectmen do not accept Williston Road until the developer*
28 *has completed the work, and further that the Board of Selectmen provide notice to the*
29 *developer that all work must be completed by June 10, 2010 or the Town will initiate*
30 *action to acquire the remaining Thirteen Thousand Nine Hundred Dollars (\$13,900) in*
31 *escrow/letter of credit to begin the work*

32 **SECOND:** Selectman McBride

33 **VOTE:** 5-0-0

34 **The motion carried unanimously**

35
36 The Board decided not to vote on Mahoney Avenue at this time.

37
38 **10. Town Manager's Report**

39 Dr. LaBranche reported that the current Systems Analyst will be retiring in May of this year
40 and it is a key position within the IT department which they will need to fill if the
41 department is going to be able to function fully. He also reported that a part time Clerk at
42 the Senior Center is also retiring this year and Ms. Drelick is also requesting to be able to fill
43 the position. Dr. LaBranche stated he is asking authorization from the Board of Selectmen
44 for Human Resources to work with the departments to fill these positions in the coming
45 weeks. Selectman Hargreaves asked whether the new incumbents would start at the bottom
46 of the pay scale for the positions and Dr. LaBranche responded that was his usual practice

1 but that he was unsure at present whether he would need to hire someone in the top tier to
2 fill the positions.

3
4 **MOTION:** by Selectman Hargreaves

5 *Move that the Board of Selectmen does hereby authorize the Acting Town Manager to*
6 *move forward with filling the positions of Systems Analyst, IT Department and part time*
7 *Clerk, Senior Center which will become vacant due to the retirement of the current*
8 *incumbents*

9 **SECOND:** Selectman McBride

10 **VOTE:** 5-0-0

11 **The motion carried unanimously.**

12
13 Dr. LaBranche reported that there will be a mediation session with AFSCME next week.
14 He also reported the window installation in the Town Hall has been completed and went
15 well.

16
17 Dr. LaBranche informed the Board that a policy is being prepared on fraud for Board
18 approval which was recommended by the auditors. He stated there will be one more review
19 of the policy and it will then be presented to the Board some time in March. He stated there
20 is also another policy being developed related to use and rental of town recreation facilities.

21
22 **11. Old Business Tabled/Pending**

23 There was none.

24
25 **12. Selectmen Reports/Correspondence**

26 Selectman McBride informed the Board he had mentioned the credit from the GLSD at the
27 Budget Committee meeting and provided the Board with an update on this. He also
28 informed the Board that an article in the newspaper regarding tolls indicated that
29 Massachusetts was not interested in having these installed and he felt the Board should be
30 unified in opposing tolls anywhere along I-93. Selectman McBride also mentioned the other
31 initiatives against the location of tolls on I-93 which was going on.

32
33 Referring to an article on page 3, of the February 19, 2010 edition of the local newspaper,
34 Selectman McBride pointed out an error in the article. The article stated the Board of
35 Selectmen had increased fees, which was incorrect as it was the state that had increased the
36 fees.

37
38 Selectman Lyons agreed with Selectman McBride's comments pertaining to the Board being
39 unified in opposing tolls.

40 **MOTION:** Selectman Lyons

41 *It is the finding of the Board of Selectmen to support the coalition opposed to tolls on I-*
42 *93, as promoted by Senator Downing and other elected state officials in the I-93 corridor.*

43 **SECOND:** Selectman McBride

44 **Discussion:**

45 Selectman Roth stated she would vote against this motion because the coalition is saying no
46 to tolls, but is not coming up with a solution to the problem to pay for the improvements to

1 I-93. She stated she would like to look at the situation as a town willing to work with the
 2 state in a way that can help the state come up with a solution. Selectman McBride agreed a
 3 solution is needed, but he stated he did not think that tolls were the answer. He stated that a
 4 gas tax may be a possible solution. Selectman Hargreaves stated he felt tolls are inevitable
 5 but they need to keep the lines of communication open with the Governor. Selectman Lyons
 6 stated the town will not succeed standing alone and felt they need to work with a coalition.
 7 Selectman Roth commented that EDAC is working on development of Rockingham Park
 8 and she felt Salem can be used in another way and this would be a more proactive stance for
 9 the town to take.

10 **VOTE:** 3-2-0 (Selectmen Roth and Hargreaves opposed the motion)

11 **The motion passed.**

12
 13 Chairman Barnes commented that he and Selectman McBride had spent February 13th with
 14 the Governor regarding development of Rockingham Park and the majority of people
 15 attending seemed in favor of that.

16
 17 Chairman Barnes stated he wished to respond to a phone call he had received relative to
 18 people being able to campaign at the transfer station. He talked about the practice which
 19 had been put into effect in 1999 to control the number of people at the transfer station to
 20 avoid traffic problems, and apologized to those who were turned away and who did not
 21 know about the policy. He then announced that those wishing to campaign at the transfer
 22 station should provide a written request to the Town Manager's office with the dates of
 23 when they intend to be there.

24
 25 Selectman McBride asked for support from residents for the Operating budget and the bond
 26 warrant articles.

27
 28 • **Additions and/or Requests by Public or Board by Vote**

29 There were none.

30
 31 • **Upcoming Meetings**

- 32 ○ March 1, 2010)
- 33 ○ March 15, 2010) Board of Selectmen meetings
- 34 ○ March 22, 2010)

35
 36 • **Upcoming Events**

- 37 ○ March 9, 2010 (Election/Ballot voting)
- 38 ○ March 13, 2010 (Second Deliberative Session)

39
 40 **ADJOURN**

41 **MOTION:** by Selectman McBride

42 *Move to adjourn to Non-Public session under RSA 91-A: 3, II (e), Legal*

43 **SECOND:** Selectman Lyons

44 Chairman Barnes polled the Board:

45 Selectman Roth – yes

46 Selectman Lyons – yes

- 1 Selectman McBride – yes
- 2 Selectman Hargreaves – yes
- 3 Chairman Barnes – yes

4 **VOTE:** 5-0-0

5 **The motion carried unanimously.**

6
7 There being no further business, the Board moved to Non-Public session at 9:22 p.m.

8
9 Notes/minutes taken by: Sandra Maxwell

10
11 Approved: Board of Selectmen

12
13 Date: March 1, 2010