

**BOARD OF SELECTMEN  
MEETING MINUTES**

**August 22, 2005**

**PRESENT:**

Ruth I. Clough, Selectman  
Douglas W. Lyon, Selectman  
Mark Kaplan, Chair, Board of Selectmen  
Jessie Levine, Town Administrator

**OTHERS PRESENT:**

Gary and Judy Gibson, New London residents  
Bob and DJ Lavoie, New London residents  
Richard Lee, Road Agent  
Peter Stanley, Fire Chief & Zoning Administrator  
David Seastrand, Chief of Police  
Ann Bedard, Sewer Department  
Donald F. Bent, PhD, Health Officer  
Thomas Brennan, Jr., Superintendent, Kearsarge Regional School District  
Everett and Dianne Yelton, New London property owners  
Susan Hankin-Birke, Esq., McSwiney, Semple, Hankin-Birke & Wise  
Paul and Linda Messer, New London residents  
Carolyn Dube, Argus Champion  
Debbie Cross, Intertown Record

Chair Kaplan opened the meeting at 8:05 AM.

Balsam Acres: Chair Kaplan welcomed Gary and Judy Gibson and said that he understands that they asked to meet with the Board of Selectmen this morning following their receipt of a letter from Richard Lee regarding the schedule of proposed improvements to the drainage and roads in Balsam Acres and Squires Lane. He then turned the floor over to the Gibsons.

Mr. Gibson handed copies of a letter dated August 19, 2005, to the Board of Selectmen, Town Administrator, and Road Agent, and proceeded to read from the letter:

In a letter to Mr. Rupp and the Gibsons from the Town of New London, dated 4 April 2005....A plan was being devised to redesign the Squires Lane and Balsam Acres culvert system and create a culvert system that would enclose... “the remainder of the Squires Lane drainage system, from Barrett Road to the *culvert under Balsam Acres...*” Further down on the same page Town Leaders continue by saying... “As with the 1989 construction project, *we do not believe that this 700-foot enclosure will increase the amount of flow running under Balsam Acres...*” Here in two separate places, Town Leaders propose that the plan for the redesigned culvert system is to *carry run off waters under Balsam Acres...*

Towards the end of the May 2, 2005 New London Selectmen’s meeting, Gary Gibson was asked by a Town Leader how he felt about what was said. During the meeting, Gary responded by saying, he was pleased...*as he was led to believe the discharge of run off waters was going to be beyond our home and property in*

*Balsam Acres.* Gary also said he would need to discuss the results of the meeting...more with Mr. Rupp.

The May 2 meeting was lengthy and did not address all our concerns,, Mr. Rupp and Gary decided that they would wait for the printed minutes of the meeting to be posted on the Town of New London's web site. When the May 2 minutes were available for viewing, *it mentioned cross culverts in Balsam Acres... when in the actual meeting on May 2 there was no mention or discussion of cross culverts in Balsam Acres with Mr. Rupp and the Gibsons.* Gary discussed his concerns with Mr. Rupp and decided to wait to see if the town would have a follow up meeting to go over the actual design of the new culvert system in detail.

Now in the Town *Leaders'* letter dated August 1, 2005... and postmarked August 10, they imply the plan...*is not to carry run off waters under Balsam Acres...but to continue to discharge waters...at or near the same exit points...as the old culvert system in Balsam Acres? Why did the town of New London imply in their April 4, 2005 letter that waters would go under Balsam Acres?*

The present culvert system in Balsam Acres has six culverts crossing underneath the road. The exit points for each of these six culverts are just above the Gibsons' Balsam Acres property. Due to the locations... of the exit points of these culverts, just above our property.. extensive flooding has transpired. Where does the Town of New London suggest the exit points of the new culverts will be? At or near the same exit points of the old culvert system... just above our property?

Is it right and just to redesign and install new culvert components to an existing culvert system... redirecting run off waters onto private property *without easement or right of way?* (reference Ms. Jessie Levine's letter dated April 4, 2005). During the May 2 meeting, extensive discussion took place on waters flowing down hill from the areas around Main Street and the President's house, along Main Street to Squires Lane, and below. If we are correct, Mr. Caron devoted most of his time to this area... around the 1989 Squires Lane diversion.

Mr. Louis Caron, PE, of LC Engineering Company LLC, was hired by the Town Leaders to assess the impact of floodwaters entering Balsam Acres (reference Ms. Jessie Levine's letter dated April 4, 2005). During the May 2, 2005 Selectmen's meeting, discussion took place concerning the flooding in Balsam Acres. *Mr. Caron informed us that in fact Mr. Rupp's assessment of the water diversion into Balsam Acres from the 1989 closed culvert installation... was and is correct. That, in fact, the 1989 closed culvert modification, that the Town of New London approved, increased the run off waters entering Balsam Acres.*

Is it true that Balsam Acres also receives waters from the corner of Pleasant Street and Main Street to the Presidents' house and below? How many culverts proceed under Main Street that carry waters towards Balsam Acres that have not already been addressed? Is there a culvert that exits below the London House on Main Street...that can disperse vast amounts of water... above Balsam Acres? Where does this culvert get its waters? From Main Street and above Main Street? How many culverts are under Barrett Road, which is below Main Street, and above Balsam Acres? Have we done all our homework to ensure the

flooding in Balsam Acres will not continue... once the new Squires Lane and Balsam Acres culvert system is installed? How many hundreds of gallons of water can all these culverts empty onto the Gibsons' property in Balsam Acres in just one rainstorm? How many hundreds of thousands of gallons of water can all these culverts empty onto the Gibsons' property during the spring thaw? Who is it to say... that with all these waters entering the Gibsons' property... that the Gibsons have not already faced flooding conditions...nor will they not have to face flooding conditions in the future? Who is willing to repair the water damage in the Gibsons' basement? Is it true that the vast swampy area behind and below the residents in Balsam Acres has increased in size over the years? How many Balsam Acres residents own property that borders this swamp? Have they said the swamp has claimed more of their usable land? How many residents attest to these facts? Is the Town of New London providing the Gibsons and other Balsam Acres residents the same rights and privileges to unwanted water as those residents of the town above Balsam Acres?

Our first official meeting with Town Officials took place on October 24, 2004. It is now almost ten months later. May we proceed forward in the best interest of those who live and occupy dwellings in Balsam Acres...*by routing waters under Balsam Acres.*

In conclusion:

1. Has the Town of New London *planned to use a culvert under Balsam Acres* (Town's letter dated April 4) but... *now plan to have five or six culverts discharge water in Balsam Acres above the Gibsons' property?*
2. Is the Town of New London planning to use basically *the same old exit points* into Balsam Acres *above the Gibsons' property that has created flooding conditions in the past and present?*
3. Is it true that we are willing to ensure town residents upland are free of unwanted water... by sending it downhill to let the residents in Balsam Acres face flooding?
4. How do these flooding conditions affect the value of private property in Balsam Acres?
5. *Is it true that possible buyers... for the property at 35 Balsam Acres... are discouraged to purchase the property... when they learn that the front yard, basement, and rear yard... have been flooded numerous times this year alone?*
6. Has the Town of New London been found responsible for the unnatural diversion of runoff waters into Balsam Acres?
7. Could it prove to be a *wise decision to use a culvert under Balsam Acres?*

Chair Kaplan thanked Mr. Gibson for reading the letter, and said that it is his understanding that Richard Lee does have a plan to fix the drainage. He referred to Richard Lee's letter to Balsam Acres and Squires Lane residents dated August 1, 2005, and asked Mr. Lee if he thought that these improvements would meet Mr. Gibsons' needs. Richard Lee said it sounds like there are two separate issues: the first is the drainage coming from Squires Lane that was discussed with Mr. Rupp and the Gibsons, and the second is drainage coming from Main Street and Barrett Road and running under Balsam Acres. Mr. Lee drew a diagram on the board showing Squires Lane and Balsam Acres, describing the previous, current and proposed drainage systems and culvert locations. He said that following Mr. Caron's evaluation of the drainage diverted from Squires Lane, Mr. Caron had suggested that returning the drainage to its original

path should eliminate 50% of the water that had been coming through that system. Richard Lee said that is what the construction project intends to accomplish.

Chair Kaplan asked Mr. Gibson if he understood Mr. Lee's explanation. Mr. Gibson said he respects Mr. Lee and his work. However, what has not been discussed is the areas from the corner of Main and Pleasant streets to the President's house and down land. He said that Balsam Acres receives vast amounts of water from these areas. He said that Mr. Caron and Mr. Lee have done a good job up to this point, but the total impact of flooding on Balsam Acres has not been addressed. He asked how the largest parcel in Balsam Acres [which he owns] could not be negatively impacted. He said that the swamp that Mr. Caron said would be dried out by now has not dried out, and he was lead to believe that the water would go under Balsam Acres.

Ms. Clough asked Mr. Gibson to clarify what he means by "under Balsam Acres." Mr. Gibson referred to the Town's letter of April 4, 2005, and said that the water coming to Balsam Acres is not just run off water; it turns into flood water when it gets down to Balsam Acres and is not just coming from that one culvert. Ms. Clough said that she is trying to figure out what Mr. Gibson is asking for. Mr. Gibson said that his property is the lowest in Balsam Acres, and in years past there may not have been such a problem but the swamp has grown bigger and bigger over the years. Ms. Clough said that it was an extremely wet spring and that the Town has not yet made any of the changes that it had proposed, so there is reason why the Gibsons have not seen any changes.

Mr. Lyon agreed; he said that Mr. Caron might have said that the swamp would dry out, but that the Town has not made any changes yet so there is nothing to see. He said that Mr. Caron did suggest that the change should divert some of the water, but it sounds like the Gibsons are now raising a second issue regarding the water under Balsam Acres. He said that the Town had suggested extending the ditch between Mr. Rupp and the Gibsons' house, but that Mr. Rupp had objected to the removal of trees. Mr. Lyon asked if the Gibsons were suggesting extending the drain lines so that the drainage would not affect their house.

Mr. Gibson said that the Town is planning to spend all of this money to alleviate problems, and it will solve some problems but not all of them. He said from Pleasant Street to the President's house, a lot of water goes under Barrett Road, and the landscape turns towards Balsam Acres. He said not all of the water is caught by the road; it turns and enters Balsam Acres.

Chair Kaplan asked Richard Lee to explain how the culverts up hill affect the Gibsons' property. Mr. Lee said that he couldn't deny that water runs down hill, and of the 8 or 9 culverts on Barrett Road, water does eventually get to the culverts under Balsam Acres. He said there is approximately 1,000 feet between Barrett Road and Balsam Acres, with houses, lawns, and wooded areas along the way. He said that even now there is still water in the system. He said the culverts in Balsam Acres were put in during the original subdivision in the 1960's to get rid of the water coming from above. He said he plans to enclose the existing system in Balsam Acres and replace the existing culverts, but will not redirect the flow of water in any way. He said the only other options available to the Town would be to pipe together all of the drainage in Balsam Acres, run it out the end of Balsam Acres, cross the Gibsons' property, and into a treatment system on Town property. It could not go into Lyon Brook without being treated (and even then it would be questionable). The same could be done from Main Street or Barrett Road. That option requires a major storm drain system, and would increase the cost in Balsam Acres from about \$7000 for materials to at least \$50,000, which does not include easements or the construction of the treatment plant itself.

Richard Lee said that he understands that the Gibsons' land is wet, but it is not wet because of the Town road or drainage system, because even if Barrett Road were not there, the water would go down hill to Balsam Acres. He said his construction project is an effort to make the road better and dry out the road,

which has incurred damage by having the water in open ditches. Chair Kaplan said that since the work has not been completed, it does not yet reflect that 50% of the water coming from above will be diverted. Richard Lee said there are two components to this project: The first is to divert the water from Squire Lane, which should cut in half the water coming from that area; and the second is to improve the drainage in Balsam Acres, which will not change the amount of water going through the Balsam Acres culverts.

Ms. Levine said that she wants to clarify that the Squires Lane work will decrease by 50% the water coming from that area; it will not decrease by 50% all of the water coming to Balsam Acres. She said she recalls that Mr. Caron said that the swamp will recede, or will dry out earlier in the year, but she does not think he promised the swamp area will dry out entirely. The swamp area has always been wet, and the swamp may have expanded when the water was diverted in 1989, but it was very wet to begin with and she does not want the Gibsons to think their land will be entirely dry at the conclusion.

Mr. Lyon said that, in fact, it is likely that the land was very wet when the subdivision went in, and by today's standards the subdivision probably couldn't be done without mitigation work. He said that there are two issues involved. First, the Selectmen were addressing a specific problem, which was the outflow of drainage onto the Rupp and Gibson properties, and the Town can reduce that amount. He said that Mr. Gibson is correct that the proposed work will not affect the drainage coming from Main Street of Barrett Road, but the Town has not made changes to that system in a long time so there are no new circumstances involved there. He said that in the long run, the state will repair the drainage on Main Street, and the Town will make sure that the project considers the effect of drainage down hill. However, he agrees this proposal will not dry up the area behind the Gibsons' house; it was always wet and always will be.

Mr. Lyon said that there had been some discussion about extending the outlet of the culverts crossing under Balsam Acres, and asked Richard Lee what would be involved with that project. Richard Lee drew a diagram of the Gibsons' property in relation to Balsam Acres, and said that to extend the drainage through the Gibsons' property would require about 1,000 feet of culvert for each culvert. Mr. Lyon asked where the water would go in that case, and Ms. Levine replied that it would end up on Town property. Chair Kaplan asked where the Gibsons' property is wet and Mr. Lee said that it's the whole property. Mr. Gibson said it is not all wet; there is some dry land.

Mr. Gibson asked the Selectmen to take a step back and consider this under a new perspective. He said whatever is or is not going through the culverts, the water is excessive. The Town is making an improvement but he is trying to say that the impact is still flooding conditions. He said that when we as a town take control of waters, we have to respect property uphill and down hill. If the Giles have water problems, let's help them, but whom is the water going to impact? The Town is taking the water onto the Gibsons' property. Is this diversion going to stop the water from backing up onto Judge McSwiney's property? He can't see that it is, and he can't say that this project will stop the problem.

Ms. Clough said that it will alleviate some of the problem, but suggested that when the Town updates the Master Plan, it should consider increased growth in town and how it affects stormwater drainage. Mr. Lyon recommended proceeding with the proposed repairs because they will solve some of the difficulties, but said he recognizes they won't address all of the problems coming from Main Street and Barrett Road. He said he does not know whether those have increased the wetlands behind the Gibsons' property. He asked the Gibsons how long they owned the property, and Ms. Gibson replied that they have owned it since December 2000. Mr. Lyon said that the Selectmen have not made any changes during that time. Mr. Gibsons said he won't argue that point, but a new culvert was added next to his house. Mr. Lyon clarified that no changes were made to the drainage on Main Street or Barrett Road. Mr. Gibson asked if Mr. Lyon is saying that definitely no more water has come off Main Street since that time? He asked Mr. Lyon if there has been development above Balsam Acres, and Mr. Lyon said there probably has. Mr.

Gibson asked why Mr. Lyon is trying to confuse the situation, when one can go behind his how right now and see the effects of the water.

Ms. Clough said that the Selectmen are trying to address the situation, and the Selectmen propose to go ahead with the changes that have been discussed previously and they will look at the remainder as part of a larger scenario.

Bob Lavoie asked if the Master Plan would include town-wide storm drainage. Ms. Clough said there may be a recommendation but it has not been discussed yet. Mr. Lavoie suggested that the Town consider an in-depth study of an expansion of the drain system. Ms. Clough agreed that she could think of 2-4 cornfields that are affected by water.

Ms. Clough said that she hopes Mr. Gibson is not saying not to go ahead with the plan that Richard Lee has proposed. Mr. Gibson asked the Selectmen to look at Balsam Acres as Mr. Lee has explained, going to the end of Balsam Acres and extending the drainage to the edge of the Gibsons' property onto Town property. This should not cost a lot of money and will alleviate future run off to the Rupp, Gibson, and McSwiney properties and all others on Balsam Acres. He said yes, it will cost more money, but it should be looked at. He asked the Selectmen "please do not proceed" with the current project without first looking at the remainder. He said that the Selectmen are saying they will spend this money now and continue to flood the Gibsons' property, and asked the Selectmen to fix it all now. He said that the May 2 meeting did not address the whole problem.

Chair Kaplan said that the Selectmen had made a decision to reopen one of the culverts that had been closed. He said that Mr. Gibson was right to bring to the Selectmen's attention that the proposed work won't solve all of the problems in Balsam Acres. He agreed the proposed roadwork does not address everything, and said that Mr. Gibson has made his point but the Town cannot change the scope of the project at this point. Mr. Gibson said that he is not saying to change it; he is saying to add on to it. Mr. Lyon said that the Selectmen would like to proceed as planned and will then look at the solution Mr. Gibson has proposed. Ms. Gibson said she understands that the Town is replacing the culverts, and is starting to address the problem.

The Gibsons' departed at 8:55 AM.

Non-Resident Taxpayers Meeting: At 9:00 AM, Chair Kaplan opened the second non-resident taxpayers' meeting, and asked any speakers to identify themselves for the minutes. He referred to the handout, displaying the PowerPoint slides that were showed at the first non-resident taxpayers' meeting in July (see minutes of July 11, 2005). The first slide summarized the cost of the Fire Department and Highway Department building projects, showing that the Town saved \$138,000 by coming in under budget and by not drawing on the entire bond. He recognized the Department Heads for their management of the projects. Ms. Clough described the use of capital reserve funds to offset the cost of the project as well.

The second slide compared the cost of New London's building projects to similar projects in neighboring towns. The third slide showed the Town's revenue sources, and Chair Kaplan noted that 56% of the Town's revenues come from property taxes. The fourth slide showed the Town's expenses, with the largest percentage of the budget going to public safety, highways and streets, sanitation, and general government. The fifth slide shows how the local tax rate is calculated and how surplus is applied to reduce the tax rate. The sixth slide shows the breakdown of the tax bill, and Chair Kaplan explained the Town's portion of the bill – the only portion over which the Board of Selectmen have any control – is 25% of the tax dollar. The last slide showed the tax rate history dating to 1991. Chair Kaplan pointed out the grand list had doubled since that time, and the tax rate was the same.

Chair Kaplan asked the Department Heads present to introduce themselves: Peter Stanley, Fire Chief; David Seastrand, Chief of Police; Ann Bedard, Sewer Department; Don Bent, Health Officer, and Richard Lee, Road Agent. Chair Kaplan said these are the folks who really run the Town; the Selectmen fiddle a bit, but they do the work.

Chair Kaplan then opened the floor for questions.

David Hitchcock of Burpee Hill Road said he has questions regarding public safety. First, he asked how New London compared to other towns in terms of expenditures and percentage of budget, and noted he did not need an immediate answer. Secondly, he said that trucks seem to be using Burpee Hill Road as a shortcut to get into town; even trucks that have no business on Burpee Hill. He questioned why the speed limit is 25 for the lower parts of the road, but increases to 30 MPH just before the hills, side streets, and houses that are closer to the road. Chief Seastrand said that about ten years ago, the Town changed its speed limit to 25 MPH on most streets. However, it is not possible to get up the steeper hills at 25 MPH, so the Town changed the speed limit back to 30 MPH in those locations. He said the point was not to increase speed, but to allow cars to get up the hill in all weather and road conditions. He agreed that traffic and speeds had increased on the road, and said he would set up traffic enforcement. He said the road is very smooth and passable, and many people are using it as a shortcut into Town. He also said he would erect the Town's signboard to increase traffic awareness. He added there is currently no regulation against through trucking on that road, so the road can be used to get to other parts of town.

Ms. Clough asked Chief Seastrand for an overview of his department compared to ten years ago. Chief Seastrand said that New London is comparable to Henniker, another college town with about the same population as New London. Henniker has the same number of police staff, but instead of having one and a half detectives, like New London, Henniker has an animal control officer. Otherwise, their budget is fairly close to ours.

Mr. Hitchcock said he is not convinced that 30 MPH makes sense on Burpee Hill Road, but in any event, cars are traveling at 50 MPH. He stated if the speed limit is left at 30 MPH, at least signs indicating the side streets should be erected for Gay Farm Road, Carter Road, and Farwell Lane. He said more needs to be done; that's the message, and the selectmen will hear it again if nothing gets done.

PK Brigham asked why the revenue was down in 2004 compared to 2005. Chair Kaplan explained that in 2004 the revenue included the bond proceeds.

Mr. Clarkson from Pilothouse Road said his taxes had gone up six-fold since 1997, and asked the Selectmen to make comment in the context of the grand list. Chair Kaplan and Ms. Clough noted they experienced the same increase with their waterfront homes, and deferred the question to Mr. Lyon. Mr. Lyon said that prior to the revaluation, sales reports showed that waterfront homes were assessed an average of 50% of their sale price, while the remainder of town was assessed at 95%. The Selectmen recommended revaluations in 1997 and 2001, but were turned down by Town Meeting. Ultimately, 50 property owners petitioned the state and New London was ordered to conduct a revaluation. Waterfront property was undervalued, so the revaluation resulted in a significant increase in assessed value and in the property tax bill. Mr. Lyon said that the Selectmen's promise to all taxpayers that they will not allow time to pass between revaluations. The Town will do an annual sales analysis and will make adjustments as necessary to keep property assessments proportional. He stated the Selectmen are just starting a sales analysis now for the current tax year; they are not sure what it will show, and it is difficult to make assumptions based on anecdotal data. The assessors' analysis will be based on about 300 sales (150 per year for the last two years).

Mr. Clarkson stated some of the prices that were paid on Lake Sunapee were an aberration, and sales analysis should not be based on aberrations. Ms. Clough said that the assessors could only go on what a

property will sell for on the open market. Unfortunately, the length of family ownership or the seasonal use of a property cannot be considered. Mr. Clarkson stated another property had been on the market for two years and has not sold, and asked what that meant? Mr. Lyon said that it does not mean anything; state law dictated that we can only look at actual sales and cannot use the absence of sales. If there are extreme aberrations, then the assessors will not use those sales because they don't reflect the actual market trends. For example, during the 2002 waterfront revaluation, a sale on Pleasant Lake was well outside the rest of the market results. The buyer indicated that he paid a higher price because he did not want to lose out on that property as he did on two previous properties. The assessors did not use this sale as a valid indicator of the market.

Mr. Lyon stated the Town's last revaluation was performed by an independent contractor and reviewed by the Town's contract assessor, the State Department of Revenue Administration, and was appealed to the Board of Tax and Land Appeals (BTLA). The BTLA found the revaluation to be accurate. Mr. Lyon said if earlier sales were aberrations, than a current market analysis should pick up any change in the market. However, we cannot draw any conclusions on the absence of data; market value is what market value is.

Don Bent said that on his way to this meeting he heard a news item on New Hampshire Public Radio that New London, Sunapee and Newbury had hired a joint assessor to address "problems of value" on Lake Sunapee. Chair Kaplan confirmed that the three towns had agreed to hire an assessor who starts on September 6. Chair Kaplan stated having an assessor on staff should provide a quick and easy response to taxpayers. Mr. Lyon added that the assessor will become an expert on town property and will save the Town money in the long run.

Lindsay Clarkson asked what percentage of the Town's revenue comes from non-residents. Mr. Lyon said 25% of property in New London is owned by people who live out-of-town, and that 25% accounts for 50% of the property tax collected. Bill Homestead asked for an update on the donor town status and the Statewide Property Tax. Ms. Levine explained the changes in this year's legislative season eliminated the excess tax payment to the state, which means New London's bill will go down by about \$1 million. However, Ms. Levine stated the School District as a whole was impacted, so it is hard to say whether we will pay more to the School District as a result of reduced grants to other towns in the district. Ms. Levine said that the new law is now being challenged in court.

Chair Kaplan turned the floor over to Thomas Brennan, Superintendent of the Kearsarge Regional School District. Mr. Brennan stated the recent addition to the Kearsarge Regional High School also came in ahead of schedule and under budget, saving the school district about \$70,000. The proposed central middle school was not approved by the voters; it needed 67% of the vote district-wide and received 62%. In the interim, the school board has authorized a proposal to survey the wetlands on the current middle school property to determine the impact of any expansion on site. In addition, the district has put out three requests for proposals: 1) To assess the current middle school building to determine if it is possible to renovate; 2) To identify seven or eight possible uses of the current school if the district builds on the Sutton property; and 3) To review the proposed middle school for value engineering. With these steps, the board is trying to address questions that have arisen during the past few years. Mr. Brennan stated at the last election, voters approved a change to the charter that would allow future bond votes to pass by 60%, not 67%.

He said that the board has discussed population trends. At three-years-out, the board can be confident, but is less so at seven years and projection becomes an art after seven years. He said the 89 corridor splits the district in half, and it is hard to say what the impact of growth will be. If 30-40 units are built that cost in the \$500-750,000 range, then it is less likely that those units will impact enrollment than 30-40 units in the \$300-400,000 range.

Mr. Brennan said the past year was the second year in a row in which the school district had a surplus, which is refreshing given that it has only been four years since the \$377,000 deficit. He said the district has worked hard at fiscal controls and since then has broken even or run a surplus. He won't know the impact of this year's surplus until the Department of Revenue Administration calculates the tax rate. He said the school board has been conservative in its projections and lean on expenses. He said it has been difficult as the legislature fiddles with the adequacy legislation and special education. In April, the administrative staff started the 2006-2007 budget without knowing whether legislature will change the funding formulas, especially for special education. He said the district has a capital reserve fund for special education that currently has \$255,000, which could be used if the district has an out-of-district placement. The district works hard to prevent out-of-district placement and prefers to keep students in their own school system.

Mr. Brennan said the school district is in desperate need of a new middle school, in Sutton or wherever. The current building was designed for 480 students and current enrollment is at 550. The district is fortunate not to have been brought into a lawsuit regarding handicap accessibility. The district's four elementary schools are at or near capacity. The growth trend projects more growth at the middle and high school, since most families cannot afford to move into this district until their children are older. If a new school in Sutton is approved, plans are to use the existing school for community and educational purposes. The gymnasium would be upgraded for recreational use, the preschool would be held in that building, a technical high school for 20-25 students has been discussed, the SAU offices could be moved, or the elementary school could be expanded.

Educationally, Mr. Brennan said that the latest test results show improvement at the grade 10 level. The district knows what it needs to work on and is working on it. A director of technology has been hired, as well as a new principal for the Sutton Elementary School. Mr. Brennan said every year he sends a welcome back letter to staff, and it seems earlier every year. School starts on August 23 for the teachers and on August 30 for students, the first pre-Labor Day start in four years. Mr. Brennan stated the district lost eight days to snow last year, and he is solely responsible for calling off school due to bad weather. The district covers 235 square miles, requiring 600,000 bus miles per year. When weather is bad, he works with dispatchers and the road agents to determine whether the roads are safe.

Mr. Brennan said that this is a good school district, and he is proud to serve the residents and students. He opened the floor for questions. Mr. Clarkson said that he had read that Maine expected a drop in student enrollment in every county except one. Mr. Brennan replied that New Hampshire is one of two New England states that expect growth, and Merrimack County projects growth as well. In the last 15 years, 14-15% of people moving into this district is of school age.

Chair Kaplan said that Time Magazine recently printed an article regarding a controversy among educators and child psychologists who argue that middle schools are bad for education. Mr. Brennan said that he is an advocate of middle schools. Many educators argue that in highly developed urban areas, K-8 is better for children. In rural areas, this would mean significant costs. In addition, Mr. Brennan said that he believes in the middle school approach because kids have a better sense of who they are. Educational concepts are in the eyes of the beholder; some say one thing, some say another, but Mr. Brennan looks for the empirical data to support these theories, and he has not seen any on this subject.

A question was asked about charter schools in the district. Mr. Brennan said that the district is investigating a charter school for high-school aged students that would be vocational/technical in nature. He stated 66% of the district's kids go on to further education; he is passionate that the district should pay attention to the other 34%. Ms. Clough said that at one point, a group of parents had advocated for a charter school, but the voters turned it down. Mr. Brennan said that state law now does not require a local vote; the State Board of Education makes the decision regarding charter schools.

Chair Kaplan thanked Mr. Brennan for joining the meeting and Mr. Brennan departed at 10:05 AM. Chair Kaplan asked if there were any other questions.

David Bemis asked whether it is true that non-lakefront properties were brought up to market value after lakefront properties. Mr. Lyon explained the sales analysis and statistical update and the Selectmen's goal to eliminate disproportionality of values. Ms. Levine said that in 2003, the whole town was at 100% of value. Since that time, the town-wide averages slid to 94%, then 87%, and is now around 80%. Waterfront property was never adjusted to 100% while the remainder of town was not. Mr. Bemis asked whether the proposed statistical update would affect the tax rate. Ms. Levine said that if property values increase, then the tax rate would go down. This would happen in the 2005 tax year, so would be reflected on the second tax bill.

Ann Bedard asked what years are involved in the sales analysis, and Ms. Levine said it would cover April 1, 2003-April 1, 2005, although the assessors would review sales that occurred after April 1 to get a sense of any trends. Chair Kaplan said that the statistical update is all driven by state law, and the Selectmen struggle to stay on top of changes in the law. Mr. Lyon assured those present that 2/3 of the Selectmen are waterfront property owners, so waterfront owners are well represented.

PK Brigham asked the Selectmen what part of town administration deals with signs. The Selectmen referred her to the Town Administrator, who would consult with the Road Agent and Police Chief. Mr. Lyon said that as the town grows, so grows traffic-related issues. Ms. Clough said that the Selectmen have had discussions about skateboards, intersections, etc. The Selectmen briefly discussed the projected growth of New London and related issues. Ms. Levine said that the Master Plan will review the Town's maximum buildout, but the current Master Plan points to a buildout of 9,000 residents, and the Town is just under 4,400 currently.

The Selectmen thanked everyone for coming. Ms. Clough reminded those present to sign up for the Town's e-mail list. The non-resident taxpayers' meeting ended at 10:25 AM, and the Selectmen took a five-minute break.

Yelton Trust Property: At 10:30 AM, the Selectmen were joined by Susan Hankin-Birke, Everett and Dianne Yelton, Paul and Linda Messer, and Peter Stanley. Chair Kaplan recognized Susan Hankin-Birke, who stated she is here to represent the Yeltons. She referred to Ms. Levine's letter of August 9, 2005, regarding Mr. Stanley's inspection of the Yelton home, which is under construction. She read paragraph five and seven from the August 9 letter: "During his inspection on July 28, 2005, Zoning Administrator Peter Stanley determined the area that was formerly a deck on the waterfront side of the structure had been integrated and made part of the primary structure and living space. Specifically, Mr. Stanley observed that "the former deck area now includes insulated walls, space for insulated windows, and no apparent separation from the living area." "By a letter dated March 22, 2005 (attached), the NHDES informed the Town that construction of additional living space on the property, such as 'insulation and insulated windows,' is prohibited by the CSPA and Condition #4 the NHDES's February 22, 2005 waiver."

Ms. Hankin-Birke said that DES's March 22 letter was requested by the Town and the definition was a product of conversations between Chris Brison and Peter Stanley. Ms. Clough stated it was the Board of Selectmen who asked for a clarification from Mr. Brison. Ms. Levine said that in fact, at the meeting of March 21 that was attended by the Yeltons and Ms. Hankin-Birke, all were in agreement that clarification of the terms living space and three-season porch was needed.

Ms. Hankin-Birke stated her clients applied to the ZBA for a variance, which was granted. They then received their building permit to tear down the existing house. Once the structure was removed, they were contacted about the Comprehensive Shoreland Protection Act (CSPA). She stated in addition to

state statutes, the DES is governed by administrative rules that are promulgated. There is a rule that addresses decks and porches of non-conforming structures, as this one is, and she read from that rule. She said that after the meetings between town officials and the Yeltons, all parties agreed to copy each other and provide open information, and the Selectmen requested copies of any correspondence with DES. She said the Town was copied on her letter of February 4, 2005, to Mr. Brison of DES, which she then read to the Selectmen.

She said that her letter made it clear to Mr. Brison and the ZBA that the Yelton Trust had contracted for a particular type of pre-fabricated structure. By the time the Yeltons were notified of the CSPA issues, the structure was well underway. All of this was shared with Mr. Brison. The DES waiver was issued on February 22, 2005, and a month later DES issued its letter of clarification. She said DES was very focused on the issue of the support of the bumpout in the basement, and ultimately approved a design with holes in the foundation and it needed to be back-filled. The DES approval was consistent with the ZBA's variance. She said that Mr. Stanley was invited to inspect the number of bedrooms in the building; no consent was given to make an inspection on behalf of DES.

She stated there were varying letters between the Town and Mr. Brison. At the Yeltons' meeting with Mr. Brison on January 31, Mr. Brison suggested insulated panels or a curtain inside to separate the three-season porch. She referred to two knee walls that were present during Mr. Stanley's inspection that extend from both sides, and said that the insulated curtain or treatment would be installed between the knee walls. Chair Kaplan asked if that was the Yeltons' plan: to hang an insulated curtain. Ms. Hankin-Birke replied that it is, as she explained to Mr. Stanley. She said that her clients have now received a letter asking for a plan to be submitted or they would be subject to various fines, etc. She is concerned from a legal standpoint that what is requested by the Town is not the same as what was requested by DES.

Ms. Levine asked if Ms. Hankin-Birke was saying that her clients intended to comply with the DES requirement. Ms. Hankin-Birke said that the March 22 letter is not a rule promulgated by DES following RSA 541-A. Mr. Lyon asked if her clients intend to ignore the March 22 letter. Ms. Hankin-Birke said that her client intends to follow the approval given by DES in its February 22 waiver, which included a prefabricated structure and insulated panels. Mr. Lyon said that the March 22 letter said that there could not be insulated living space. Ms. Hankin-Birke said that she has a problem with DES's letter because it is not a rule promulgated under RSA 541:A1 at XV, which says that agencies cannot allow individual decision-makers to impose new rules.

Ms. Hankin-Birke said that during the inspection on July 28, she advised Mr. Stanley that there was a problem with the March 22 letter, and she requested a copy of Mr. Stanley's report to the Board of Selectmen. She said that she did not get a copy of Mr. Stanley's findings prior to the August 9 letter. She said that she is under pressure now because things need to be done by the end of the week. She said RSA 541-A has a provision for superior court to hold a hearing when a rule is promulgated outside of the statutes. She said that there clearly is a conflict, because the March 22 letter was issued a month after the waiver.

Ms. Levine said that since their January meeting, the Town has been thorough in its communication and correspondence with the Yeltons. Despite that, the Selectmen are finding out now, five months later, that the Yeltons are unhappy with the State's March 22 letter. Ms. Levine noted that one of the conditions that the Selectmen placed when they lifted the Cease & Desist Order was to receive a copy of the waiver signed by the Yeltons. Even that condition had not yet been met.

Mr. Stanley said that the waiver itself prohibited living space, at paragraphs 3 and 4. Ms. Hankin-Birke said that DES approved the waiver based on the plan submitted by the Yeltons. Ms. Levine asked what the Yeltons intentions were for the three-season porch. Ms. Hankin-Birke said that the walls are insulated because the whole building is insulated. The windows have removable panels and are insulated. There is

no heat source in the bumpout and an insulated curtain will keep heat from going through. She referred to *Asmussen v. State of NH*, 145 NH 578 (2000).

Ms. Hankin-Birke said she anticipates that the Town will notify the Yeltons by Thursday if, after consultation with town counsel, the Selectmen think that someone other than the requirements of the August 9 letter should happen. As it stands, she said, there is clearly a threat to the Yeltons' rights. Mr. Lyon asked Ms. Hankin-Birke if she had anything in writing that DES approved an insulated structure as she had just described. She referred to the building plan dated February 7, 2005, and to the February 17, 2005 vegetative plan.

Ms. Hankin-Birke said that Mr. Stanley's inspection of July 28, 2005 was a non-consensual inspection. Mr. Yelton added that Chris Brison from DES made an inspection on a Tuesday earlier this month. When Ms. Levine asked which Tuesday – August 9 or 16 – Mr. Yelton said that he could not be sure. Ms. Levine said that the Town did not know of DES's inspection, and that seems like important information that should have been shared earlier in the meeting. Chair Kaplan asked about the requirement for submittal on August 29. Ms. Levine said that all the Selectmen had required as of August 29 was a plan showing how the Yeltons intended to construct the space that is under discussion.

Ms. Hankin-Birke said that there is a moving target of the definition of living space, and that this is a legal issue that needs resolution. Mr. Lyon said that it would have been helpful to know, earlier than today that her clients intended to ignore the March 22 letter that defined living space. Mr. Yelton said that they had to ignore the letter because the earlier waiver approved the plans that they had submitted. Mr. Lyon said that the Yeltons then obviously decided not to tell the Selectmen that they had chosen to ignore the letter. Mr. Lyon said that the Selectmen will talk to town counsel about the legality of DES's March 22 letter and will talk to Chris Brison to find out his impressions following his inspection earlier this month.

Ms. Levine said that she still thinks the Yeltons should submit a plan by August 29<sup>th</sup>. Ms. Hankin-Birke asked for clarification, and Mr. Lyon suggested that Ms. Hankin-Birke commit in writing her description of the construction of the space. Ms. Clough asked Peter Stanley to contact Mr. Brison and urge him to send us anything that he has in writing.

Ms. Hankin-Birke said she will expect to hear from Ms. Levine by Thursday of this week, and will try to get something to the Selectmen today or tomorrow.

Ms. Hankin-Birke, the Yeltons, the Messers, and Mr. Stanley departed at 11:35.

Balsam Acres: Richard Lee returned to continue the discussion about Balsam Acres. He stated the contractors are expected to move in this week, so he would like to know whether the Selectmen want to cancel the work in light of the Gibsons' concerns. Mr. Lyon said that it is his inclination to go ahead with the proposed plan, or others will be in to complain about the lack of work. Ms. Levine said that she would be concerned if the Town took on more responsibility than it has by law. She said that it is the Town's obligation to responsibly manage road runoff, and while it would be nice to dry out the Gibsons' property, it is not our responsibility unless we have created the problem. She said that with the exception of the upper part of Squires Lane, the Town has handled the road water as required, and we cannot dry out one property by putting the water onto another property.

Chair Kaplan said that some of the water is the result of development over time and the Board of Selectmen cannot control that. Ms. Levine said that the Planning Board cannot either, given that most of that development came from existing lots and not from new subdivisions.

Richard Lee said he would not stand here and say that the Gibsons' don't have a water problem, because they do. But when the subdivision was put in about the 1960s, those culverts were put in place to take the water that runs downhill.

Chair Kaplan asked Mr. Lee if it would be a waste of money to go through with the project now, in the event that the Town expanded the project later. Richard Lee said that this area needs road work anyway, so the work has to be done. The new piping could be used in the event that the Town changes the flow of water, so it will not be wasted. Ms. Clough said that it sounds like the current problems should not be ignored, whether or not the solution helps the Gibsons. Richard Lee agreed. Ms. Clough said that she thinks the Selectmen want Mr. Lee to continue the construction project outlined in his letter.

Richard Lee said that as the Town grows, the best pieces of land go first. The remaining land will have similar issues, as reflected by the discussion surrounding the Granger subdivision. He said that the Planning Board regulations define those issues better today than they used to. Richard Lee added that this has been a very wet summer, and even the Town Common at the top of the hill has had more water than usual. The Highway Department has had to mow the lawn in 4-wheel-drive.

Part-Time Health Insurance: Ms. Levine said that the question was raised at the Selectmen's meeting with Department Heads as to whether the Town would allow part-time employees to buy into the Town's health insurance at their own cost. Ms. Levine said that it was also mentioned that Wilmot allows part-time employees pro-rated coverage based on the number of hours that employees work for the Town. She asked the Selectmen if they wanted to offer the former or the latter options. The Selectmen said that at a minimum, they would like to allow part-time employees to buy into the Town's health insurance. Ms. Levine said that HealthTrust allows employees who work 15 hours or more to participate in this manner. Mr. Lyon said he would like a better idea of the costs of offering pro-rated insurance. Ms. Levine will prepare a cost summary and bring it back to the Selectmen.

Meeting Minutes: Ms. Clough moved to approve the minutes of August 8, 2005. Second Mr. Lyon. Approved 3-0.

## **SIGNATURES:**

### **Building Permits:**

- Everett B. & Madelyn B. Yelton Trust, 585 Bunker Road (Map 76, Lot 33), application for one-year extension of building permit 04-034 – Approved
- R. Leigh & Sally Morse, 13 Sawyer Lane (Map 73, Lot 65), permit to remodel kitchen and take out wall – Approved (Permit 05-092)
- Lee Family Trust, 549 Wilmot Center Road, Elkins (Map 052, Lot 015), permit to add two-car attached garage to existing house – Approved (Permit 05-093)
- Bruce & Shirley Avery Trusts, 780 Pleasant Street (Map 49, Lot 03), permit to add a two story addition 18' x 20' and modify existing deck to fit new structure – Approved (Permit 05-094)
- George W. & Paula M. Rowell, 244 Wilmot Center Road, Elkins (Map 65, Lot 027), permit to remove 16' x 16' deck and add 15' x 10' new deck – Approved (Permit 05-095)
- Donald R. & Susan E. Elliott, 337 Shaker Street (Map 111, Lot 015), permit to erect a new barn/garage – Approved (Permit 05-096)
- Christina M. Helm 1997 Rev. Trust, 651 Main Street (Map 96, Lot 04), permit to construct two separate additions on rear of existing house – Approved (Permit 05-097)

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- Scott & Georgiana Gagnon, 273 Forest Acres Road (Map 118, Lot 013), permit to construct landscape steps and pathway to the water's edge of Messer Pond – Approved (Permit 05-098)
- William & Ki Clough, 23 Lovering Lane (Map 84, Lot 57), permit to reconstruct the second floor of existing garage with new roof framing & dormers – add bumpout to accommodate stairs to second floor – Approved (Permit 05-099)

**Sign Permit Applications:**

- Permanent Sign Permit Application for two signs for Joan Wamsley, 219 County Road for Tailoring & Alterations, William Faccone, Property Owner. One on Sign Post at Corner of lot and one on side of building - Approved
- Temporary Sign Permit Application for Sign at Information Booth for New London Rotary Club Barbecue Event on Saturday, August 20, 2005 - Approved
- Temporary Sign Permit Application for Sign on Town Commons for New London Rotary Club Barbecue Event, Craft Fair & Auto Show on Saturday, August 20, 2005 - Approved

**Other Items for Signature:**

- Payroll & Disbursement Voucher for the week of August 22, 2005 & August 29, 2005 – Approved
- Application for Use of Town Office Sydney Crook's Conference Room, by Colby-Sawyer College (Adventures in Learning) for Monday, September 26, October 3, 10, 17 and 24 - Approved

Due to the late hour, the remainders of agenda items were postponed until the meeting of August 29, 2005. The meeting adjourned at 12:10 PM.

Respectfully submitted,

Jessie Levine  
Town Administrator