

**Select Board Meeting**  
**Monday, August 27<sup>th</sup>, 2018, 6:40 p.m.**  
**Nowak Room, Town Office Building**  
**10 Front Street, Exeter NH**

**AGENDA NOTE:** Board interviews take place beginning at 6:40 p.m.; regular business meeting commences at 7:00 p.m.

1. Call Meeting to Order
2. Board Interviews – Facilities Committee, River Advisory Committee
3. Public Comment
4. Proclamations/Recognitions
  - a. Proclamations/Recognitions
5. Approval of Minutes
  - a. August 6<sup>th</sup>, 2018
6. Appointments – Facilities Committee, Communications Committee
7. Discussion/Action Items
  - a. CDBG Hearing: 3 Meeting Place Drive Construction
  - b. Wastewater Facility Project: Sludge Removal Options
  - c. Liberty Utilities Proposed Easement and Option Agreement
  - d. Energy Committee re: Updates and Electric Charging Station Project
  - e. Easement Deed Release: 23 Water Street
  - f. Facilities Committee Charge Update
  - g. Ethics Ordinance Discussion
  - h. Legal Services Discussion/RFP
8. Regular Business
  - a. Tax, Water/Sewer Abatements & Exemptions
  - b. Permits & Approvals
  - c. Town Manager's Report
  - d. Select Board Committee Reports
  - e. Correspondence
9. Review Board Calendar
10. Non-Public Session
11. Adjournment

Julie Gilman, Chair  
Select Board

Posted: 8/24/18 Town Office, Town Website

Persons may request an accommodation for a disabling condition in order to attend this meeting. It is asked that such requests be made with 72 hours notice. If you do not make such a request, you may do so with the Town Manager prior to the start of the meeting. No requests will be considered once the meeting has begun.

AGENDA SUBJECT TO CHANGE



**Town of Exeter**  
Town Manager's Office  
10 Front Street, Exeter, NH 03833

## Statement of Interest Boards and Committee Membership

Committee Selection: Facilities Advisory Committee

New

Re-Appointment

Regular

Alternate

Name: Mark Leighton Email: mleighton@exeter.edu

Address: 123 Linden Street, Exeter Phone: 603-502-7874

Registered Voter: Yes  No

Statement of Interest/experience/background/qualification, etc. *(resume can be attached)*.

I am interested in the Facilities Advisory Committee for the town of Exeter. I believe my education as an engineer, twenty plus years of experience in facilities management, and my current role as the Director of Facilities Management for Phillips Exeter Academy will provide a benefit to this committee. I have also been a resident of Exeter since 2005 and enjoyed my time on the budget advisory committee years ago and would like to return to volunteering to support the town.

If this is re-appointment to a position, please list any training sessions you have attended relative to your appointed position.

I understand that: 1. this application will be presented to the Exeter Selectboard only for the position specified above and not for subsequent vacancies on the same board; 2. The Town Manager and Selectboard may nominate someone who has not filed a similar application; 3. this application will be available for public inspection.

After submitting this application for appointment to the Town Manager:

- The application will be reviewed and you will be scheduled for an interview with the Selectmen
- Following the interview the Board will vote on your potential appointment at the next regular meeting
- If appointed, you will receive a letter from the Town Manager and will be required to complete paperwork with the Town Clerk prior to the start of your service on the committee or board.

I certify that I am 18 years of age or older:

Signature:

Date: 8/22/18



Town of Exeter  
Town Manager's Office  
10 Front Street, Exeter, NH 03833

Confirmed  
8/27  
6:50

### Statement of Interest Boards and Committee Membership

Committee Selection: River Study Committee

New  ~~Re-Appointment~~  Regular  Alternate

Name: Daniel Jones Email: dwjonesnh@gmail.com

Address: 181 Kingston Rd. Exeter Phone: 778-0174

Registered Voter: Yes  No

Statement of Interest/experience/background/qualification, etc. (resume can be attached).

Owner of River frontage, former 5 yr chair of ZBA  
Former Planning board and other committees. Chair of  
Sounding Board that wrote first Master Plan based on  
Soil Types. Retired lawyer. Frequent user of Sprague's Hill.

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I certify that I am 18 years of age or older:

Signature: [Handwritten Signature]

Date: 7/26/18

## Select Board

8/6/18

## Draft Minutes

## 1. Call Meeting to Order

The board members present were Anne Surman, Kathy Corson, Molly Cowan, and Don Clement. Ms. Corson acted as the chair for this meeting, filling in for Ms. Gilman, who was absent due to a family matter. Town Manager Russ Dean was also present. The meeting was called to order at 6:30PM in the Nowak Room.

## 2. Board Interviews - Communications Committee, Facilities Committee

The board moved downstairs to interview applicants for the communications and facilities committees. Candidates were Greg Colling, Facilities Committee; Debbie Lansdowne Kane, Communications Committee, and Lindsey Sonnett, Communications Committee. After the interviews, the Board moved upstairs for the regular business meeting.

## 3. Motion to Rescind – Selectwoman Surman re: motion of 7/9/18 on televising of meetings

**MOTION:** Ms. Surman motioned to rescind the motion made by Ms. Cowan on 7/9/18, which was to film all meetings held by non-advisory committees, and which passed the Board by a 3-2 vote. Mr. Clement seconded the motion, and it failed 2-2-0, with Ms. Corson and Ms. Cowan voting nay.

Ms. Surman emphasized that wanting to rescind the motion had nothing to do with not wanting to be transparent. She agrees that meetings that are of interest to all taxpayers should be televised. However, she said that others are narrower, and have already established transparency through audit trails, receipts, budget approvals, and other methods. These boards and committees don't necessarily have to be on film for them to be transparent. She felt that the motion made by Ms. Cowan was too hurried, and that the arts committee was singled out to be filmed which also wasn't given a lot of discussion. She feels that the boards should choose if they want to be filmed. In addition, televising all meetings would have to be funded because of staffing. They were not given any budget estimates. She also said that people can get all the information on spending from the finance office if they want.

Ms. Cowan said that her original motion was brought forward as an important measure for transparency and openness. She thought she had tailored it in a specific way and didn't feel it was rushed because the issue had been discussed for months. Although she understood the budget concern, she said she was elected on a message of inclusivity and open government. There was an overwhelming amount of positive feedback and no negative feedback from residents on her original motion. She did not want to feel that if motions were passed, the "losing side" would make another motion to override it.

Mr. Clement had voted against the original motion, and repeated that transparency is very important. He does not think that televising a meeting automatically creates transparency, and also did not feel it was the right of the board to demand filming of different boards and committees. He agreed with Ms. Surman that the town already has transparent meetings – they are all public and recorded through minutes. He thinks people should be more concerned about what happens outside of the

meetings. The issue of enforcement was also brought up – what would happen if a board or committee doesn't comply?

Public discussion on this item did not happen until after the motion was made, due to procedural rules. Ms. Cowan said that the public had been able to talk at other times during a motion and was appalled that they were not allowed to this time.

#### 4. Bid Award: TTHM Remediation

Jennifer Perry, DPW Director, presented the recommended bid for the Chloramination Treatment System project. DPW is recommending PRB Construction in Gilford NH, who had bid \$642,000. Aquagenics Inc. conducted a review of their work and they had good recommendations. The project could be complete by March 2019. The department wants to start public education and outreach as soon as possible – the water treatment will affect people with fish tanks and those on dialysis.

Ms. Perry furthered clarified that the treatment would just involve a change from free chlorine in the water to chloramine, which is more toxic to fish and can contaminate dialysis processes. It is fairly common to reduce TTHMs by this method. Mr. Clement asked if new structures in the water treatment facilities would need to be built. Ms. Perry said that as the water leaves the plant, ammonia is added in order to form chloramines, so there will need to be some storage for ammonia.

Mr. Dean said the bids were not opened at the last meeting because the select board was in between meeting dates. They were opened by Ms. Gilman and himself in a public place, and bidders were present. Mr. Clement felt that the entire board should have been present. Mr. Dean cited there is precedence for what was done, it has been done several times.

**MOTION:** Mr. Clement moved to award the surface and groundwater chlorination system treatment upgrades to PRB Construction Inc. of Gilford NH, in the amount of \$642,000. Ms. Surman seconded the motion, and it passed unanimously.

#### 5. Public Comment

Nancy Belanger said that the motion she came to speak on was voted on already and was appalled at the way this was done. She expressed her support of the motion that Ms. Cowan made on July 9<sup>th</sup>. It's a good start but is not an end-all solution. She eventually wants all meetings to be recorded. Although town meetings are public, not everyone can come to the specific times of the meetings. She thinks we should televise the meetings for those who can't attend. She also stated that the board should not ask "why would we do this?" but instead "Why wouldn't we do this?".

Paul Royal agreed with Ms. Belanger, although he did agree that the budget issues are worth talking about more. He thought that Ms. Cowan's motion was clearly not rushed, because it's an issue that has been heard for months. He also urged the board to handle disagreements more respectfully.

Darius Thompson brought up the holiday parade lock that was cut by the Memorial Day parade committee, and that he had not received a response from them or payment for the lock. During a recent meeting, a question was why the Christmas parade is not a formal committee. Mr. Thompson wanted to clarify that it is only funded in part by the town, so it's not a town committee. He thinks having a volunteer board being televised and scheduled might mean that nobody wants to volunteer. If this is

implemented, maybe they should consider fully funding the parade as well as considering how it would be enforced.

He also asked for an update on the sidewalks on Drinkwater Road. Mr. Dean said that the sidewalk program is part of the Capital Improvement Program, which will go through the planning board process and then move to the Select Board and the budget recommendation committee. Mr. Thompson asked if the bid opening should have been televised. Mr. Dean said that they don't have a problem with that, but also stated that in the majority of cases bids are opened with the entire board.

Scott Ruffner was confused that there might be budget and time issues for the IT department for the filming of meetings. The department has had more of a strong presence and are continually putting out a call for more content. They want more people involved and more information out there.

Chris Surette was very happy that they did not rescind it, because he thinks it would have looked bad for the town to change their minds suddenly. He also mentioned that the vote was very popular among people in town.

Mr. Thompson thanked Ms. Surman for bringing the issue forward to try to improve the idea and its implementation.

Debbie Kane pointed out that as part of the master plan, part of their charge was to improve communications. Televising meetings can be a good way to get messages out there as a form of communication.

Jeremiah Rubera said that the board needs to publicize their meetings more and believes that more people would want to come if they felt that they were able to have a say. Ms. Corson said that the meetings are televised, we have minutes, agendas are posted before the meeting. Would love more people to get involved and to get informed. Mr. Clement also explained that are enacting select board policies, which are internal, and that they are not laws.

Ms. Surman explained Robert's Rules of Order that the board has to follow as elected officials. She said she had reached out to Ms. Cowan after last meeting for a motion to reconsider but did not receive a response. She emphasized that she doesn't have a problem with televising meetings, but just didn't want to dictate and was unsure about what would be included.

Enna Grazier thanked the board for reaffirming the decision that was made about filming. She thinks electronic information is becoming more and more important, especially because you cannot tell body language and tone from the minutes.

Nick Gray asked for any feedback on the millennial task force he had proposed a few meetings ago. He believes it would bring solutions that would benefit a lot of people through affordable housing, job creation, and other issues. Mr. Clement thought that it would be added to a future agenda. Ms. Cowan encouraged Mr. Gray to send people who would be interested in this to the housing advisory board, the economic development commission, and other boards.

## 6. Proclamations/Recognitions

### a. Proclamations/Recognitions

There were no proclamations or recognitions at this meeting.

## 7. Approval of Minutes

### a. July 23rd, 2018

Ms. Corson asked that when Mr. Bisson stated that the turf was 100% organic, it be added that she questioned that statement and requested more information to be sure.

**MOTION:** Ms. Cowan moved to approve the 7/23/18 minutes as amended. Mr. Clement seconded the motion, and it passed unanimously.

## 8. Appointments – EEDC, Conservation Commission

**MOTION:** Mr. Clement moved to appoint Lindsey White as an alternate member the conservation commission, term to expire 4/30/19. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement to appoint Earl Murphy as a voting member to the economic development commission, term to expire 4/30/21. Ms. Surman seconded the motion, and it passed unanimously.

## 9. Discussion/Action Items

### a. Public Hearing: Solid Waste Fees

**MOTION:** Mr. Clement moved to open the public hearing on this issue. Ms. Surman seconded the motion, and it passed unanimously.

Mr. Dean gave a brief overview of the solid waste fees as proposed by DPW. Solid waste costs have increased based on the new contract with Waste Management and other factors. DPW is recommending an increase in price of the blue trash bags for the town (which has not happened since 2009), increasing the price of appliance stickers, charging a fee or banning the dumping of brush at the transfer station from commercial businesses, and requiring a \$10 permit to the transfer station for all Exeter residents (Christmas tree/leaf bag pickup would remain free). Ms. Perry said that they recommended banning brush dumping by commercial entities at the transfer station, which would require all residents to get a sticker.

Kyle Taylor, who runs a commercial landscaping business, said he has dump permit stickers on both his personal and commercial truck. He primarily disposes of leaves and grass, which are used for compost. The brush at the transfer station is bulldozed up the hill. He pointed out that residents could dump just as much as some landscaping companies and suggested raising the cost of brush dumping for everybody instead of only commercial users.

Keith Whitehouse, who works at Yeti Landcare, said that the proposed fees could make a \$38,000 impact to his business. He asked how these fees would be enforced, because many businesses do not label their vehicles. He emphasized that he would not have been able to properly dispose of brush without the free available space to do so. He thought there was a better solution and suggested dividing the cost to the town by the number of commercial landscapers in Exeter.

Paul Royal said that he wants to make sure that Exeter does not become a dumping ground, but also believes this would be a shock for businesses. He suggested a different rate for businesses in Exeter and those not in Exeter. However, Mr. Clement said that only residents can bring materials to the

transfer station. The issue is not where the people are coming from to dump, it is where the actual brush is coming from as many businesses cover more than just Exeter. Mr. Clement also read a town ordinance stating that brush needs to be disposed of by the Exeter residents of the property that the brush comes from.

Steve Taylor, the owner of a landscaping company too, stated that 1/3 of his business is in Exeter. He said that everybody dumping at the transfer station are asked where the brush is coming from. When he has brush from other towns, they use their transfer stations. There are other towns that don't charge for brush.

Darius Thompson asked if the town has considered using a chipper to break down the material to make the brush more compact. He would like DPW to also consider how to make the space more efficient and effective and thinks that raising fees across the board at once is too much.

Mr. Dean clarified that the town has to rent a bulldozer several times a year to push the brush away, which costs about \$7,000 a year. They are looking to offset that cost. Ms. Perry said that that the costs have increased dramatically, and next year there will likely be a 10% increase. The area of the brush dump is fairly limited, so the bulldozing will only compress it so much. They've considered chipping, but they would need a much larger chipper which is more expensive, or to hire an outside contractor. That area is used for site work as well.

Mr. Clement said that a lot of that area is wetlands, and another part is the already capped landfill. There is not that much of that space left to use. They have a very extensive log of people coming in to dump brush, and the capacity is not enough. Ms. Perry said they are trying to encourage people to keep the brush on their site instead of removing it.

Steve Taylor said he felt like there was an assumption that the landfill use is being caused by landscaping. Residents also bring in a lot of brush. He asked how the town would make the call from what is coming in from other towns. Mr. Clement brought up the conflict between the ordinance and what is happening. Mr. Taylor asked the board how they are expecting landscaping companies to keep in business with the raised fees. Mr. Dean said that from the memo, it looks like other towns don't accept from commercial vendors.

Ms. Cowan would like to have a discussion about what a reasonable fee is. She does not want to have the entire fee schedule just on the backs of commercial entities. Ms. Corson requested more information about what other towns do for brush dumping.

Jeremiah Rubera said that the company he works for dumps at both Hampton and Epping. He asked what would happen if they were to take brush voluntarily and did not profit off the dumping – would they still be charged as a commercial business? He also said that generally landscapers already chip their brush, so that they can reduce their loads. He would be interested in seeing the amount of dumping from residents vs. commercial businesses.

Nick Gray said he doesn't see why there needs to be a distinction between residential and commercial dumping. It would make the most sense to have a flat fee for everybody. Landscapers are also not the only ones using it commercially, for example, landlords might use the transfer station to dump brush too. He suggested a per load fee that the owner of the property would pay. Also, the rates wouldn't have to be as high if they were applied to everybody, because more people would be paying.



Gerry Hamel thinks it would be a good idea to grind some of the material and possibly send the material someplace else. The town needs to become proactive about the space in the landfill. Enna Grazier thinks that the landscapers should have more time for public comment and that the fee should be more spread out.

Mr. Royal said that he was a bit concerned about taking a large amount of money and putting it into the General Fund. He thinks the fees should go to a fund dedicated towards improving the dumping space at the transfer station.

Mr. Thompson asked the board to look into longer term solutions, including the next 10 or 20 years, to consider what will happen after that space runs out.

**MOTION:** Ms. Cowan moved to close the public hearing. Mr. Clement seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement moved to approve increasing the price of pay-as-you-throw bags from \$2.00 to \$2.50 for large, and \$1.00 to \$1.25 for small, effective 10/1/18. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement moved to increase the price of freon appliance stickers from \$7.00 to \$10.00 effective 10/1/18. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement moved to table items 3 & 4 of the July 20<sup>th</sup>, 2018 memo from Ms. Perry to Mr. Dean until the August 20<sup>th</sup> meeting. Ms. Cowan seconded the motion, and it passed unanimously.

The board wanted to get a log of the users of the transfer station, more information about what other towns are doing, and more information about the budgetary aspect that the fees would bring.

#### b. Parks/Recreation Field Proposal and Use of Impact Fees

Greg Bisson found an alternative fertilizer that is 100% organic as requested by Ms. Corson. He has talked to the softball teams about the problems with the field, which doesn't drain well because the field has very uneven terrain. Also, the wrong infield mix can generate weeds. The organic weed killer lasts for about 3 weeks. They have also included various letters of support. The proposal is to use a state-of-the-art infield mix called Duraedge, which is 100% organic. Sportsturf Specialists are the only certified Duraedge installer in New England, which is why they are recommended.

Robert Ficara said that other towns around Exeter have better fields, lights, etc. The softball league is very strong and has put a lot of effort into the fields. He also emphasized the importance of adult recreation. To continue to support the programs, there needs to be more effort put into the fields from professionals.

Mr. Bisson said there are \$198,552 in impact fees. \$15,161 of those are expiring at the end of 2018. The recreation revolving fund had \$160,781 at the end of 2017. Currently there are \$296,216 in the revolving fund, not accounting for staffing costs. The Sportsturf specialists will give them a handbook for maintenance, and they can hire out contractors.

Ms. Surman asked why this isn't part of the budget process. Mr. Bisson said that they would like to do this before the next season because they could be held liable for any injuries due to the field's condition.

Mr. Clement clarified that one request is to do the softball fields for \$60,091 and the second is the greenspace improvements which would be \$16,921.60, EYSA will cover \$8,460 of the greenspace improvements. They are asking for \$4,230.40 this budget year 2018.

Ms. Corson asked about the 4-million-dollar project in the CIP request which is for the renovation of ballfields. Mr. Bisson said that that project is for the construction of new ballfields, not renovation for existing facilities. Ms. Corson asked about what they plan to use impact fees for. Mr. Bisson said that the parks do not meet the current demand. He wants to also create a better playscape so that walkability is improved, and to improve underutilized parks.

**MOTION:** Mr. Clement moved that they authorize \$4,230.40 from the recreation revolving fund for field drainage improvements. Surman seconded motion. Unanimous.

**MOTION:** Mr. Clement moved to authorize the \$61,091 from the recreation impact fees be awarded to Sportsturf Specialties Inc. for the work at the parks and rec department. Ms. Cowan seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement moved to use up to \$2,000 from the recreation impact fees for irrigation adjustments. Ms. Surman seconded the motion and it passed unanimously.

Mr. Bisson introduced the new assistant rec. director, Melissa Roy, who joined the department on July 9<sup>th</sup>.

#### c. Liberty Utilities Proposed Easement and Option Agreement

Mr. Dean said that DPW and DED were approached by Liberty Utilities to negotiate an easement for a meter station, for which they are proposing to pay \$30,000 up front, and \$75,000 for the easement. The property they are proposing is one that DPW does not have a use for, and the assessed value was \$9,600. The size of the entire property is about 40 acres. Ms. Perry said that the parcel is to the left of the lagoons towards Route 101, abutting the edge of the right of way.

Michael Licata from Liberty Utilities explained that the meter station is a part of the Granite Bridge project, which is being proposed along Route 101. The meter station would be an interconnecting point measuring the amount and pressure of gas. There will be a 16" line along Route 101 which connects to infrastructure in Manchester. There would be a few small buildings to house the metering and telecommunications equipment, as well as a station to clean out the line. They would be paying the town \$30,000 up front and would pay \$75,000 if they chose to buy the easement. They would also be paying property taxes on the facility itself, about \$68,000 in property tax payments. Over the life of the facility (52 years), they would be paying 1.5 million dollars for residual value.

He said that the goal of the Granite Bridge project is to minimize impacts and maximize community benefits. They have received bipartisan support from government, businesses, chambers of commerce, and other entities. Shifting the meter station to this location would avoid an additional river crossing, and shorten the amount of pipeline. The approval process for Granite Bridge would be subject to site evaluation, and they have not made that filing. They are anticipating early next year for that approval. If Granite Bridge does not go forward, the \$30,000 paid to Exeter is not refundable.

Ms. Surman asked why the agreement says that the owner can't terminate the agreement. Mr. Licata explained that it grants Liberty Utilities some certainty, so that they know that the town is in and

they wouldn't have to waste engineering and design on the project. They need to present a fully designed project to the site committee.

Mr. Clement asked how the meter station compares to the already existing meter stations on Newfields and Epping road. Mr. Licata said that operation is pretty much identical. The pressure of the existing line is a bit lower and he is also not sure what type of equipment there is. Usually meter stations are about 100x100 feet, this is 300x100 feet. There are both the joint facilities and the Granite State pipeline running through the area. The existing maximum pressure is 1,140psi, Granite Bridge will be a max of 950 psi, and they will test to 150% higher than that. This will be operating typically at 750psi to match the maximum pressure on the Concord Lateral which is what they tie into.

Mr. Clement asked for pictures and layouts of the meter station in Pelham, which would be similar. He also clarified that if they can't come to an agreement, they would construct in Stratham which would be in the DOT right-of-way. Mr. Clement said that he wants to negotiate a higher price for the easement and suggested \$100,000 instead of \$30,000.

Ms. Corson said that the space with the structures on it is  $\frac{3}{4}$  of an acre. She would like to see more about the parcel, and how they are going to access the space. She is hesitant to give up town-owned land, and also wants to know how the plan is going to look like in a schematic form.

Ms. Cowan wants to understand the environmental impact and asked what other towns are doing to reduce impact. She questioned if the proximity to the WWTF lagoons causes any issues in construction or other problems. Mr. Licata said that a meter station is an interconnection point between two pipes. Natural gas is primarily made up of methane. The facility will be secured and would be monitored 24/7 from the Londonderry station. They would be able to shut it down remotely if any issues were noted.

He also said that in discussions with DPW about parcel selection, they talked about limiting wetland and other impacts. The fenced in area would be about 100x100', so the impacts on the site would be minimal. Meter stations are a common infrastructure for gas businesses to serve customers. Ms. Surman clarified that if Granite Bridge is approved, it will be going through no matter what, but the meter station would be located on state land if Exeter were to not accept this agreement. Mr. Clement confirmed with Ms. Perry that the lagoons would be eventually discontinued because of the new WWTF.

Enna Grazier expressed her concerns about the project. She feels like there is a lack of public information on the project. She also said that there is no guarantee on the tax benefits to town. For example, Eversource pitched the same idea to Bow, and they had to pay back millions of dollars this year. She also stated that Liberty Utilities has been fined a lot of money in safety violations in recent years.

Mr. Thompson said that since the Select Board has the power to negotiate leases and other property, he suggested looking at a lease instead of increasing the cost. That way they would continue to own the land. Mr. Dean said that any lease more than 5 years has to go to town meeting.

Mr. Licata replied that they've had over 150 meetings with stakeholders and have had a public information session where people could ask questions of the scientists and engineers designing the project. They have also put information on their website and other channels for public information. Are doing everything to be as open and transparent as possible. They are required by statute to conduct

public outreach as part of their site evaluation process. They have been very upfront about the analysis they did for the property taxes. The issue in Bow was a fully depreciated property, and it was a different set of circumstances due to issues if an environmental scrubber was taxable or not. They have also done outreach with the first responders in town and other communities. He emphasized that the town's decision on this is not going to be taken as an endorsement on the project or not.

**MOTION:** Mr. Clement moved to table the proposal until the next meeting. Ms. Surman seconded the motion, and it passed unanimously.

d. Energy Committee re: Updates and Electric Charging Station Project

The energy committee is going to present these updates at a later meeting.

e. Conflict Of Interest/Ethics Ordinance

Ms. Corson suggested looking at this when Selectwoman Gilman is present, and the rest of the board agreed to hold off on this topic.

Ms. Surman talked about in Swasey trustee meeting, there was a unanimous vote to have the Select Board to take over their permitting process. Most of their permits are for the roadway, which the Select Board already has control over. Mr. Dean said they have had a conversation with the charitable trust division in the attorney general's office about the operating income in the Swasey trust account. The expectation is for those funds to be moved under the care of the Trustees of Trust Funds. He was also told that the Select Board can be named the agents of those funds, or the Swasey trustees can be. There is a distinction between fee-based income and interest-income from the trust itself.

**MOTION:** Ms. Surman moved to authorize the Select Board to approve all permits/applications for the Swasey Parkway, and all associated fees to go to the Swasey Trustees Fund. Mr. Clement seconded the motion, and it passed unanimously.

10. Regular Business

a. Tax, Water/Sewer Abatements & Exemptions

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$1,160.35 from 2011. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$1,354.75 from 2012. Mr. Clement seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$1,225.38 from 2013. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$675.04 from 2014. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$428.77 from 2015. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$379.49 from 2016. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan to approve the abatement for map 64, lot 105, unit 101 for \$319.15 from 2017. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Mr. Clement moved to table the abatement for Nancy Cyr on 21<sup>st</sup> Street. Ms. Surman seconded the motion, and it passed unanimously.

There was an abatement for Hartman Oil, where the owner found an underground leak in the bathroom. They are looking for an abatement of \$575.73. Mr. Clement reminded the board that the property owner is responsible for their own property, but they also have a once in 10-year abatement. Ms. Cowan asked why the language in the document does not match that it's a business.

**MOTION:** Mr. Clement moved to deny the abatement for Hartman Oil. Ms. Surman seconded the motion, and it failed 2-2-0, with Ms. Corson and Ms. Cowan voting nay.

**MOTION:** Ms. Cowan moved to table the abatement for next meeting. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan moved to approve the abatement in amount of \$149.67 at 187B Front Street. Mr. Clement seconded. The motion failed 2-2-0, with Mr. Clement and Ms. Surman voting nay.

The board decided to table the above property abatement as well.

#### b. Permits & Approvals

**MOTION:** Ms. Cowan moved to approve the use of the town hall by the Exeter Area Chamber of Commerce on 9/17/18 for their travel meeting. Ms. Surman seconded the motion, and it passed unanimously.

**MOTION:** Ms. Cowan moved to approve the fee waiver for the above application. Ms. Surman seconded the motion, and it passed unanimously.

#### c. Town Manager's Report

Mr. Dean was able to attend a health trust retreat, which was very informative. They will be budgeting about 5% on reserve, based on the January pool trends. He thanked the highway department and DPW for cleaning up the train station recently and coordinating with Lincoln Street School for parking. The town clerk has completed the vault project, which looks very clean and efficient.

James Murray, Exeter's health officer, said that he has received complaints about rats in Exeter. He is going to come to another meeting in future for recommendations, but also suggested that residents should not leave their trash out overnight. The tax deed listing is completed, and they will be scheduling a board review. The Comcast contract is still on one-year track, so they need to start thinking about that.

There are seven committee meetings this upcoming week. They will be hosting representatives from Durham regarding the Mill Pond Dam soon about dam removal. Judy Churchill is moving away from Exeter, and so she is resigning from the Robinson Fund as the chair. They will likely appoint a new chair themselves. Finally, he let the board know that Dave Sharples received \$20,000 from the MTAG grant. PLAN NH did suggest reducing the scope of the project.

**MOTION:** Mr. Clement moved to accept the \$20,000 MTAG grant award, and to authorize Mr. Dean to make agreements on the town's behalf. Ms. Surman seconded the motion, and it passed unanimously.

d. Select Board Committee Reports

Mr. Clement attended a conservation commission meeting. They talked about wetland and shoreland CUPs for the Rose Farm development and voted to recommend denial of both to the planning board. They also reviewed wetlands application for the Continental Drive project, which was recommended for approval by DES with some conditions.

Ms. Surman had a Swasey parkway trustees meeting. They talked about some trees that need pruning and was also asked to bring back the issue on the fallen tree limb in the river. Ms. Corson has a planning board meeting Thursday for a lot line adjustment and CIP discussion.

e. Correspondence

The board received an annual notification of the highway block grant aid from the state, which they get every year. This year there is about a \$5,000 increase, and it is delineated based on when it will be paid out. There was also a Comcast letter about sports programming, and a letter from the Exeter Farms HOA about a change in board of directors.

Mr. Clement asked about the Code Red system in Exeter because of the recent tornado and flooding warnings. Mr. Dean said he would find out if it was working properly.

11. Review Board Calendar

The next meeting is August 20<sup>th</sup> (a work session), and the next regular meeting is on the 27<sup>th</sup>.

12. Adjournment

**MOTION:** Mr. Clement moved to adjourn the meeting at 11:00PM. Ms. Surman seconded the motion, and it passed unanimously.

Respectfully submitted by recording secretary Samantha Cave.

**Committee Appointments**

**August 27<sup>th</sup>, 2018**

**Communications Committee**

Debbie Lansdowne Kane, term to expire 4/30/19 (may also be 4/30/20 or 4/30/21).

Lindsey Sonnett, term to expire 4/30/19 (may also be 4/30/20 or 4/30/21).

**Note: 7 at large members not including SB member. Terms to be set at 1, 2, and 3 years at initial inception.**

**Facilities Committee**

Greg Colling, term to expire 4/30/19 (may also be 4/30/20 or 4/30/21)

TOWN OF EXETER  
Public Hearing Notice  
Community Development Block Grant Project

The Exeter Board of Selectmen will hold a Public Hearing on Monday, August 27, 2018 at 7:00pm in the Nowak Room at the Town Offices, 10 Front Street, Exeter, New Hampshire for a proposed Community Development Block Grant application to the New Hampshire Community Development Finance Authority (NHCDFA). Community Development Block Grant funds are available to municipalities through the NH Community Development Finance Authority. Up to \$500,000 annually is available on a competitive basis for Public Facility and Housing Projects, up to \$500,000 for Economic Development Projects, and up to \$350,000 for Emergency Activities that directly benefit low and moderate income persons. Up to \$12,000 per study is available for Planning Grants. The purpose of the hearing is to update the public on, and take public comment, on the progress of the following CDBG project: Exeter was awarded a \$170,000 CDBG, \$25,000 was retained for administrative costs and \$145,000 was subgranted to Avesta Housing, or a subsidiary, toward the acquisition of the site for the construction of 43 units of affordable housing, Meeting Place IV, at 3 Meeting Place Drive in Exeter.

For persons with special needs, provisions can be made by contacting Sheri Riffle at the Exeter Town Office via telephone (778-0591) or mail, at least five days prior to the public hearing.

Exeter Board of Selectmen  
10 Front Street, Exeter, New Hampshire 03833  
(603) 778-0591





## TOWN OF EXETER, NEW HAMPSHIRE

13 NEWFIELDS ROAD • EXETER, NH • 03833-3792 • (603) 773-6157 • FAX 772-1355

[www.exeternh.gov](http://www.exeternh.gov)

# Memo

To: Russell Dean  
From: Jennifer Perry  
CC: Stephen Dalton, Matthew Berube  
Date: August 20, 2018  
Re: Contingency Request-Remove Sludge/Unsuitable Material from Sludge Storage Lagoon (SSL)

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Over the past several months, the Town of Exeter has been informed that there has been a change in the sludge quantities and densities in the Sludge Storage Lagoon (SSL). The density of the sludge was calculated as an average density of all the projected sludge quantities for bidding purposes. The sludge now has a higher density, and when weighed at Turnkey Landfill, is much heavier. There is an estimated 12,255 wet tons (wt) of sludge/unsuitable material that remains on site. The material is temporarily stockpiled in an area that needs to be cleared for the contractor to install electrical conduit and to remain on schedule.

After discussions with Wright-Pierce Engineers, two options were developed to remove the sludge/unsuitable material from the SSL.

Option A: Dispose of material now. This will require a lump sum change order not to exceed \$900,000.

Option B: Move/Stockpile the material now for disposal later. This would require an amendment to the Lagoon Closure Plan. This would be a unit price item to move the sludge to a different location on site at a cost of \$200,000. Future disposal costs could range up to \$1,200,000 for a total cost of \$1,400,000.

After deliberation within Department of Public Works and a site walk with the Town Manager, it was determined that Option A was the best long-term solution and lowest cost to the Town. The Town has asked Wright-Pierce to develop a Work Change Directive to Apex. This option would remove the remaining sludge/unsuitable material from the SSL in the next several weeks by the General Contractor.

Reasons for disposing now:

- Disposing of the SSL sludge now is the lowest cost to the Town.
- Currently there is capacity at the Turnkey Landfill for sludge/unsuitable material, however that capacity is finite and sludge may not be accepted in the future at this facility. Other available sludge storage sites are in upstate New York or Maine which would increase trucking costs.

- There is no "easy" on site sludge storage solution. The SSL sludge/unsuitable materials can't be mixed or stored in the existing treatment lagoons as it has elevated levels of molybdenum and the lagoons need to continue to function as treatment lagoons for another year. The lagoons are near capacity with sludge; additional sludge material could increase lagoon odors.
- A new on site storage area would require installation of an impermeable surface and a stabilized cap. This would require modification of the Lagoon Closure Plan.
- Environmental regulations become more stringent with time (for example, the latest contaminants of concern, PFAS at 70 parts per trillion). Future disposal will be more problematic and costly.
- All work would be completed now by the General Contractor who is mobilized on the site.
- There are adequate funds available within the project budget to complete the work.

We anticipate there will be other change orders requests requiring funds to be used from contingency to continue providing the best product for the Town of Exeter. The project continues to be under the SRF approved funds of \$53.5 million. The contingency (unobligated project costs) is currently \$3.29 million. After reviewing and accounting for the anticipated changes to the project that are known at this time (listed below), the project will still be under budget by approximately \$950,000 or 2.2% of the project budget. The project was originally estimated with a 5% contingency.

List of project changes:

- Sludge/Unsuitable material removal-\$900,000 increase
- Direct Purchase-\$50,000 increase from \$200,000 to \$250,000
- Aerator Shore Power-estimated \$75,000 increase
- Connecting the new WWTF to the existing forcemain - estimated \$100,000 increase
- Contract 2-\$1.2 million dollar increase for market cost increases and water main

August 21, 2018  
W-P Project No. 12883C

Mr. Matt Berube  
Acting Water & Sewer Managing Engineer  
Public Works Department  
13 Newfields Road  
Exeter, NH 03833

Subject: Contract No. 1 – WWTF Upgrade  
Additional Sludge/Unsuitable Material Disposal

Dear Matt:

As we have discussed, there is additional sludge and unsuitable material that requires off-site disposal in accordance with the Lagoon Closure Plan. This additional material is beyond that which was addressed via Change Order No. 1 and represents the final amount of material located in the former Sludge Storage Lagoon. Based on field surveys and field density testing, Apex has identified 12,255 wet tons (wt) of additional sludge and unsuitable material for landfill disposal. After considerable discussion with Apex/Severino, NHDES and the Town on this matter, we have concluded that all material should be removed from the site and we have arrived at a lump sum adjustment of \$900,000 to dispose of this material at Waste Management's Turnkey Landfill in Rochester. We find this cost reasonable for the scope of work. The Town has sufficient contingency funds to accomplish this work within the SRF loan and the warrant article authorization. No additional contract time has been requested or is warranted.

The remainder of this letter outlines the factors that resulted in the change and our findings.

- Change Order No. 1 was executed on September 14, 2017. This change order, among other items, added 3,790 wt of sludge disposal to the Contract (i.e., to a total quantity of 27,500 wt). Apex/Severino restarted sludge removal immediately after Change Order No. 1 was executed.
- Apex issued an email dated October 11, 2017 indicating that 28,700 wt of sludge had been hauled from the WWTF, which is in excess of the adjusted quantity of 27,500 wt through Change Order No. 1. Wright-Pierce responded by email on October 11, 2017 stating that additional information was required to explain why there was additional material remaining and to justify any contract cost adjustments.
- Apex responded via email on November 2, 2017 which provided a survey drawing of the sludge pile and quantified the pile at 8,300 wt at that time. This email also indicated that the additional sludge material was primarily based on the material density being higher than what was anticipated in the Bidding Documents and in Change Order No. 1.
- In order to assess the density of the sludge remaining, Wright-Pierce had SW Cole (the project materials testing firm) conduct field density testing on 7 samples from accessible portions of the sludge pile. That testing indicated an in-place density of 1.09 to 1.42 wet tons/cubic yard in the remaining sludge pile. Wright-Pierce also reviewed tipping slips from July 2017 and found the range of estimated tipping-scale density to be 1.18 to 1.73 wet tons/cubic yard. These findings are generally consistent with the statements made in the Apex November 2, 2017 email.



- During the design phase, Wright-Pierce collected samples of the sludge layer from soil borings for laboratory analysis. The purpose of the laboratory analysis was to confirm percent solids, metals, volatile organic compounds, semi-volatile organic compounds of the sludge materials on-site. Using this laboratory data, we estimated a sludge density of just under 1.1 wet tons/cubic yard in the Bidding Documents. This is consistent with typical density of wastewater sludge (0.9 to 1.1 wet tons/cubic yard) and alum sludges (1.1 to 1.25 wet tons/cubic yard).
- The Lagoon Closure Plan (Appendix F of the Bidding Documents) and Section 02001 of Specifications required that the Contractor segment the Sludge Storage Lagoon into 25 cells, remove all sludge and several inches of underlying material, complete a visual confirmation of clean, and complete laboratory confirmation of the “determination of clean”. By way of comparison, the wet density of the overburden and the underlying gravel/glacial till is approximately 1.65 to 2.0 wet tons/cubic yard.
- Over the past several months, Apex/Severino have continued with the contract work and uncovered additional sludge and unsuitable materials in several areas which was added to the stockpile. At this time, the “determination of clean” testing has been completed in all cells in the Sludge Storage Lagoon and all sludge to be removed has been stockpiled. The stockpiles were resurveyed and re-quantified at 12,255 wt.

Based on our review, we find the following:

- The work was completed consistent with the requirements outlined in the Lagoon Closure Plan and Section 02001 of the Specifications. Off-site disposal of this remaining sludge and unsuitable material is consistent with the Lagoon Closure Plan.
- The additional weight resulted from the specified underlying material as well as the weight of overburden material that could not be segregated from the sludge resulted in an increased sludge density. In addition, other unsuitable materials (e.g., miscellaneous construction debris, sewage screenings and grit) were found to be co-mingled with soils material which also needed to be removed from the site. This unsuitable material resulted from historic use of the Sludge Storage Lagoon as a location for the Town to store construction debris, sewage screenings and grit.
- The cost for this work is reasonable for the scope of work. As was the case with Change Order No. 1, the Contractor has agreed to waive a significant portion of the allowable markups. The unit price for excavation, hauling and disposal of this material is substantially lower than the market rate.
- The Town has sufficient contingency funds to accomplish this work within the SRF loan and the warrant article authorization.
- The Town could choose to move and stockpile the material on-site for a defined period of time; however, this would result in costs to move and stockpile the material in a manner consistent with NHDES requirements (i.e., placement on an impermeable surface, stabilized, etc.) and would require an amendment to the Lagoon Closure Plan. This would also result in future costs to dispose of the material, which will likely increase in the future due to inflation and/or the eventual closure of the Turnkey Landfill. We estimate that moving and stockpiling the material now (approximately \$200,000) and future disposal (over \$1,200,000) would be a total cost of at least \$1,400,000.

Mr. Matt Berube  
August 21, 2018  
Page 3 of 3



We are available to discuss this with you. In the interim, if you have any questions or need additional information, please contact us.

Very Truly Yours,  
WRIGHT-PIERCE

A handwritten signature in black ink, appearing to read 'EJL', located below the typed name of Edward J. Leonard.

Edward J. Leonard, PE  
Project Manager

Cc: Jennifer Perry, PE – Town of Exeter

# **LIBERTY UTILITIES EASEMENT PROPOSAL**

**OPTION AGREEMENT**

THIS OPTION AGREEMENT ("Option Agreement") is made as of August \_\_, 2018 (the "Effective Date"), by and between the Town of Exeter, a municipal corporation duly established under the laws of the State of New Hampshire ("Owner"), and Liberty Utilities (EnergyNorth Natural Gas) Corp., a New Hampshire corporation ("Liberty").

**RECITALS**

A. Owner is the owner of real property in the Town of Exeter, New Hampshire, which is located easterly of Newfields Road, so-called, and southerly of N.H. Route 101, being shown on the Town of Exeter Tax Maps as Map 38, Lot 13, and Map 49, Lot 15.

B. Owner desires to grant to Liberty, and Liberty desires to acquire from Owner, an option to purchase a permanent natural gas facilities easement (the "Easement") over a 100 foot by 300 foot portion of the Property that abuts the southerly edge of N.H. Route 101 and that abuts the existing natural gas pipeline easements granted to Granite State Gas Transmission, Inc. and to Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, LLC (the "Easement Area"), as more fully described in the Easement Agreement, attached and incorporated as Exhibit A

NOW, THEREFORE, the parties agree as follows:

**AGREEMENT**

1. Grant of Option. Owner grants to Liberty an irrevocable exclusive option (the "Option") to purchase the Easement "AS IS, WHERE IS, WITH ALL FAULTS" on the terms and conditions in this Option Agreement. This Option Agreement grants to Liberty a true option to purchase the Easement; Liberty has no obligation to purchase the Easement.

2. Purchase Price. If Liberty exercises the Option, the purchase price for the Easement is One Hundred Thousand Dollars.

3. Option Period and Termination.

a. The term of the Option is Thirty Six months, commencing on the Effective Date (the "Option Period").

b. Liberty may terminate this Option Agreement at any time during the Option Period by giving written notice to Owner. Owner may not terminate this Option Agreement.

4. Option Payment.

a. Liberty shall deliver to Owner a payment of Thirty Thousand Dollars (the "Option Payment") when the parties execute this Option Agreement.

b. The Option Payment is non-refundable and is not to be credited toward the Purchase Price.

5. Exercise. No later than thirty days prior to the end of the Option Period and no less than thirty days prior to the date Liberty exercises the Option, Liberty shall give written notice to Owner if its intent to exercise the Option. Liberty may then exercise the Option by delivering to Owner the Purchase Price, at which time Owner shall promptly deliver to Liberty the properly executed Easement Agreement. If Liberty fails to exercise the Option prior to the end of the Option Period, then this Option Agreement shall, without any notice to any party hereto, automatically terminate.

6. Runs with the Land. The Option contained in this Option Agreement runs with the Property and is a benefit to Liberty. This Option Agreement is binding on Owner and its successors in interest in the Property, and inures solely to the benefit of Liberty. Liberty has the sole right and ability to enforce the terms of this Option Agreement against Owner or its successors in interest in the Property, and may record the memorandum, attached hereto and incorporated herein as Exhibit B, of this Option Agreement at the Registry. Liberty shall discharge the memorandum within thirty days of whichever of the following occurs first: Liberty's termination of this Option Agreement, the exercise of the Option, or the termination of this Option Agreement by Liberty's failure to timely exercise the Option. If Liberty fails to timely record a proper discharge, Owner may do so as Liberty's attorney in fact.

7. Certain Covenants.

a. Use of the Easement. Owner may continue to use the Easement Area for its current purpose, and no other, unless and until Liberty exercises the Option.

b. No Encumbrances. Without the prior written consent of Liberty, Owner shall not enter into any transaction, encumber or convey the Property or Easement Area, or create or suffer to exist any additional exceptions to title that will affect the Easement rights; provided however that such prior consent shall not be and is not required for the Owner and its successors to convey the Property or to mortgage the Property if such conveyance or mortgage does not affect the Easement rights. Owner shall provide Liberty with contemporaneous notice of any such conveyance or mortgage.

c. Cooperation. Owner shall fully support and cooperate with Liberty, at Liberty's expense, in applying for and securing any permits, licenses, approvals, and the like as Liberty desires with respect to its proposed development of the Easement Area. If requested by Liberty, Owner will sign applications for such permits, licenses, and approvals and, if necessary, any related appeals. All applications and proceedings for obtaining permits, licenses, approvals, and related appeals shall be under Liberty's control and direction and at Liberty's sole cost and expense. Such applications and appeals shall be made in the name of Owner, or Liberty, or jointly, as shall be determined



by Liberty in its discretion. Liberty shall, contemporaneously with any filing or submittal, copy Owner on all applications, approvals, and permits.

8. Owner's Representations and Warranties. Owner represents and warrants that as of the Effective Date:

a. Owner has full and lawful right and authority to execute and deliver this Option Agreement and to consummate the contemplated transactions.

b. Owner owns good fee simple marketable title to the Property.

c. There is no litigation, bankruptcy, or other proceeding pending or threatened that affects the Easement Area.

d. There is no pending or threatened condemnation of the Easement Area.

e. To Owner's knowledge, no unrecorded liens, encumbrances, or adverse claims exist with respect to the Easement Area.

f. There are no leases or occupancy agreements affecting all or any portion of the Easement Area, and no management contracts, service contracts, options (other than this Option Agreement), or any other material agreements relating to the Easement Area.

g. Owner is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from its withholding requirements.

9. Access to Easement and Inspections by Liberty. Owner shall allow Liberty and its representatives reasonable access to the Easement Area, on reasonable advance notice, solely for the purposes of conducting such surveys and inspections of the Easement Area prior to the exercise of the Option as Liberty deems appropriate. After the exercise of the Option, all access to the Easement Area shall be as provided in the Easement Agreement, attached as Exhibit A. Liberty shall not incur any mechanics' liens in connection with its inspections and, if so incurred, shall have them removed by payment or bond or other method reasonably satisfactory to Owner within thirty days of receipt of notice of attachment. If the Property shall be disturbed by any such survey and inspection, then Liberty shall forthwith restore the Property to its same condition as prior to any such disturbance.

10. Notice. All notices and other communications are to be in writing, and are deemed to have been given or made: (i) when delivered in person; (ii) three business days after deposited in the United States certified mail, postage prepaid; or (iii) in the case of overnight courier services that provides confirmation of delivery, one business day after delivery to the overnight courier service with payment provided for, addressed as follows:

If to Owner:	Exeter, NH 03833
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With a copy to:	, Esquire  , NH
If to Liberty	Liberty Utilities (EnergyNorth Natural Gas) Corp. Attn: President 15 Buttrick Road Londonderry, NH 03053
With a copy to:	Liberty Utilities (EnergyNorth Natural Gas) Corp. Attn: Legal Department 116 North Main Street Concord, NH 03301 <a href="mailto:Michael.sheehan@libertyutilities.com">Michael.sheehan@libertyutilities.com</a>

or to such other persons or addresses as either party designates by notice given in accordance with this Section.

11. Benefit and Binding. This Option Agreement shall bind and inure to the benefit of the heirs, administrators, executors, successors, and assigns of the respective parties.

12. Amendment and Modification; Waiver. This Option Agreement may only be amended by an agreement in writing signed by both parties. No waiver of any provision of this Option Agreement shall be effective unless explicitly set forth in writing and signed by the waiving party.

13. Governing Law, Waiver of Jury Trial.

a. Governing Law; Jurisdiction. This Option Agreement shall be governed by and construed in accordance with the internal laws of the State of New Hampshire without giving effect to any choice or conflict of law provision or rule (whether of the State of New Hampshire or any other jurisdiction). All litigation of any nature arising under this Option Agreement shall take place in a court of competent jurisdiction located in Rockingham County, New Hampshire.

b. Jury Trial Waiver. **EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS OPTION AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY FOR ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS OPTION AGREEMENT.**

14. Remedies.

a. Waiver of Consequential Damages. **UNDER NO CIRCUMSTANCES (SAVE FOR FRAUD) SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, OR LOST PROFITS ARISING OUT OF ANY CLAIM, DEMAND, OR ACTION ARISING OUT OF OR RELATING TO THIS OPTION AGREEMENT.**

b. Specific Performance. The parties agree that irreparable damage would occur if any provision of this Option Agreement were not performed in accordance with its terms and that the parties shall be entitled to specific performance of its terms as its sole and exclusive remedy.

15. Miscellaneous.

a. Time of Essence. Time is of the essence in this Option Agreement.

b. Counterparts. This Option Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall be one agreement. A signed copy of this Option Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall have the same legal effect as delivery of an original signed copy of this Option Agreement.

c. Business Days. If any date, time period, or deadline falls on a Saturday, Sunday, or legal holiday in New Hampshire, then that date, time period, or deadline shall be extended to the next business day.

d. Further Actions. The parties agree to execute further documents and take further actions as may be reasonably required to carry out the provisions and intent of this Option Agreement.

e. Assignment. Liberty shall not assign this Option Agreement, in whole or in part, without the Owner's prior written consent, which shall not be unreasonably withheld.

f. Effective Date. The "Effective Date" is defined as the date Owner and Liberty have both signed this Option Agreement and have dated their respective signatures below.

g. Brokers. Liberty and Owner each represent that they have involved no real estate agent or broker in this transaction other than Premier Properties, Inc. representing Liberty. Liberty is solely responsible for the payment of all compensation and costs due Premier Properties, Inc. regarding this Option Agreement. Each of the parties shall indemnify and defend the other against any claim or demand for a real estate commission, fee or other compensation for real estate broker services by any other person



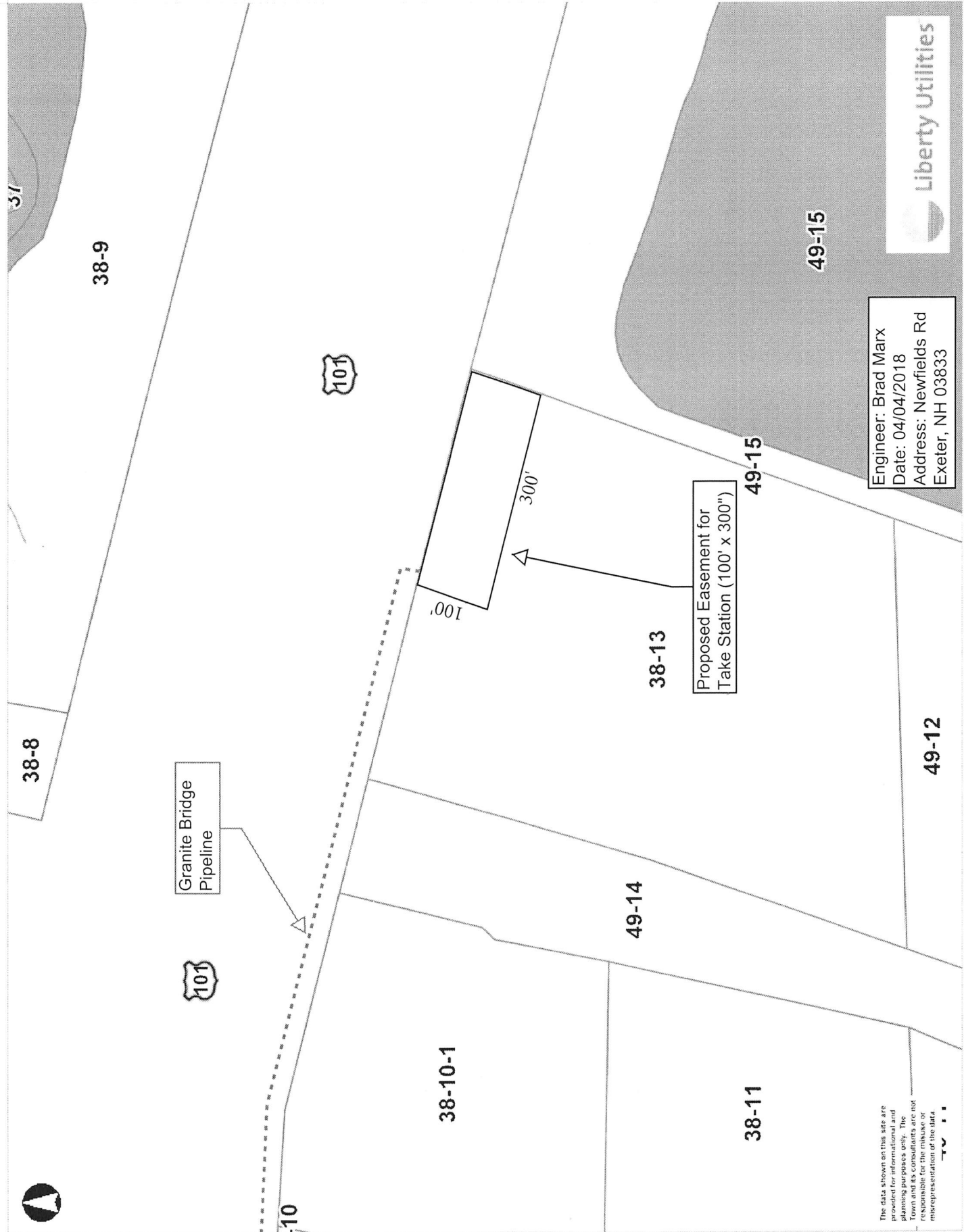
**Exhibit A to Option Agreement**

**Easement Agreement**

**(attached)**



- Parcels
- NH Highways
- Interstate
- US Highway
- State Highway
- Town Boundary
- Abutting Towns
- Streets (Updated September)
- Misc. Streams
- Parcel Streams
- Open Water
- Buildings



Engineer: Brad Marx  
 Date: 04/04/2018  
 Address: Newfields Rd  
 Exeter, NH 03833



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 04/04/2018 at 12:13 PM

Meter stations are interconnection points that meter and regulate pressure between pipelines. These stations are fairly common infrastructure. There are presently 28 metering stations / pressure regulators in New Hampshire that connect other pipelines, including one in Manchester and three in Exeter. There is a smaller pressure regulator on the southwest end of the Public Works complex that interconnects to the Granite State Gas Transmission line.

The proposed Granite Bridge pipeline would receive natural gas through a meter station, which would be constructed on a 100' x 300' piece of property owned by the Town of Exeter. This property abuts the New Hampshire Department of Transportation right-of-way (NHDOT R.O.W) on Route 101 to the north and the R.O.W. for Enbridge's Joint Facilities transmission pipeline to the east. The meter station would consist of three small structures located within the 100' x 300' footprint. The meter station would connect the proposed Granite Bridge pipeline to the existing Joint Facilities transmission line.

Inlet piping would transport the natural gas from the Joint Facilities transmission line into a metering building, which would track the amount of gas being supplied to the Granite Bridge pipeline. From the metering building, the natural gas would enter a regulating building. The natural gas would be warmed, and then the pressure would be reduced using regulators. The pressure regulation produces some low-level noise that would not be louder than the sound of the traffic from Route 101.

Outlet piping would extend from the regulator building into the NHDOT R.O.W along Route 101, tying into and feeding the Granite Bridge pipeline. Connected to the outlet piping would be an above ground launcher and a receiver for a smart pig, which would be used to inspect the interior of the Granite Bridge pipeline.

Telecommunications equipment would be located in a separate small structure and would provide our Gas Control Center with continuous inlet and outlet pressure data. Trained staff at Liberty Utilities' Gas Control Center in Londonderry would monitor the pressures 24 hours a day, seven days a week. The entire property would be fenced in with only Liberty Utilities and Enbridge personnel allowed to enter. There would also be outside lighting in the event it is necessary to access the facility at night.

This meter station is currently proposed to be sited within the NHDOT R.O.W. in Stratham. Siting the station at this location in Exeter would reduce the length of the proposed Granite Bridge pipeline and eliminate the need to cross under the Squamscott River.

In 2017 Liberty Utilities installed a meter station in the Town of Pelham. This station connects to the existing Concord Lateral pipeline and will provide natural gas service to the residents and businesses of Pelham. The proposed station in Exeter would be very similar to the new station in Pelham.

## **AGREEMENT FOR PERMANENT AND TEMPORARY EASEMENT**

KNOW ALL BY THESE PRESENTS: that the **TOWN OF EXETER**, a municipal corporation duly established under the laws of the State of New Hampshire, with offices at 10 Front Street, Exeter, Rockingham County, State of New Hampshire 03833 (“Grantor”), for consideration paid, grants to **LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP., d/b/a LIBERTY UTILITIES**, a New Hampshire corporation having its principal place of business at 15 Buttrick Road, Londonderry, New Hampshire 03053, (“Grantee”), with Warranty Covenants, permanent easement rights and temporary easement rights over certain portions of the Grantor’s land as follows,

A permanent 300’ x 100’ “Gas Facilities Easement” together with a right-of-access thereto and therefrom (the “Access Easement”) (the Gas Facilities Easement and the Access Easement, together with all the rights and privileges granted by this document, being referred to collectively as the “Easement”) on, over, under, across, through, and along certain portions of the property owned by the Grantor situated easterly of Newfields Road, so-called, and southerly of N.H. Route 101, being shown on the Town of Exeter Tax Maps as Map 38, Lot 13, and Map 49, Lot 15. The location of the Gas Facilities Easement is described as follows:

Beginning at a point in the southerly sideline of NH Route 101, said point being located at the intersection of NH Route 101 and the westerly sideline of the existing pipeline easements granted to Granite State Gas Transmission, Inc. and to Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, LLC ; thence southerly on a line that is adjacent to the existing pipeline easements a distance of 100.00 feet to a point; thence turning westerly and running parallel with said Route 101 southerly sideline a distance of 300.00 feet to a point; thence turning northerly and running parallel with the existing pipeline easements to said Route 101 southerly sideline a distance of 100.00 feet to the said southerly sideline; thence easterly along said sideline a distance of 300.00 feet to the point of beginning (the “Gas Facilities Easement Area”).

TOGETHER WITH the right to gain ingress to and egress from the Gas Facilities Easement Area, with vehicles and equipment, across through and over other land of the Grantor presently used by the Grantor for its Public Works facility, by obtaining access from the entrance to said Public Works facility at Newfields Road, thence proceeding through the Public Works facility to the westerly side of the northwesterly sewer lagoon, and then proceeding northerly by the roadway along the westerly side of said lagoon and thence from said roadway to the Gas Facilities Easement Area (the “Access Easement”). The Grantee shall endeavor so far as is practicable to use existing roadways to facilitate Grantee’s access to the Gas Facilities Easement



Area, but to the extent such existing roadways do not physically exist so as to connect to the Gas Facilities Easement Area or cannot otherwise reasonably accommodate such access this Access Easement shall include the right to construct and maintain such roadways or portions thereof as shall reasonably accommodate access to the Gas Facilities Easement Area by the Grantee by vehicles and equipment. Grantee's use of the Access Easement shall not interfere with the functions and activities of Grantor's Public Works department.

The Easement includes the following rights and privileges:

FIRST: The permanent and perpetual easement, right, privilege, and authority to locate, establish, lay, construct, reconstruct, install, operate, use, repair, inspect, protect, survey, modify, change, convert, test, upgrade, replace with the same or different size pipe, alter, substitute, renew, restore, relocate, maintain, and remove underground and grade level gas systems including but not limited to gas mains, gas service lines and pipes, metering and regulator stations, meter skids, fencing, together with all necessary appurtenances and accessories, (collectively, the "Gas Facilities"), as Grantee may now and from time-to-time deem necessary, all within the Gas Facilities Easement Area.

SECOND: The Gas Facilities shall be used solely for the purposes of metering and regulator stations, of connecting the gate stations to the transmission pipelines owned by Granite State Gas Transmission, Inc. ("GSTS") and by Portland Natural Gas Transmission System ("PNGTS") and Maritimes & Northeast Pipeline, LLC ("Maritimes"), and for monitoring, metering and regulating the flow and pressure of gas pipelines and for launching and receiving devices for cleaning, maintaining, measuring, repairing and monitoring gas pipelines.

THIRD: The privilege of access solely and only from Newfields Road to the Gas Facilities Easement Area as described above as is necessary for all servicing utilities, for the installation, maintenance and repair of the Gas Facilities and for the use and enjoyment of the Easement. The privilege of access shall not be used to facilitate construction of the proposed Granite Bridge pipeline.

FOURTH: Grantor understands and agrees that Grantor, its successors and assigns, shall not excavate the Gas Facilities Easement Area, erect, construct, create, or permit to be erected, constructed, or created, any building, permanent structure, fence, improvement, tree, shrub, or physical obstruction of any kind or nature whatsoever, either on, above, or below the surface of the ground, or lower the grade or elevation thereof, or maintain any water course, reservoir, or pond thereon, or cause or permit these things to be done by others over the Gas Facilities Easement Area without the express written permission of the Grantee. Grantee shall be entitled at Grantee's option at any time to remove any such item or structure existing without Grantee's express written permission.

FIFTH: The Gas Facilities and other appurtenances which are installed, constructed, and maintained by Grantee, GSTS, and by PNGTS and Maritimes in the Easement Area shall at all times be and remain the property of Grantee, GSTS, and PNGTS and Maritimes, as applicable, and shall be maintained and serviced exclusively by Grantee, GSTS, and PNGTS and Maritimes, as applicable.

SIXTH: Grantee covenants that, in the event any portion of the Access Easement that is used jointly by the Grantor and the Grantee shall be damaged or disturbed at any time and from time-to-time by Grantee or any party acting on behalf of Grantee, then Grantee, at its sole cost and expense, within a reasonable time, shall repair and restore the surface of the damaged or disturbed Access Easement to the condition which existed prior to any such disturbance.

SEVENTH: Grantee, for itself and its successors and assigns, agrees to release, defend, indemnify, and hold harmless Grantor and all its respective successors, contractors, agents, and employees (collectively, the "Indemnified Parties"), from any and all costs, losses, claims, judgments, settlements, and damages of every kind and character to property or persons (including without limitation, claims involving environmental laws and regulations, personal injury, and death) and any claim asserted or arising in any lawsuits or causes of action (including reasonable attorney's fees, expert fees, and court costs), except to the extent that such claims arise from the sole negligence, gross negligence, or willful misconduct of the Indemnified Parties, which may grow out of, arise from, or in any manner be connected with the activities of Grantee and Grantee's agents, invitees, guests, contractors, servants, and employees, whether acting within the scope of their employment or not, and whether negligent or not, on the Grantor's Property or adjacent property.

EIGHTH: As to their respective obligations under this Easement, the Grantor and Grantee agree to comply with all applicable codes, rules, regulations, and laws.

NINTH: The buildings for the metering and regulator stations shall be approximately 40 feet in length and 15 feet in width and shall be placed upon a concrete pad. The height of the buildings and all antennae and communications equipment shall not exceed 30 feet above ground level. Grantee shall, at Grantee's cost, install and maintain 12 foot tall security fencing surrounding the buildings and the Gas Facilities.

TENTH: For purposes of facilitating the construction of the permanent elements of this Easement, the Grantee shall also have the TEMPORARY RIGHT AND EASEMENT to have access to and to cut and remove trees from, and to excavate and grade, an area extending twenty-five (25) feet westerly, southerly, and easterly of the Gas Facilities Easement Area (the "Temporary Easement Area"). This TEMPORARY RIGHT AND EASEMENT shall expire upon completion of construction of the metering and regulator stations and Gas Facilities. Grantee covenants that, in the event the surface of the Temporary Easement Area is disturbed by Grantee or any party acting on behalf of Grantee, then Grantee, at its sole cost and expense and within a reasonable time, shall repair the surface of the Temporary Easement Area to a reasonable condition to include stump removal, grading, and appropriate plantings. Grantee shall offer any marketable timber removed from the Temporary Easement Area to Grantor at no cost.

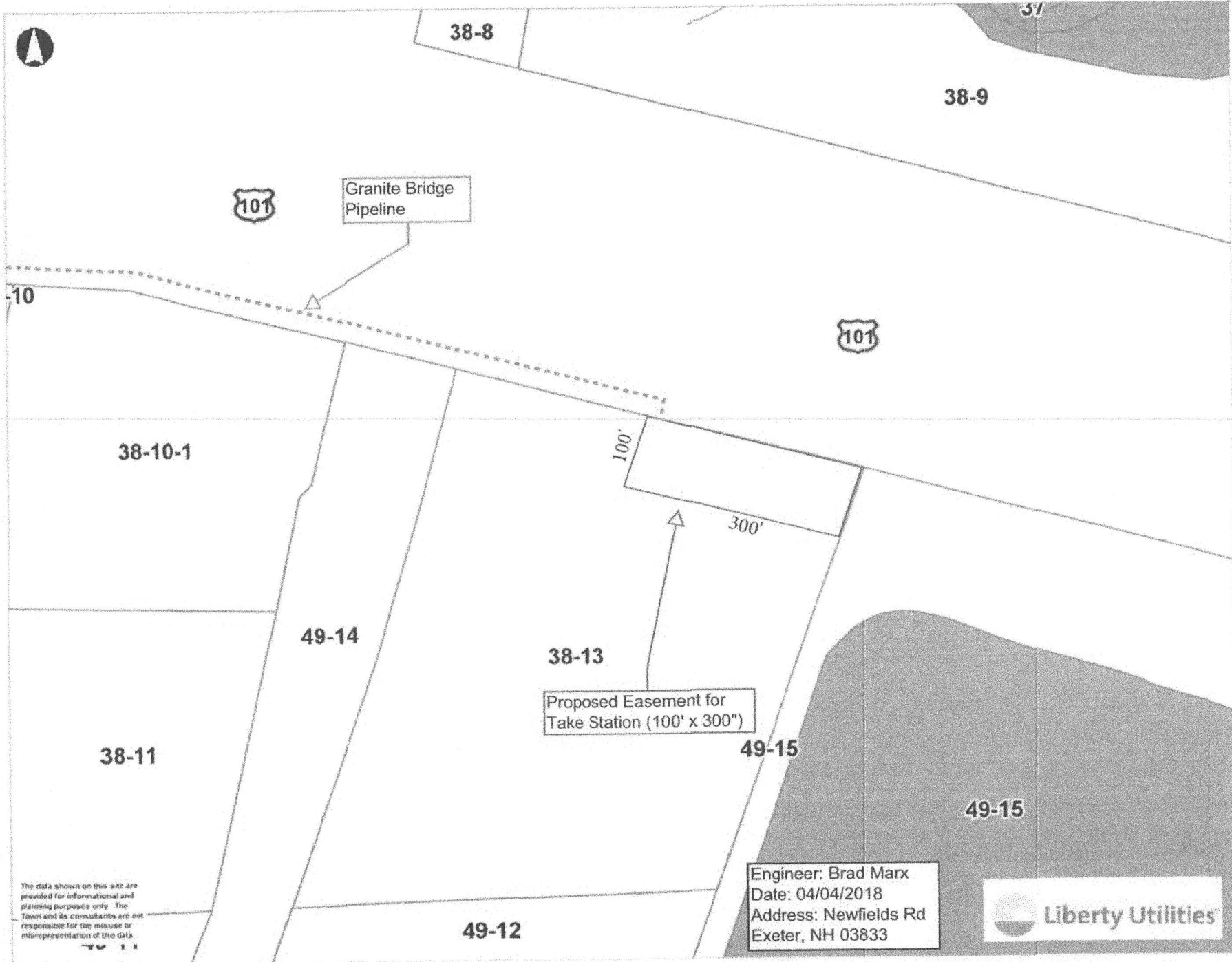
The Easement shall be recorded at the Rockingham County Registry of Deeds and shall be binding on and burden and inure to the benefit of, respectively, the successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, Grantor has caused this EASEMENT to be duly executed this  
\_\_\_\_ day of \_\_\_\_\_, 2018.

DRAFT

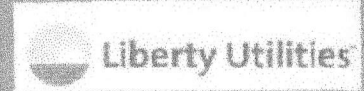


- Parcels
- NH Highways
  - Interstate
  - US Highway
  - State Highway
- Town Boundary
- Abutting Towns
- Streets (Updated September)
- Misc Streams
- Parcel Streams
- Open Water
- Buildings



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

Engineer: Brad Marx  
 Date: 04/04/2018  
 Address: Newfields Rd  
 Exeter, NH 03833



Exeter MapsOnline

0 170 340 ft

Printed on 04/04/2018 at 12:13 PM

8/6/18

## OPTION AGREEMENT

THIS OPTION AGREEMENT ("Option Agreement") is made as of July \_\_, 2018 (the "Effective Date"), by and between the Town of Exeter, a municipal corporation duly established under the laws of the State of New Hampshire ("Owner"), and Liberty Utilities (EnergyNorth Natural Gas) Corp., a New Hampshire corporation ("Liberty").

### RECITALS

A. Owner is the owner of real property in the Town of Exeter, New Hampshire, which is located easterly of Newfields Road, so-called, and southerly of N.H. Route 101, being shown on the Town of Exeter Tax Maps as Map 38, Lot 13, and Map 49, Lot 15.

B. Owner desires to grant to Liberty, and Liberty desires to acquire from Owner, an option to purchase a permanent natural gas facilities easement (the "Easement") over a 100 foot by 300 foot portion of the Property that abuts the southerly edge of N.H. Route 101 and that abuts the existing natural gas pipeline easements granted to Granite State Gas Transmission, Inc. and to Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, LLC (the "Easement Area"), as more fully described in the Easement Agreement, attached and incorporated as Exhibit A

NOW, THEREFORE, the parties agree as follows:

### AGREEMENT

1. Grant of Option. Owner grants to Liberty an irrevocable exclusive option (the "Option") to purchase the Easement "AS IS, WHERE IS, WITH ALL FAULTS" on the terms and conditions in this Option Agreement. This Option Agreement grants to Liberty a true option to purchase the Easement; Liberty has no obligation to purchase the Easement.

2. Purchase Price. If Liberty exercises the Option, the purchase price for the Easement is Seventy Five Thousand Dollars.

3. Option Period and Termination.

a. The term of the Option is Thirty Six months, commencing on the Effective Date (the "Option Period").

b. Liberty may terminate this Option Agreement at any time during the Option Period by giving written notice to Owner. Owner may not terminate this Option Agreement.

4. Option Payment.

a. Liberty shall deliver to Owner a payment of Thirty Thousand Dollars (the "Option Payment") when the parties execute this Option Agreement.

b. The Option Payment is non-refundable and is not to be credited toward the Purchase Price.

5. Exercise. No later than thirty days prior to the end of the Option Period and no less than thirty days prior to the date Liberty exercises the Option, Liberty shall give written notice to Owner if its intent to exercise the Option. Liberty may then exercise the Option by delivering to Owner the Purchase Price, at which time Owner shall promptly deliver to Liberty the properly executed Easement Agreement. If Liberty fails to exercise the Option prior to the end of the Option Period, then this Option Agreement shall, without any notice to any party hereto, automatically terminate.

6. Runs with the Land. The Option contained in this Option Agreement runs with the Property and is a benefit to Liberty. This Option Agreement is binding on Owner and its successors in interest in the Property, and inures solely to the benefit of Liberty. Liberty has the sole right and ability to enforce the terms of this Option Agreement against Owner or its successors in interest in the Property, and may record the memorandum, attached hereto and incorporated herein as Exhibit B, of this Option Agreement at the Registry. Liberty shall discharge the memorandum within thirty days of whichever of the following occurs first: Liberty's termination of this Option Agreement, the exercise of the Option, or the termination of this Option Agreement by Liberty's failure to timely exercise the Option. If Liberty fails to timely record a proper discharge, Owner may do so as Liberty's attorney in fact.

7. Certain Covenants.

a. Use of the Easement. Owner may continue to use the Easement Area for its current purpose, and no other, unless and until Liberty exercises the Option.

b. No Encumbrances. Without the prior written consent of Liberty, Owner shall not enter into any transaction, encumber or convey the Property or Easement Area, or create or suffer to exist any additional exceptions to title that will affect the Easement rights; provided however that such prior consent shall not be and is not required for the Owner and its successors to convey the Property or to mortgage the Property if such conveyance or mortgage does not affect the Easement rights. Owner shall provide Liberty with contemporaneous notice of any such conveyance or mortgage.

c. Cooperation. Owner shall fully support and cooperate with Liberty, at Liberty's expense, in applying for and securing any permits, licenses, approvals, and the like as Liberty desires with respect to its proposed development of the Easement Area. If requested by Liberty, Owner will sign applications for such permits, licenses, and approvals and, if necessary, any related appeals. All applications and proceedings for obtaining permits, licenses, approvals, and related appeals shall be under Liberty's control and direction and at Liberty's sole cost and expense. Such applications and appeals shall be made in the name of Owner, or Liberty, or jointly, as shall be determined

by Liberty in its discretion. Liberty shall, contemporaneously with any filing or submittal, copy Owner on all applications, approvals, and permits.

8. Owner's Representations and Warranties. Owner represents and warrants that as of the Effective Date:

a. Owner has full and lawful right and authority to execute and deliver this Option Agreement and to consummate the contemplated transactions.

b. Owner owns good fee simple marketable title to the Property.

c. There is no litigation, bankruptcy, or other proceeding pending or threatened that affects the Easement Area.

d. There is no pending or threatened condemnation of the Easement Area.

e. To Owner's knowledge, no unrecorded liens, encumbrances, or adverse claims exist with respect to the Easement Area.

f. There are no leases or occupancy agreements affecting all or any portion of the Easement Area, and no management contracts, service contracts, options (other than this Option Agreement), or any other material agreements relating to the Easement Area.

g. Owner is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from its withholding requirements.

9. Access to Easement and Inspections by Liberty. Owner shall allow Liberty and its representatives reasonable access to the Easement Area, on reasonable advance notice, solely for the purposes of conducting such surveys and inspections of the Easement Area prior to the exercise of the Option as Liberty deems appropriate. After the exercise of the Option, all access to the Easement Area shall be as provided in the Easement Agreement, attached as Exhibit A. Liberty shall not incur any mechanics' liens in connection with its inspections and, if so incurred, shall have them removed by payment or bond or other method reasonably satisfactory to Owner within thirty days of receipt of notice of attachment. If the Property shall be disturbed by any such survey and inspection, then Liberty shall forthwith restore the Property to its same condition as prior to any such disturbance.

10. Notice. All notices and other communications are to be in writing, and are deemed to have been given or made: (i) when delivered in person; (ii) three business days after deposited in the United States certified mail, postage prepaid; or (iii) in the case of overnight courier services that provides confirmation of delivery, one business day after delivery to the overnight courier service with payment provided for, addressed as follows:

If to Owner:	Exeter, NH 03833
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With a copy to:	*, Esquire  , NH
If to Liberty	Liberty Utilities (EnergyNorth Natural Gas) Corp. Attn: President 15 Buttrick Road Londonderry, NH 03053
With a copy to:	Liberty Utilities (EnergyNorth Natural Gas) Corp. Attn: Legal Department 116 North Main Street Concord, NH 03301 <a href="mailto:Michael.sheehan@libertyutilities.com">Michael.sheehan@libertyutilities.com</a>

or to such other persons or addresses as either party designates by notice given in accordance with this Section.

11. Benefit and Binding. This Option Agreement shall bind and inure to the benefit of the heirs, administrators, executors, successors, and assigns of the respective parties.

12. Amendment and Modification; Waiver. This Option Agreement may only be amended by an agreement in writing signed by both parties. No waiver of any provision of this Option Agreement shall be effective unless explicitly set forth in writing and signed by the waiving party.

13. Governing Law, Waiver of Jury Trial.

a. Governing Law; Jurisdiction. This Option Agreement shall be governed by and construed in accordance with the internal laws of the State of New Hampshire without giving effect to any choice or conflict of law provision or rule (whether of the State of New Hampshire or any other jurisdiction). All litigation of any nature arising under this Option Agreement shall take place in a court of competent jurisdiction located in Rockingham County, New Hampshire.

b. Jury Trial Waiver. **EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS OPTION AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY FOR ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS OPTION AGREEMENT.**



14. Remedies.

a. Waiver of Consequential Damages. **UNDER NO CIRCUMSTANCES (SAVE FOR FRAUD) SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, OR LOST PROFITS ARISING OUT OF ANY CLAIM, DEMAND, OR ACTION ARISING OUT OF OR RELATING TO THIS OPTION AGREEMENT.**

b. Specific Performance. The parties agree that irreparable damage would occur if any provision of this Option Agreement were not performed in accordance with its terms and that the parties shall be entitled to specific performance of its terms as its sole and exclusive remedy.

15. Miscellaneous.

a. Time of Essence. Time is of the essence in this Option Agreement.

b. Counterparts. This Option Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall be one agreement. A signed copy of this Option Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall have the same legal effect as delivery of an original signed copy of this Option Agreement.

c. Business Days. If any date, time period, or deadline falls on a Saturday, Sunday, or legal holiday in New Hampshire, then that date, time period, or deadline shall be extended to the next business day.

d. Further Actions. The parties agree to execute further documents and take further actions as may be reasonably required to carry out the provisions and intent of this Option Agreement.

e. Assignment. Liberty shall not assign this Option Agreement, in whole or in part, without the Owner's prior written consent, which shall not be unreasonably withheld.

f. Effective Date. The "Effective Date" is defined as the date Owner and Liberty have both signed this Option Agreement and have dated their respective signatures below.

g. Brokers. Liberty and Owner each represent that they have involved no real estate agent or broker in this transaction other than Premier Properties, Inc. representing Liberty. Liberty is solely responsible for the payment of all compensation and costs due Premier Properties, Inc. regarding this Option Agreement. Each of the parties shall indemnify and defend the other against any claim or demand for a real estate commission, fee or other compensation for real estate broker services by any other person

or entity claimed to have been retained, hired or to be acting for or on behalf of such party.

IN WITNESS WHEREOF, the parties have executed this Option Agreement as of the respective dates below written.

<p><b>TOWN OF EXETER</b> By its</p> <hr/> <p>Name: Title: Dated:</p>	<p><b>LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.</b></p> <hr/> <p>Name: Susan L. Fleck Title: President Dated:</p>
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**Exhibit A to Option Agreement**

**Easement Agreement**

**(attached)**

**23 Water Street Release of Easement**

Summary: This is a proposed release of easement at 23 Water Street for an easement no longer needed due to the removal of the Great Dam. The release will also support the development of the 23 Water Street property.

Return to:  
Brown & LaPointe,  
PA 128 Main Street  
Epping, NH 03042

***RELEASE OF EASEMENT DEED***

KNOW ALL PERSONS BY THESE PRESENTS, that the Town of Exeter, a municipal corporation, with offices at 10 Front Street, Town of Exeter, County of Rockingham, State of New Hampshire 03833,

**for consideration paid**, grant to Pairpoint Group, LLC, a New Hampshire limited liability company, with mailing address of 111 Water Street, PO Box 70, Town of Exeter, County of Rockingham, State of New Hampshire 03833,

**with QUITCLAIM covenants**

All of its interest in and to a non-exclusive easement for access to ~~the~~ a dam previously located across the premises described as follows: A certain strip of land between Water Street and the Exeter River in the Town of Exeter, County of Rockingham and State of New Hampshire, shown as an outlined area and marked as "Proposed 590 S.F. ± Easement in favor of NH Fish & Game Dept and the Town of Exeter (Outlined Area)" on a plan entitled "Plan Showing Proposed Lot Line Revision and Fish Trap Improvements – Water Street - Exeter, NH – for Waxolworx, Inc. & Peter B. Olney et al" by James Verra and Associates, Inc. dated 7/21/00, ~~to be recorded at the Rockingham County Registry of Deeds.~~

For reference, also see deed of the Town of Exeter to Waxolworx, Inc., dated August 10, 2000, recorded at Book 3495, Page 2755.

MEANING AND INTENDING to describe and convey the same premises conveyed by Waxolworx, Inc., to Town of Exeter by Easement Deed dated August 10, 2000, and recorded in the Rockingham County Registry of Deeds at Book 3495, Page 2757.

Dated: -----, 2018

**TOWN OF EXETER**  
**BY ITS BOARD OF SELECTMEN**

\_\_\_\_\_  
Julie Gilman, Chair

\_\_\_\_\_  
Kathy Corson, Vice Chair

\_\_\_\_\_  
Molly Cowan, Clerk

\_\_\_\_\_  
Don Clement

\_\_\_\_\_  
Anne Surman

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

Personally appeared before me the above-named, \_\_\_\_\_,  
\_\_\_\_\_, known to me or  
satisfactorily proven to be the persons whose names are subscribed to the foregoing  
instrument, in their capacity as Members of the Exeter Selectboard, and e a c h  
acknowledged that they executed the same on the \_\_\_\_\_ of  
\_\_\_\_\_, 2018.

\_\_\_\_\_  
Name:  
Notary Public -New Hampshire  
My commission expires:

BK 34 95 PG 2757

EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS THAT WAXOLWORX, INC., A New Hampshire corporation with a principal place of business at 123 Water Street, Exeter, Rockingham County, State of New Hampshire,

FOR CONSIDERATION PAID, grants to the TOWN OF EXETER, a municipal corporation, with offices at 10 Front Street, Exeter, County of Rockingham, State of New Hampshire

with WARRANTY COVENANTS, the following described premises:

All of its interest in and to a non-exclusive easement for access to the dam across the premises described as follows: A certain strip of land between Water Street and the Exeter River in the Town of Exeter, County of Rockingham and State of New Hampshire, shown as an outlined area and marked as "Proposed 590 S.F. ± Easement in favor of NH Fish & Game Dept and the Town of Exeter (Outlined Area)" on a plan entitled "Plan Showing Proposed Lot Line Revision and Fish Trap Improvements - Water Street - Exeter, NH - for Waxolworx, Inc. & Peter B. Olney et al" by James Verra and Associates, Inc. dated 7/21/00 to be recorded at the Rockingham County Registry of Deeds. Said easement is bounded and described as follows:

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

043875

2000 AUG 14 AM 9:55

Beginning at the southwesterly corner of the building situated at Number 11 Water Street thence running in a northeasterly direction along the northwesterly face of said building a distance of 65.2 feet to a point at a stone wall at the Exeter River; thence turning and running N 72° 53' 42" W along said stone wall a distance of 5.3 feet to a point on the westerly face of a proposed concrete retaining wall as shown on said plan; thence turning and running in a northerly direction along the westerly face of said proposed concrete retaining wall a distance of 2.5 feet, to a point on said proposed concrete retaining wall as shown on said plan; thence turning and running in a northwesterly direction along the southwesterly face of said proposed concrete retaining wall a distance of 30.5 feet to a point at the southeasterly face of the dam; thence turning and running in a southwesterly direction along the southeasterly face of said dam, a distance of 9.2 feet to an existing granite retaining wall; thence turning and running in a southeasterly direction along the northeasterly face of said granite retaining wall a distance of 8.0 feet, 3.2 feet, 14.3 feet, and 1.5 feet, as shown on said plan, to a point on an existing stone wall; thence turning and running in a southerly direction, across the ramp, as shown on said plan, a distance of 5.0 feet to a point the edge of the down ramp; thence turning and running in an easterly direction over said ramp, as shown on said plan, a distance of 7.7 feet to a point on the down ramp as shown on said plan; thence turning and running in a southwesterly direction on a course 4.5 feet northwesterly of and parallel to the first course above described, a distance of 58.4 feet, along said down ramp, as shown on said plan, to a point at the edge of Water Street; thence turning and running in a southeasterly direction along said Water Street to the point of beginning.

The above described premises are a portion of the property acquired by Waxolworx, Inc. by deed of Kenneth L. Stacey dated October 12, 1994 and recorded at Book 3074 Page 1608 in the Rockingham County Registry of Deeds; by deed of Anastasios Catsoulis, Mary Catsoulis and Karen A. Catsoulis dated November 9, 1994 and recorded at Book 3078 Page 2475 in said Registry; and by deed of the Town of Exeter to be recorded herewith.

The State of New Hampshire, Department of Fish & Game intends to reconstruct the existing fish ladder located on the "upper dam" on the Exeter River on the northerly side of the property owned by the grantor herein, and, in the process, to fill approximately 260 square feet of river bottom on the easterly side of the dam as shown on said plan.

This easement is for the use of the employees and the agents of the Town of Exeter for inspection and maintenance of the dam, the fish ladder and related structures, and not for the general public. This easement shall be through a locked gate and each of the parties hereto shall keep and control the keys to said gate.

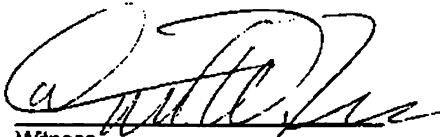
BK 3495 PG 2758

This is one of two deeds pertaining to the said easement, the other being given by Peter B. Olney and Nancy Olney, f/k/a Nancy Batchelder, conveying this easement which is situated on the property of Waxolworx, Inc. and the said Peter B. and Nancy Olney.

No part of the within described premises is homestead property of any person.

Witness my hand on behalf of Waxolworx, Inc. this 10 day of Aug, 2000.

WAXOLWORX, INC.

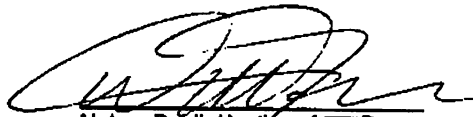
  
Witness

By: Peter B. Olney  
Peter B. Olney, President  
Duly authorized

State of New Hampshire  
County of Rockingham, ss

On this 10 day of August, 2000, personally appeared the above-named Peter B. Olney, President of Waxolworx, Inc., and made oath that he executed the foregoing for the purposes contained therein, before me

DANIEL W. JONES  
Notary Public - New Hampshire  
My Commission Expires January 28, 2003

  
Notary Public/Justice of the Peace



BK 3495PG2759

EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS THAT PETER B. OLNEY AND NANCY OLNEY (formerly known as Nancy Batchelder), husband and wife, both of 123 Water Street, Exeter, Rockingham County, State of New Hampshire,

FOR CONSIDERATION PAID, grant to the TOWN OF EXETER, a municipal corporation, with offices at 10 Front Street, Exeter, County of Rockingham, State of New Hampshire

with WARRANTY COVENANTS, the following described premises:

All of our interest in and to a non-exclusive easement for access to the dam across the premises described as follows: A certain strip of land between Water Street and the Exeter River in the Town of Exeter, County of Rockingham and State of New Hampshire, shown as an outlined area and marked as "Proposed 590 S.F. ± Easement in favor of NH Fish & Game Dept and the Town of Exeter (Outlined Area)" on a plan entitled "Plan Showing Proposed Lot Line Revision and Fish Trap Improvements - Water Street - Exeter, NH - for Waxolworx, Inc. & Peter B. Olney et al" by James Verra and Associates, Inc. dated 7/21/00 to be recorded at the Rockingham County Registry of Deeds. Said easement is bounded and described as follows:

Beginning at the southwesterly corner of the building situated at Number 11 Water Street thence running in a northeasterly direction along the northwesterly face of said building a distance of 65.2 feet to a point at a stone wall at the Exeter River; thence turning and running N 72° 53' 42" W along said stone wall a distance of 5.3 feet to a point on the westerly face of a proposed concrete retaining wall as shown on said plan; thence turning and running in a northerly direction along the westerly face of said proposed concrete retaining wall a distance of 2.5 feet, to a point on said proposed concrete retaining wall as shown on said plan; thence turning and running in a northwesterly direction along the southwesterly face of said proposed concrete retaining wall a distance of 30.5 feet to a point at the southeasterly face of the dam; thence turning and running in a southwesterly direction along the southeasterly face of said dam, a distance of 9.2 feet to an existing granite retaining wall; thence turning and running in a southeasterly direction along the northeasterly face of said granite retaining wall a distance of 8.0 feet, 3.2 feet, 14.3 feet, and 1.5 feet, as shown on said plan, to a point on an existing stone wall; thence turning and running in a southerly direction, across the ramp, as shown on said plan, a distance of 5.0 feet to a point the edge of the down ramp; thence turning and running in an easterly direction over said ramp, as shown on said plan, a distance of 7.7 feet to a point on the down ramp as shown on said plan; thence turning and running in a southwesterly direction on a course 4.5 feet northwesterly of and parallel to the first course above described, a distance of 58.4 feet, along said down ramp, as shown on said plan, to a point at the edge of Water Street; thence turning and running in a southeasterly direction along said Water Street to the point of beginning.

The above described premises are a portion of the property acquired by Peter B. Olney and Nancy Olney, formerly known as Nancy Batchelder, by deed of Brian F. McCaffrey and Brian D. Kenyon dated November 16, 1998 and recorded at Book 3341 Page 2638 in the Rockingham County Registry of Deeds.

The State of New Hampshire, Department of Fish & Game intends to reconstruct the existing fish ladder located on the 'upper dam' on the Exeter River on the northerly side of the property owned by the grantor herein, and, in the process, to fill approximately 260 square feet of river bottom on the easterly side of the dam as shown on said plan.

This easement is for the use of the employees and the agents of the Town of Exeter for inspection and maintenance of the dam, the fish ladder and related structures, and not for the general public. This easement shall be through a locked gate and each of the parties hereto shall keep and control the keys to said gate.

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

043876

2000 AUG 14 AM 9:56

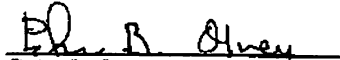
BK 3495PG2760


This is one of two deeds pertaining to the said easement, the other being given by Waxolworks, Inc., conveying this easement which is situated on the property of Waxolworks, Inc. and the said Peter B. and Nancy Olney.

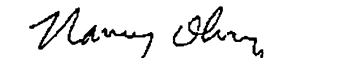
No part of the within described premises is homestead property of any person.

Witness our hands this 10 day of Aug, 2000.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Peter B. Olney


  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Nancy Olney

State of New Hampshire  
County of Rockingham, ss

On this 10 day of Aug, 2000, personally appeared the above-named Peter B. Olney and Nancy Olney and made oath that they executed the foregoing for the purposes contained therein, before me

DANIEL W. JONES  
Notary Public - New Hampshire  
My Commission Expires January 28, 2003

  
\_\_\_\_\_  
Notary Public/Justice of the Peace

9.10



## Select Board EVC presentation by Energy Cmte - part 2 Aug 27, 2018

The Energy cmte returns tonight to address your questions from our first presentation last month on the need for Electric Vehicle Chargers (EVC) in downtown Exeter. First, I shall mention some facts.

Tailpipe emissions are the number one contributor to all emissions in the US, so the sooner we move towards no/low emission vehicles, the better for the health of all residents. The Rockingham Planning Comm relays the 2014 emissions inventory data for Rockingham County as: *tail pipe emissions are responsible for; 79% of Carbon Monoxide (CO) emissions, 63% of Nitrogen Oxides (NOx), and 22% of Volatile Organic Compounds (VOC). NOx and VOCs are responsible for the formation of ground level Ozone.* In addition, EV sales in NH increased by 63.5% from 2016 to 2017, and the Tesla Model just went into production last month at 5K units per day. Our local dealerships will be bringing their EVs to our Sept. 16<sup>th</sup> test-drive event at the town hall. We feel the time has come for Exeter to join Portsmouth, Amesbury, Newburyport, and other towns who have already installed downtown EVC units.

**Question:** *How much does Amesbury pay in electricity for their free level 2 EVC?* They pay \$600 per charger head on a unit located in a parking garage. They consider it advertising dollars spent.

**Question:** *What did the recent parking survey reveal about EVC?* 30% of respondents were somewhat or very interested, 36% were indifferent, and 34% not at all interested. So, while only a handful currently drive EVs, almost 1/3 of the respondents support implementation of EVs.

**Question:** *Does an EVC qualify as "municipal infrastructure" thus satisfying the requirements of article 34 of /RSA 35.1 which currently has \$5200 for such?* The energy cmte believes so, just as a town parking lot is a municipal infrastructure, so is a parking meter or an EVC. We are open to discussion.

In our research we have worked with several vendors and a Unutil rep to identify several types of EVC and several possible locations for an EVC that would serve to test our market. We would like to encourage clean cars to come to Exeter, plug in for 2 hours max, and visit our merchants and eateries. We currently have identified have two possible scenarios:

Option #1. A dual head level 2 charger (mid-level brand at apprx \$5K) powered from the service entry panel at the rear of the town hall, trenched by the DPW, placed on a pedestal in between two parking spots near the fire escape. This is very accessible and visible, but more expensive than option 1. In the future if the town buys the Citizen Bank lot for municipal parking, this existing EVC could be expanded into a full EVC station that generates revenue.

Option #2. One or two single head level 2 chargers (entry-level brand at apprx \$1k each) powered from the fuse box at the rear of the Senior Center, attached directly to the wall. This is less visible, but also less expensive for the simple unit itself, plus very little installation costs. The Senior Center unit/s would be easy to move to another location, like the DPW to charge any town fleet vehicles in the future.

We also recommend that these EVCs be free to the public for two years, as a PR device to advertise Exeter's downtown to EV drivers, paid for out of the remainder of the \$5200 fund or elsewhere (apprx \$600/yr per head total). It is worth noting that a "smart" EVC that takes credit cards, like Chargepoint for example, costs apprx \$20K and has an annual service fee of \$800. Currently no grants are available to offset such an expense.

Tonight we ask you your thoughts and ask for guidance. Please tell us whether the Exeter Select Board agrees that the town of Exeter, like many of the surrounding towns, should actively pursue strategies to accommodate and encourage EVs. If so, the Energy cmte would like to begin to work with town planners and/or economic development dept to identify the correct fit for Exeter at this time, and create a strategic plan for the future.

## Facilities Advisory Committee – Town of Exeter

The purpose of the Facilities Advisory Committee is to assess and analyze municipally owned facilities in order to prioritize physical plant needs and budgets as described in the Town Facilities Plan published by HL Turner Group in December, 2015. The Committee shall identify capital improvement projects to develop a quantifying, data driven facilities assessment and analysis process that informs decision makers.

Advisory Committee recommendations shall consider the following:

- Facility priorities described in the Town Master Plan adopted by the Planning Board, 2018.
- Acquisition or disposition of properties ~~so as to promote efficiencies in services to the general public.~~
- Compliance with building codes.
- Energy efficiency.
- Safety and environmental needs of both personnel and the general public.
- Security of municipal assets.
- Infrastructure that supports proper technology of a modern government.
- Efficiency of access to services by the general public.
- Efficiency of intradepartmental functions.
- ~~Capital projects such as roof replacement, masonry and structural repairs, equipment replacement.~~
- ~~Annual maintenance and repair which is detail oriented and based on historic information.~~
- Deferred level of capital replacement needs.
- ~~Specific program and space change projects.~~
- ~~Work flow and internal relationships of Municipal Departments serving the Town.~~

The Committee shall be advisory to the Exeter Planning Board, Select Board, Town Manager, and Public Works Department in the development of an overall facilities strategy.

~~and the Town Capital Improvement Plan, Board of Selectmen, Town administration and the annual maintenance project list of the Department of Public Works.~~

Membership of the Committee shall consist of **five (5) residents of the Town plus two (2) alternate members** appointed by the ~~Exeter Board of Selectmen.~~ Exeter Select Board. The ~~Board of Selectmen~~ Select Board shall conduct interviews for each application submitted. Members should have demonstrated experience in facilities planning, architecture, construction management, or some combination thereof. Ideally members will come from a broad constituency and be able to objectively prioritize needs of the Town in this area. **It should be noted that while these qualifications are desired, they are not absolute and**

**appointments may be made for members without having the aforementioned qualifications, if a shortage of such candidates exists.**

Terms of membership shall be 3 years, ending April 30<sup>th</sup>. Initial terms shall be set for 1, 2, and 3 years, and thereafter be set at 3 years. Members may be re-appointed for subsequent terms. The Committee shall elect offices of Chairman, Vice-Chairman and Clerk serving one year terms each. Terms of officers may be renewed in consecutive years.

The Committee shall meet monthly for the first calendar year after establishment and periodically thereafter. ~~to perform a regularly updated assessment and quantification in a schedule recommended by the Committee, accepted by the Board of Selectmen and consistent with the Exeter Town Budget and Capital Improvement Program development.~~ The Committee shall provide an annual report to the ~~Board of Selectmen.~~ Select Board.

As a public body serving the Town, the Committee shall abide by State "Right-to-know" laws as enacted under Chapter 91-A of the NH Revised Statutes Annotated.

Adopted by the ~~Board of Selectmen~~ Select Board

~~April 11, 2016~~

August 27<sup>th</sup>, 2018

# Town of Exeter

**To:** Selectboard Members: Julie Gilman, Chairwoman, Kathy Corson, Vice-Chairwoman, Molly Cowan, Clerk and Donald Clement, Selectman

**From:** Anne L. Surman, Selectman

**CC:** Russ Dean, Town Manager

**Date:** August 3, 2018

**Re:** New Hampshire's R.S.A. 31:39-a Conflict of Interest Ordinances

From "Knowing the Territory, A Survey of Municipal Law for New Hampshire Local Officials" 2017 Edition, is the following excerpt: "The general rule is that a conflict of interest requiring disqualification will be found when an official has a direct personal or pecuniary (financial) interest in the outcome. That interest has to be "immediate, definite, and capable of demonstration: not remote, uncertain or speculative" *Atherton v. Concord*, 109N.H. 164 (1968)."

In March 2018, not long after this board reorganized, the Chair, asked for our goals and future agenda items. One of my concerns has been the lack of a clear Conflict of Interest Policy regarding elected and/or appointed offices. Coupled with Conflict of Interest is Ethics and Code of Conduct. Over the past weeks, I have been researching NH RSA 31:39-a (copy attached) and have talked with attorneys at New Hampshire Municipal Associations (NHMA) on the topic. I have looked at a sampling of other towns to see what policies they may or may not have. As you may guess: some towns have a policy through their Board of Selectman, and other towns have passed by the legislative body, a Conflict of Interest and Ethics Policy per R.S.A. 31:39-a.

I have attached a few samples of some of the policies and ordinances for your review. This is a very important topic and should have solid discussion. Tonight, I am introducing the topic, and will present what method I would recommend. We can have some discussion tonight. The goal is for us to take up more discussion at our next Selectboard meeting and at that next meeting decide on how we as a Board would like to proceed. A follow-up meeting will also give the public and other boards and committee members more opportunity to express their views.

# TITLE III

## TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

### CHAPTER 31

#### POWERS AND DUTIES OF TOWNS

#### Power to Make Bylaws

##### Section 31:39-a

**31:39-a Conflict of Interest Ordinances.** – The legislative body of a town or city may adopt an ordinance defining and regulating conflicts of interest for local officers and employees, whether elected or appointed. Any such ordinance may include provisions requiring disclosure of financial interests for specified officers and employees, establishing incompatibility of office requirements stricter than those specified by state law or establishing conditions under which prohibited conflicts of interest shall require removal from office. Any such ordinance shall include provisions to exempt affected officers and employees who are in office or employed at the time the ordinance is adopted for a period not to exceed one year from the date of adoption. The superior court shall have jurisdiction over any removal proceedings instituted under an ordinance adopted under this section.

**Source.** 1981, 221:1, eff. Aug. 10, 1981.



of the attorney representing the city, who hadn't actually participated in the case, was an uncle of the judge hearing the case, although they had not seen each other in 20 years. The Court held, based on the New Hampshire Code of Judicial Conduct, the judge at least had a duty to inform the parties of the family relationship so they could request him to step down.

### **6. Other Relationships**

A member of a church that owned land abutting a project and who had previously been a member of the church building committee before taking public office was *not disqualified* to vote on the project. *Atherton v. Concord*, 109 N.H. 164 (1968).

## **IV. Statutes Governing Conflicts of Interest**

### **A. Municipal Charters**

Former RSA 49-A:82, which formed the basis for many of the charters still in effect in cities, says that no city official shall take part in a decision in which he or she has a financial interest “greater than any other citizen or taxpayer.” This standard applies to legislative as well as judicial actions in cities in which this statute or charter provision is still in effect. RSA Chapter 49-C replaced RSA Chapter 49-A in 1991. RSA 49-C:33, I(c) simply permits cities the option of including a conflict of interest provision in their charters.

### **B. Local Conflicts of Interest Ordinances**

One of the challenges with conflicts of interest is that the existence of a conflict is, to a great extent, a question of degree to be determined on a case-by-case basis. Towns and cities may wish to adopt a conflicts of interest ordinance to provide more certainty. However, as with any exercise of municipal authority, a municipality can only enact a valid, enforceable ordinance if a law grants it the authority to do so. In addition to the authority in RSA 49-C:33, I(c) for cities to include a conflict of interest provision in their charters, the legislative body of a city or town (town meeting, town council, city council or mayor and aldermen) may adopt a conflict of interest ordinance under RSA 31:39-a. An ordinance adopted under this statute may apply to both municipal officials and employees. Needless to say, a concise, carefully drafted ordinance can clarify what behavior is reasonably expected of people, whereas poor drafting can have the opposite effect.

RSA 21-G:21 – :27 contains a code of ethics for the executive branch of State government, which can be a source of ideas for local legislation. A simple example is RSA 21-G:22, which clarifies the limit of the “personal and pecuniary interest” that must be avoided: “Executive branch officials shall not participate in any matter in which *they, their spouse or dependents*, have a private interest which may directly or indirectly affect or influence the performance of their duties.” RSA 21-G:29 – :30 creates an Executive Branch Ethics Committee, which is authorized to issue written advisory opinions upon request of officials in specific situations. These opinions, edited to maintain confidentiality, may be found at [www.doj.nh.gov/ethics/](http://www.doj.nh.gov/ethics/).

Significantly, however, because municipalities may only take those actions authorized by statute, a conflicts of interest ordinance adopted under RSA 31:39-a may address only the issues listed in the statute and those that are necessarily implied or incidental to those issues. See *Girard v. Allenstown*, 121 N.H. 268, 271 (1981). A local ordinance under RSA 31:39-a may address the following subjects **only**:

- definitions of conflicts of interest;
- regulations of conflicts of interest;
- provisions requiring disclosure of financial interests for specified officers and employees;
- establishment of incompatibility of office requirements stricter than those otherwise established by law; and
- establishment of conditions under which prohibited conflicts of interest will require removal from office.

Despite the clear limits of this statute, local ethics ordinances often include unauthorized provisions. For example, many ordinances authorize the creation of a local ethics board or committee with the authority to investigate complaints and to punish or remove employees and officials for violations. Legally, a local ethics committee could be established to offer non-binding advice to the select board or other officials regarding alleged ethics violations, but *not* to remove municipal officials. Although a town or city may establish the conditions under which a prohibited conflict of interest will require removal from office, RSA 31:39-a is quite clear in providing that only the superior court can remove an official under these provisions.

The termination of an employee, in contrast, does not usually require action by a court, but this is a step that should be taken after careful consideration and only by the governing body or designated official, not by an ethics committee. There may be other significant factors to consider before removing an employee, such as any procedural or other rights that the employee may have under law (such as a police or fire chief) or under a collective bargaining agreement or individual employment contract.

Another unauthorized provision that has found its way into local ordinances is a declaration that certain operations of an ethics committee are exempt from disclosure under RSA Chapter 91-A, New Hampshire's Right to Know Law. Municipalities may not change the scope of RSA Chapter 91-A or declare that certain activities or records will not be available to the public. The ability to enter a nonpublic session during a public meeting must in each instance meet the specific conditions set forth in RSA 91-A:3. In addition, exemptions regarding the public availability of governmental records are construed narrowly and are often decided under RSA 91-A:5 on a case-by-case basis based on the facts and circumstances of each matter. The activities and records of an ethics committee must be considered individually under the same standards as all other municipal activities and records.

It is also common to find a local ethics committee charged with investigating ethical complaints about employees or officials. However, although a committee of this nature may be very helpful in addressing thorny conflicts of interest questions, the referral of certain matters to the committee could result in exposure to even greater liability

for the municipality. For example, referral of an employment harassment claim to an ethics committee may result in a breach of confidentiality because the employer likely owes the employee certain confidentiality measures. Likewise, the referral of a matter regarding fraud or misappropriation of funds may result in a charge that the municipality has interfered with a criminal investigation. The key to the success of any such committee, therefore, will be the quality of its membership and an understanding of the legal limits of its authority. Members should be respected members of the community who are willing and able to meet on relatively short notice, to provide timely, thoughtful responses, and to refer matters to legal counsel as appropriate. One area in which an ethics committee could truly help is education. If an ethics committee organized training on ethics and conflicts of interest and helped make the information available to local officials and employees, it might help to reduce the number and severity of ethical issues.

To address issues outside the scope of an ordinance under RSA 31:39-a, any municipal board is free to adopt its own, non-binding set of guidelines to help members understand the ethical standards the board wishes to uphold. These policies are not binding, and no board (including the select board) has the authority to enact ethical guidelines to bind members of other boards. However, the exercise of creating a policy can be helpful, and educating new members about the standards to which all board members should aspire can provide much-needed guidance.

It is also important to distinguish between the regulation of municipal *officials* and the supervision of municipal *employees*. Since municipal employees are subject to the supervision of the department heads and/or the governing body, the governing body (like any other employer) may adopt personnel policies to govern employees. Personnel policies may address virtually every aspect of the employment relationship, including expectations regarding ethics and behavior, and the discipline and termination consequences of violating those expectations. Therefore, even if some of the provisions of a local "ethics" policy go beyond the permissible subjects in RSA 31:39-a and thus would not be enforceable against municipal officials, those requirements might be enforced against its employees if incorporated into the municipality's personnel policies.

### **C. Land Use Boards**

All planning boards, zoning boards of adjustment, building code boards of appeals, heritage commissions, historic district commissions, agricultural commissions, and housing commissions are subject to RSA 673:14, which prevents a member from sitting on a case:

if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.

Equally important in RSA 673:14 is the procedure it authorizes. Any person on the board can ask for a vote on whether he or she, or any other member, is disqualified in a case. The vote must be taken prior to the public hearing in the case. The vote

# New Hampshire Town And City

## Local Officials Making Decisions: Understanding Conflicts of Interest and Disqualifying Bias

*New Hampshire Town and City, January 2011*

By

*By Kimberly A. Hallquist, staff attorney with the New Hampshire Local Government Center's Legal Services and Government Affairs Department*

*"A man cannot serve two masters at the same time, and the public interest must not be jeopardized by the acts of a public official who has a personal financial interest which is, or may be, in conflict with the public interest."*

So reasoned the Court in *Atherton v. Concord* when ruling that no public official may vote on any matter in which he or she has a conflict of interest. The issue of conflict of interest is being raised frequently by citizens who don't want a particular official to act on a matter; by other board members who fear that participation by a particular board member may jeopardize the decision the board makes (or result in the town being sued!); and also by board members themselves who wonder if they should recuse themselves from participation on a matter.

Consideration of these issues before voting on a matter will be time well spent to avoid having a decision of the board overturned because of a disqualified member's participation.

### **Q. What exactly is a conflict of interest?**

**A.** Precisely defining "conflict of interest" as it applies to municipal decision making is difficult because the existence of a conflict of interest depends in large part on the specific facts of each case. However, the general rule is that a conflict of interest requiring disqualification will be found when an official has a direct personal or pecuniary (financial) interest in the outcome. That interest must be "immediate, definite and capable of demonstration; not remote, uncertain or speculative." *Atherton v. Concord*, 109 N.H. 164 (1968). In short, would a person of "ordinary capacity and intelligence" be influenced by the financial interest? If yes, then the person has a conflict of interest and must not vote on the matter.

### **Q. So, does that mean if I don't have a conflict of interest I can vote on the matter?**

**A.** Not necessarily. While no public official may vote on any matter in which he or she has a conflict of interest, there may be additional considerations of disqualifying bias or prejudgment. When an official is acting in a "judicial" or "quasi-judicial" capacity, as opposed to a "legislative" capacity, a stricter standard of fairness will apply. This stricter standard is often referred to as the "juror standard."

**Q. Why is there a stricter standard for judicial decisions?**

A. The standard is rooted in the New Hampshire Constitution, Part 1, Article 35:

It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit.

To accomplish this constitutional mandate, selectmen and other officers who are called upon to hear quasi-judicial matters in certain cases specified by statute are subject to the juror standard, as are certain land use boards under RSA 673:14.

**Q. What is the juror standard?**

A. The juror standard requires officials to be as impartial as a juror, that is, “indifferent.” The inquiry to be made by the court in jury cases is set forth in RSA 500-A:12. Note that the statute calls for the court to inquire into situations provided in a list (such as financial interest, personal relationship, etc.) but, as with conflict of interest, all the circumstances must be considered. However, an allegation of bias is a serious matter and must be proven. Courts have held that “[a]dministrative officials who serve in an adjudicatory capacity are presumed to be of conscience and capable of reaching a just and fair result. The burden is upon the party alleging bias to present evidence to rebut this presumption.” *Petition of Grimm*, 138 N.H. 42 (1993).

**Q. When is a local official acting in a judicial, or quasi-judicial, capacity?**

A. “An act is judicial in nature if officials are bound to notify and hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties chose to lay before them.” *Appeal of Keene*, 141 N.H. 797 (1997). Common examples of quasi-judicial functions in the municipal context include the selectmen conducting a hearing to lay out a road, and planning and zoning boards acting on applications under their jurisdiction.

**Q. When is a local official acting in a legislative capacity?**

A. All other types of decisions by public officials, whether commonly thought of as legislative, executive or administrative, are regarded as “legislative” for purposes of conflict of interest and disqualification. Examples include the board of selectmen changing the hours of the transfer station, the trustees of trust funds adopting investment policies or the planning board adopting subdivision regulations. When acting in a legislative capacity, there is no requirement of indifference because there is no expectation that officials will not have preconceived positions.

**Q. Are there times when a local official can vote even when they are biased or have prejudged an issue?**

A. Yes, but only when acting in a legislative capacity, not when acting in a judicial capacity. Consider this example: Suppose a citizen is well known in town for his comments at public meetings in favor of a supermarket that is rumored to be considering the town for its new store.

This citizen is then elected as a selectman. Within minutes of being sworn in, the board votes to approve a building permit for the supermarket. The new selectman has prejudged this issue by making it known that he is in favor of allowing the supermarket to locate within the town. Since he is acting in a legislative, or administrative, capacity here, his bias and prejudgment is irrelevant. But, if he also owns the land that the supermarket will build on, he has a conflict of interest (defined as a personal or pecuniary interest in the outcome) and should not vote on the building permit.

Now, suppose this same selectman is appointed to the planning board as the ex-officio member and, instead of a building permit, the supermarket needs site plan approval. This will be a judicial decision of the planning board, where the stricter standard of fairness applies, and the ex-officio member will be disqualified because of his earlier comments in favor of the supermarket (prejudgment).

**Q. If an official votes when he or she was actually disqualified, will the decision be invalidated?**

A. Maybe. If an official was acting in a legislative capacity and had a conflict of interest, the decision would only be invalidated if the conflicted member's vote was the deciding vote. If the measure would have passed even without the conflicted member's vote, the decision will stand. This is not true in the case of a judicial or quasi-judicial decision where the mere participation by a disqualified member invalidates the decision. In these decisions, where courts apply a stricter standard of fairness, "mere participation by one disqualified member [is] sufficient to invalidate the tribunal's decision because it [is] impossible to estimate the influence one member might have on his associates." *Winslow v. Holderness*, 125 N.H. 262 (1984).

**Q. What procedure should a board follow when faced with a claim that a board member should be disqualified?**

A. Take these issues seriously, but do not be intimidated merely because someone claims that a board member is disqualified. Even if no one has raised the issue, if a member realizes there could be a controversy, the member should raise the question in a public meeting and explain the facts to find out if anyone has an objection. When in doubt, step down, as it is not worth having a decision overturned because a disqualified member acted on the matter.

*Local officials in New Hampshire Municipal Association-member municipalities may contact LGC's legal services attorneys for more information on this and other topics of interest Monday through Friday, 8:30 a.m. to 4:30 p.m., by calling 800.852.3358, ext. 384, or by email. School officials should contact the New Hampshire School Boards Association attorney at 800.272.0653*

## Conflict of Interest Policy *[insert name of municipality]*

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**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), the type of municipality, name of municipality hereby adopts the following policy concerning conflicts of interest.

**Article 2. Purpose.** The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials are based on the best interest of the community at large.

**Article 3. Application.** This policy applies to all public officers as that term is defined below.

**Article 4. Definitions.** For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A direct or indirect personal or financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of a cause, proceeding, application, or any other matter pending before the officer or before the public body in which he or she holds office or is employed.
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue.
3. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

A "conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

B. **Emergency** means an imminent threat or peril to the public health, safety, or welfare.

C. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.

D. **Official act or action** means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the municipality.

E. **Public body** means any board, council, commission, or committee of the municipality.

# Conflict of Interest Policy

*[insert name of municipality]*

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- F. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- G. **Public officer** means a person elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include any municipal employee.
- H. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, and which results in a written decision, the result of which is appealable by a party to a higher authority.

## **Article 5. Prohibited Conduct.**

- A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A public officer shall not personally – or through any member of his or her household, business associate, employer or employee – represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application, or other matter pending before the public body in which the public officer holds office.
- C. A public officer shall not accept gifts or other offerings for personal gain by virtue of his or her public office that are not available to the public in general.
- D. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.

**Article 6. Disclosure.** A public officer who has reason to believe that he or she has or may have a conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse him or herself from a matter due to a conflict of interest.<sup>1</sup>

**Article 7. Consideration of Recusal.** Once there has been a disclosure of an actual or perceived conflict of interest, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

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<sup>1</sup> Such request shall not be considered an order for the officer to recuse him or herself.



# Conflict of Interest Policy [insert name of municipality]

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## Article 8. Recusal.

- A. **Recusal of Appointed and Elected Officers.** After taking the actions listed in Articles 6 and 7, a public officer, whether appointed or elected, shall declare whether he or she will recuse him or herself and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that he or she is able to act fairly, objectively, and in the public interest, in spite of the conflict, he or she shall state why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest.<sup>2</sup> Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer that recuses him or herself may, but not must, explain the basis for that decision.
- B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse himself or herself in spite of a conflict of interest may be grounds for discipline or removal from office.<sup>3</sup>

**Article 9. Recording.** The minutes of the meeting or the written decision from the hearing shall document the actions taken in Articles 6 through 8.

## Article 10. Post-Recusal Procedure.

- A. A public officer who has recused himself or herself from serving on a public body in a particular proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity, though such member may still participate as a member of the public.
- B. The public body may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

## Article 11. Enforcement.

- A. **Enforcement Against Elected Officers; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures.** In cases where an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict of interest procedures in Articles 6 through 10, the [insert name of municipal legislative body] may take progressive action to discipline such elected officer as follows:

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<sup>2</sup> Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

<sup>3</sup> Certain appointed officials such as a Zoning Administrator and a Town Manager may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

**Conflict of Interest Policy**  
**[insert name of municipality]**

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1. The chair of the [name of municipal legislative body] may meet informally with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body.
2. The [name of municipal legislative body] may meet to discuss the conduct of the public officer. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The public officer may request that this meeting occur in public. If appropriate, the [name of municipal legislative body] may admonish the offending public officer in private.
3. If the [name of municipal legislative body] decides that further action is warranted, the [name of municipal legislative body] may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
4. Upon majority vote in an open meeting, the [name of municipal legislative body] may request (but not order) that the offending public officer resign from his or her office.

**B. Enforcement Against Appointed Officers.** The [name of municipal legislative body] may choose to follow any of the steps articulated in Article 11A. In addition to or in lieu of any of those steps, the [name of municipal legislative body] may choose to remove an appointed officer from office, subject to state law.

**Article 12. Exception.** The recusal provisions of Article 8 shall not apply if the [name of municipal legislative body] determines that an emergency exists and that actions of the public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 6.

**Article 13. Effective Date.** This policy shall become effective immediately upon its adoption by the [name of municipal legislative body].

Signatures: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

## **ARTICLE IX CONDUCT OF OFFICIALS / CODE OF ETHICS**

### **9-1 PREAMBLE**

It is the policy of the Town of Merrimack to uphold, promote and demand the highest standards of ethics and conduct from all of its employees and officials, whether elected, appointed or hired. The Town Council, all Town employees and all members of Town boards, commissions, and committees shall maintain the highest standards of personal integrity, truthfulness, honesty and fairness in discharging their public duties, and never abuse their positions or powers for improper or personal gain.

### **9-2 PURPOSE**

The purpose of this code is to establish guidelines for the ethical standards of conduct for Town officials, board members and employees. We expect our public servants and volunteers to act in the best interest of the Town. We expect Town officials, board members and employees to disclose any personal, financial or other interests in matters affecting the Town that come before them for action. We expect Town officials, board members and employees to remove themselves from decision making if they have a conflict of interest. We expect Town officials, board members and employees to be independent, impartial, and responsible to their fellow townspeople in their actions. We expect that the Town's official decisions and policies be made through the proper channels of government.

We expect that public office or a volunteer position in our Town not be used for personal gain. It is important that the public has confidence in the integrity of its government and that Town officials, board members, volunteers and employees have an opportunity to protect their personal reputation. This code establishes a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

### **9-3 EXPLANATION OF CODE PROVISIONS**

#### **A. No Conflicts of Interest**

Officials, board members and employees of the Town of Merrimack shall avoid conflicts of interest. As a Town official, board member or employee, you shall not participate in any matter in which you, or a member of your family, have a personal interest that may directly or indirectly affect or influence the performance of your duties. In such instances, you shall recuse yourself from discussion and decision-making. Recusal means to remove yourself completely from all further participation in the matter in question. Officials, board members or employees who have been recused shall immediately leave the room or shall seat themselves with the other members of the public who are present. When recused, you shall not participate in further discussions, unless you clearly state for the record that you are doing so only as a general member of the public. As a recused person, you shall not deliberate or vote on the matter in question.

#### **B. A Duty to Recuse in Quasi-Judicial Actions**

A "quasi-judicial action" is any action where the board or committee you are a member of is acting like a judge or a jury. For example, when your board or committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and

considering such evidence and arguments as the parties choose to lay before you, you are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial. Not only do officials, board members and employees of the Town of Merrimack have a duty to recuse themselves as outlined in the Section above, you must recuse yourself in a quasi-judicial action if you would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial. As a representative of the Town of Merrimack, you are expected to hold yourself to this same standard.

**C. A Duty to Disclose**

As an official, board member or employee of the Town of Merrimack, you shall not participate in the conduct of business on behalf of the Town or enter into discussion or deliberation of any matter without first, publicly and on the record, stating all possible conflicts that may exist between you and your family, and the principals or the issue under consideration.

**D. No Unfair Personal Use of Town Property**

No official, board member or employee of the Town of Merrimack shall use Town property, services, or labor personally, or make the same available to others unless such use is available to other residents upon request on equal terms.

**E. No Misuse of Confidential Information**

No official, board member or employee of the Town of Merrimack shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information, which is readily available to the general public.

In addition, no official, board member or employee of the Town of Merrimack shall violate the privacy of others by publicizing, gossiping, or discussing information confidentially acquired in the course of official duties without a legitimate reason to do so.

**F. No Improper Gifts**

No official, board member or employee of the Town of Merrimack shall accept a gift (or allow acceptance of such gift by a family member) from any individual, group, or corporation that has or is likely to have a matter pending before the board, committee, or commission on which the official or employee serves. This provision of the code is not meant to apply to gifts traditionally exchanged between family members at holidays or birthdays, for example.

**G. A Duty to Cooperate**

All officials, board members and employees of the Town of Merrimack shall cooperate with the Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics.

**H. Fair and Equal Treatment**

Acting in their official capacity, all officials, board members and employees of Town government shall give each and every person fair and equal treatment. No official, board member or employee shall in the course of their official duties give or deny any person special consideration, advantage, or treatment as a result of the person's public status, position, sex, race, religion, creed, sexual orientation, or national origin.

#### 9-4 DEFINITIONS OF TERMS

As used in this Article, the following terms shall have the meanings indicated:

**A. Board:** Any board, committee or commission, permanent or special, established by the Town Council under New Hampshire State Law or this Charter.

**B. Complainant:** A resident of the Town of Merrimack who has submitted a petition to the Ethics Committee requesting an inquiry or alleging a violation of the Code of Ethics.

**C. Conflict of Interest:** A situation, circumstance, or financial interest that has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty.

(Amended 04/10/07 Town Meeting - #5)

**D. Employee:** A person who is paid by the Town of Merrimack for his/her services, but who is not an independent contractor.

**E. Ethics Committee:** The committee established by Article VI of this Charter.

**F. Family:** Any person who is related to the official, board member or employee in one of the following ways: spouse, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the official, board member or employee in question, regardless of whether they are related by blood or marriage.

**G. Interest:** Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land.

**H. Official:** Any elected or appointed officer, board member, or agent of the Town of Merrimack.

**I. Principals:** Those people who are the subject of the action or application that is before the board.

**J. Public Servant:** A person who serves the Town of Merrimack in an official capacity, whether elected or appointed, paid or unpaid, any Town official, board member or employee.

**K. Respondent:** Board member or employee named in a petition submitted to the Ethics Committee as an inquiry or alleging a violation of the Code of Ethics.

**L. Resident:** A resident of the Town of Merrimack.

**M. Quasi-judicial Action:** Any action where the board or committee has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties choose to lay before them.

**N. Town:** The Town of Merrimack, including all of its departments, boards, commissions, and committees.

## **9-5 EXCLUSIONS**

The provisions of this Code of Ethics shall not be interpreted so as to bar:

- A.** Any official, board member or employee who is a resident of the Town of Merrimack from fully participating in any public proceeding conducted by the Town;
- B.** Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws that pertain to such donations;
- C.** Participation in a matter that relates to a person or business from which an official, board member or employee has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;
- D.** Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and
- E.** Supervisors of Town employees from appropriately carrying out personnel policies.

## **9-6 ETHICS COMMITTEE**

The Ethics Committee shall:

- Educate officials, board members and employees of Town government regarding the provisions of the ethics code;
- Provide advice and counsel to officials, board members and employees regarding ethical issues with which they are confronted; and
- Hear and resolve ethics complaints, which are filed against officials, board members and employees of Town government.

### **A. Education**

(1) At the time that each newly elected or appointed official, board member or employee takes the oath of office, they shall receive a copy of this code, and acknowledge in writing that they have received a copy of this code.

(2) The Ethics Committee shall hold a meeting each spring for newly elected or appointed officials, board members and employees so they may familiarize themselves with the provisions of this code.

(3) It shall be the responsibility of the supervisor of any new employee to ensure that the new employee familiarizes themselves with the provisions of this code.

### **B. Inquiries**

The Ethics Committee shall establish a mechanism by which officials, board members, employees and residents of the Town of Merrimack may obtain advice and counsel from the committee regarding ethical issues that may arise from time to time. Upon request of a Town official, board member or employee, the Ethics Committee may issue a written advisory opinion in response to such an inquiry.

## **C. Complaints**

- (1) The Ethics Committee shall:

  - a. have the power to investigate all written complaints, which are filed;
  - b. establish forms by which officials, board members, employees, and residents of the Town of Merrimack may file complaints or request that an inquiry be made;
  - c. only review complaints based on alleged violations of Section 9-3 (A – H) of this Article. All such requests or complaints must be in writing, shall specify the provision of the code which the complainant believes was violated, and must be signed by a resident of Merrimack. When signing the complaint, the complainant shall certify that he or she has read the Code of Ethics, that they believe the matter within the complaint is a fair subject of inquiry, and they have exhausted all other avenues of relief available to them within our Town government.
- (2) Any official, board member or employee against whom a written complaint is filed shall be given a copy of the complaint, and upon written request shall be afforded an opportunity to be heard and to present evidence to the Ethics Committee.
- (3) The Ethics Committee shall have sole discretion for setting rules regarding the conduct of hearings. The Committee shall seek to make sure that both the complainant and the respondent have an opportunity to be heard and to present evidence, but the committee may limit the testimony and evidence which is presented to it if in the opinion of the committee the testimony and evidence in question is irrelevant, unnecessary, redundant, or unreliable.
- (4) The Ethics Committee may require, with sufficient written notice, any official, board member or employee of Town government to appear before it to provide testimony regarding pending complaints. The Ethics Committee, for this purpose, may administer oaths and require the production of evidence such as documents.
- (5) Within thirty (30) days of concluding an investigation into a written complaint, the Ethics Committee shall issue a written statement setting forth its findings. The Ethics Committee shall not have the power to impose any monetary or other penalty, only to issue a written statement as set forth above.

# Town of Amherst



Conflict of Interest Policy

Effective Date: July 12, 2004



## Town of Amherst Conflict of Interest Policy

### Section 1: Purpose

To establish a Conflict of Interest Policy applicable to all officials of the Town of Amherst, whether elected or appointed, full time or part time, paid or volunteer, and to ensure consistency in the application of policy between the various Board, Commissions, and various other official activity of the Town of Amherst.

This policy shall be known as the "Town of Amherst Conflict of Interest Policy" and may be cited as such.

### Section 2: Definitions

As used in this policy, the following terms shall have the meanings indicated:

**Board:** Any board, committee, or commission, permanent or special, appointed or elected.

**Conflict of Interest:** A situation, circumstance, or financial interest that has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty.<sup>1</sup>

**Employee:** A person who is paid by the Town of Amherst for his/her services, but who is not an independent contractor.

**Family:** Any person who is related to the public servant in one of the following ways: spouse, domestic partner, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the public servant in question, regardless of whether they are related by blood or marriage.

**Firm:** A sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local or economic development corporation or other similar entity.

**Incompatibility of Offices:** Offices that may not be held simultaneously as outlined in RSA 669:7 (Appendix D).

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<sup>1</sup> ... The common law of New Hampshire identifies a conflict of interest where a potential exists for a public officer to influence the outcome of a matter in which he has a direct personal and pecuniary interest. ...'. Marsh v Hanover 113 NH 667 (1973)

Moreover, the interest must be

'... immediate, definite, and capable of demonstration; not remote, uncertain, contingent, and speculative, that is, such that men of ordinary capacity and intelligence would not be influenced by it. ...' (See Atherton v Concord 109 NH 164, (1968).

**Interest:** Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land.

**Pecuniary:** Any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

**Principals:** Those people who are the subject of the action or application that is before the board.

**Public Servant:** All officials, officers and employees of the Town, whether elected, appointed, paid or unpaid. A person is considered a public servant upon her or his election, appointment or other designation as such, although s/he may not yet officially occupy that position.

**Quasi-judicial Action:** Any action where the board or committee members are acting like a judge or a jury. For example, when a board or committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and considering such evidence and arguments as the parties choose to lay before the board, the members are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial.

**Recuse:** Removing or excusing oneself from participating in a specific action or discussion due to a conflict of interest. Recusal means to remove oneself completely from all further participation as a public servant in the matter in question.

**Resident:** A resident of the Town of Amherst.

**Town:** The Town of Amherst, including all of its departments, boards, commissions, and committees.

### **Section 3: Conflicts of Interest**

#### **A. Public servants should avoid conflicts of interest or the appearance of a conflict of interest.**

1. Public servants shall not appear on behalf of a client or friend, before any governmental body of which the public servant is a member except as provided below in Section 4-1.
2. Public servants shall not participate in any matter in which s/he, or a member of her or his family, have a personal or pecuniary interest that may directly or indirectly affect or influence the performance of her or his duties. In such instances, the public servant shall recuse herself or himself from discussion and decision-making.

3. No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.
4. No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.
5. No public servant shall give opinion evidence as a paid expert in any civil litigation brought by or against the Town. This section is not intended to preclude any board member or public servant from giving testimony in a case involving that board member or public servant's official testimony as a board member or public servant.
6. No public servant shall,
  - a) Coerce or attempt to coerce, by intimidation, threats or otherwise, any public servant to engage in political activities,
  - b) Request any subordinate public servant to participate in a political campaign. For purposes of this subparagraph, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate or performing any similar acts which are unrelated to the public servant's duties or responsibilities. Nothing contained herein shall prohibit a public servant from requesting a subordinate public servant to speak on behalf of a candidate or provide information or perform other similar acts, if such acts are related to matters within the public servant's duties or responsibilities, nor is anything contained herein intended to prevent any public servant from exercising his/her right(s) to participate in the political process as they choose.
  - c) Misuse his or her official authority or influence for the purpose of interfering with or affecting the result of an election;
  - d) Directly or indirectly coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or,
  - e) Hold two offices that are statutorily **incompatible** with one another. (RSA 669:7 see Appendix D.)
7. No public servant shall receive compensation except from the Town for performing any official duty.
8. No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.

## **Section 4: The Duty to Disclose and the Duty to Recuse**

### **1. Duty to Disclose**

Public servants shall not participate in the conduct of business on behalf of the town or enter into discussion or deliberation of any matter without first, publicly and on the record, stating all dealings, interests, relationships (including employer/employee) that would tend to compromise the public servants' objectivity or create a situation in which there were a potential of unfair economic advantage or the possibility of improper financial gain.

Individuals in an employment relationship (such as business partner or subordinate private employee) with a public servant may appear on behalf of clients, friends, or family before the governmental body of which that public servant is a member if, the public servant publicly discloses such affiliation and recuses himself or herself from participation in the matter as a public servant.

### **2. Duty to Recuse**

Public servants have a duty to recuse themselves from participating in specific action or discussion due to a conflict of interest.<sup>2</sup>

Public servants who have been recused may remain in the hearing room for the public input portion of the hearing and shall seat themselves with the other members of the public who are present. When recused, the recused person shall not participate in further discussions, unless s/he clearly states for the record that s/he is doing so only as general member of the public.

Except as otherwise provided by state law, in the event a board member feels that a member has a conflict of interest, the board or commission may take a non-binding vote to request recusal by that member. Such action may only be initiated by a member of the sitting board.

Not only does a public servant have a duty to recuse himself or herself as outlined in the section above, a public servant must recuse himself or herself in a quasi-judicial action if he or she would not be qualified to sit as a juror in that case.

For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial. (For more information see *RSA 500-A:12 Appendix A.*)

## **Section 5: Application of the Conflict of Interest Policy**

1. Prior to any vote, each Public Servant should give consideration whether a potential violation of the Conflict of Interest Policy exists. If the Public

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<sup>2</sup> This Section shall be read to be consistent with, and not conflict with, RSA 673:14. (See Appendix B.)

Servant believes a potential violation may exist, the Public Servant should disclose such facts to the Presiding Officer.

2. If there is a question regarding a potential conflict of a public servant only a board member may request a non-binding vote of the board as outlined in RSA 673:14 paragraph II (see below).

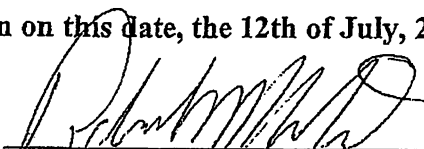
#### RSA 673:14 Disqualification of Member

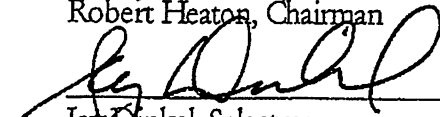
II. When uncertainty arises as to the application of paragraph I to a board member in particular circumstances, the board shall, upon the *request of that member or another member of the board*, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. *Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members*, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1. *(Emphasis added)*

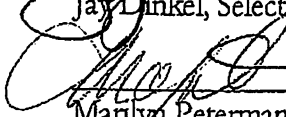
### Section 6 Implementation

- 6.1 To facilitate conduct in accordance with this policy, a copy of this policy shall be made available to town officials, legal counsel, employees, volunteers, board and commissions upon hiring, appointment or election to office and at such other times as may be necessary.

Adopted by vote of the Board of Selectmen on this date, the 12th of July, 2004.

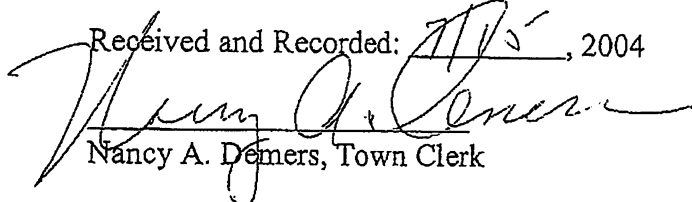
  
\_\_\_\_\_  
Robert Heaton, Chairman

  
\_\_\_\_\_  
Jay Dinkel, Selectman

  
\_\_\_\_\_  
Marilyn Peterman, Selectman

\_\_\_\_\_  
Bruce Bowler, Selectman

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George Infanti, Selectman

Received and Recorded:  7/15, 2004

\_\_\_\_\_  
Nancy A. Demers, Town Clerk

## **ORDINANCE:**

### **CONFLICTS OF INTEREST DEFINED & REGULATED:**

#### **SECTION I : DECLARATION OF POLICY:**

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of that government. Each local officer/employee of the Town, whether elected or appointed, including paid or unpaid members of various Town boards, commissions, committees, or agencies (hereinafter referred to as "Town Official"), must earn and honor that trust by his or her conduct in all official actions. It is the purpose of this ordinance to ensure fair consideration of any application or matter to be voted upon, and also to ensure the appearance of fair consideration so as to maintain public confidence in the integrity of Town government.

#### **SECTION II : CATEGORIES FOR DISQUALIFICATION:**

A Town Official shall be disqualified to act on a matter before a Town board, commission, committee or agency (hereinafter called the "Town Board") because of a conflict of interest as follows:

- A) **FINANCIAL INTEREST**: When the Town Official has a direct personal financial interest in a matter before the Town Board. Such interest includes, but is not limited to, an ownership interest, a mortgage interest, a creditor or debtor interest or relationship.
- B) **RELATED BY BLOOD OR MARRIAGE**: When the Town Official is directly related by blood or by marriage to the person requesting action, or opposing action on a matter before the Town Board. Directly related shall mean spouse, parent, child, brother, sister, uncle, aunt, niece, nephew, grandparent, or grandchild.
- C) **EMPLOYMENT RELATIONSHIP**: When the Town Official, or a member of the Town Official's family (family shall mean husband, wife, or child) has an employment relationship with the person requesting action or opposing action on a matter before the Town Board.
- D) **ABUTTER**: When the Town Official is an abutter to the land which is the subject matter or action requested or to be taken by the Town Board.
- E) **GIFTS**: When the Town Official has taken, for personal use, from any person, any fee, gift, or other valuable item in the course of the Town Official's work or in connection therewith, when such gift or valuable item is given in the hope of, or expectation of, receiving a favor or better treatment than that accorded to other persons requesting action or opposing action on a matter before the Town Board.

One or more of the above grounds for disqualification may apply, for example, relationship by blood or marriage to an abutter.

#### **SECTION III : DISCLOSURE:**

A Town Official shall be under a duty to disclose that a conflict of interest, as defined in Section II above, exists when a matter is before the Town Board of which the Town Official is a member or participant. Thereafter, the Town Official shall withdraw from

the Town Board considering such matter, shall not sit with the remainder of the Town Board, shall not participate in any deliberative sessions on such matter, and shall not vote on such matter. The Town Official may remain in the room where the Town Board is meeting, and may participate in the discussion, but only as a member of the general public.

**SECTION IV : CHALLENGE PROCEDURE:**

- A) Any person may inquire into the possible conflict of interest of any Town Official on any matter requiring official action, stating the grounds for the inquiry.
- B) Such challenged Town Official shall be obligated to inform the person if any conflict of interest exists.
- C) If the person making the inquiry is not satisfied with the challenged Town Official's response he may require the presiding officer of the Town Board (in the case of a Town employee, "Town Board" shall mean the appointing Board) to call for a vote as to whether or not the challenged Town Official shall be disqualified to take the official action. A majority of the remaining Town Board members, including alternates, shall determine whether or not the challenged Town Official may be allowed to take the official action.

**SECTION V : APPEAL PROCEEDINGS:**

Appeals under this ordinance shall be governed by RSA 31:39-a.

**SECTION VI : ORDINANCE PROVIDED TO TOWN OFFICIAL:**

Upon taking his/her position, the Town Official, as defined above, shall be furnished by the Town Clerk with a copy of this Ordinance. Each such person shall sign a written acknowledgment that he/she has been provided with such a copy. The acknowledgment shall be filed by the Town Clerk with the Town Official's appointment papers.

**SECTION VII : EFFECTIVE DATE:**

This ordinance shall be effective as of the date of adoption by the Windham Town Meeting. Notwithstanding the foregoing, this ordinance shall exempt affected Town Officials who are in office or employed by the Town at the time this ordinance is adopted for a period of ninety (90) days.

**Adopted at Town Meeting - March 13, 1987**

**Amended by Board of Selectmen - September 28, 1992**

**Alfred E. Seifert  
Peter G. Chulack, Sr.  
Elizabeth A. Dunn  
Frederic H. Noyles  
Andre Dufour  
Board of Selectmen**

**Re-codified and affirmed by the Board of Selectmen - May 11, 1998**

**Town of Antrim**  
**CODE OF ETHICS ORDINANCE**

<b>COE - 1</b>	Acceptance.
<b>COE - 2</b>	Policy Statement.
<b>COE - 3</b>	Conducting Business.
<b>COE -4</b>	Discrimination.
<b>COE -5</b>	Equal Treatment.
<b>COE - 6</b>	Confidentiality.
<b>COE - 7</b>	Law Abiding.
<b>COE - 8</b>	Conflicts of Interest.
<b>COE - 9</b>	Accepting Gratuities.
<b>COE - 10</b>	Responsibility for the Code of Ethics.

**COE-1 Acceptance.** The Town votes to adopt a Code of Ethics for public servants of the Town of Antrim, public servants being all elected and appointed officials of the Town, all fulltime and part-time employees of the Town, whether paid or unpaid, and all volunteers who serve the Town, or take any other action relating thereto.

**COE-2 Policy Statement.** As citizens of the Town of Antrim, we appreciate that we live in a community where people relate to each other with openness, honesty, fairness, and respect. We honor these values, and seek to live by them in our own lives.

In the conduct of our public affairs, we expect those who serve our community as public servants to act in accordance with these same values. As public servants, we mean to include all elected and appointed officials of the Town; all full-time and part-time employees of the Town, whether paid or unpaid; and all volunteers who serve us on behalf of the whole community.

We place our trust in these individuals, and have confidence they will serve us knowledgeably, responsibly and effectively, having in their hearts and minds the best interests of our entire community. Specifically, we ask each of them to subscribe to the following guidelines of a Code of Ethics we have adopted for our community.

**COE-3 Conducting Business.** Public servants will demonstrate the highest standards of personal integrity, truthfulness, honesty, and dedication in all public actions and activities in order to inspire public confidence and trust.

**COE-4 Discrimination.** Public servants will conduct their business with the highest standards of honesty, reliability, consistency, and fairness, and treat all fellow workers and citizens with dignity and respect. No person will be discriminated against because age, race, religion, sex, national origin, disability, or sexual orientation. Public servants should ensure that the interest of the community and fairness to all are their primary considerations.

**COE-5 Equal Treatment.** Public servants will extend fair and equal treatment to all Town officials, Town employees, volunteers performing service to the Town, contractors working for or providing goods or services to the Town, and the general public. No special consideration, advantage or favor shall be given to any person or entity as a result of public status, wealth, position, or personal relationship.

**COE-6 Confidentiality.** Public servants will respect and safeguard confidential or privileged information that may be acquired in the performance of duties and responsibilities for the Town.



**COE-7 Law Abiding.** Public servants shall, in their public position, implement and abide by applicable New Hampshire laws, and all written administrative rules, policies, and procedures established by the Town's Board of Selectmen, or by specifically designated Town officials.

**COE-8 Conflicts of Interest.** Public servants shall avoid any potential or actual conflict of interest in the performance of duties and responsibilities. A conflict of interest might arise in a situation in which a person, designated to act on behalf of the entire community, uses his or her personal contacts or position to advance his or her own private business or financial interests.

Public servants are expected to avoid placing themselves in positions involving a conflict of interest, and also to avoid any situations in which a conflict of interest may appear to exist. In cases where a conflict may exist, public servants should disclose the related matter of personal or financial interest to the appropriate person or committee. Matters of personal interest, which need full disclosure, may include but are not limited to, family relationships and financial interest. If the real or perceived interest is determined to be self-serving and not in the public interest, that person should disqualify themselves from participating in the particular action or transaction in question.

**COE-9 Accepting Gratuities.** Public servants should utilize discretion in accepting gratuities, staying within limits of what would be considered a nominal value and/or part of the natural process of relationship between friends and colleagues.

**COE-10 Responsibility for the Code of Ethics.** No Code of Ethics can address all situations which may arise in the course of duties performed on behalf of the Town. Personal judgment and common sense are the primary basis for consideration. In cases where doubt occurs or one becomes aware of an apparent violation of this code, individuals are encouraged to speak with their immediate Supervisor, The Town Administrator, Board or Committee chairperson, or the Town's Board of Selectmen. Seeking advice is the responsibility of the individual. To avoid this counsel does not excuse the individual for having a conflict of interest or otherwise acting in violation of this code.

This Code of Ethics does not replace written administrative rules, policies, and procedures established by the Town.

**Signed:** \_\_\_\_\_

Selectman

\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

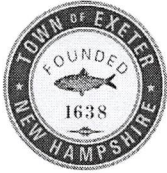
**Dated:** \_\_\_\_\_

# List for Select Board meeting Aug 27, 2018

## Jeopardy Tax

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95/64/390	50 Lindenshire Ave	257.00
95/64/6	1 Lindenshire Ave	154.00



# Application for Town Hall Facility Use

Faxed #: 603-777-1514 or emailed: [sriffle@exeternh.gov](mailto:sriffle@exeternh.gov)  
Forms can be mailed: Town of Exeter, 10 Front Street, Exeter, NH 03833

Facility Requested: Town Hall (Main Floor/Town Hall Stage)  Balcony

### Representative Information:

Name: Betsy Kelly Address: 356 Exeter Road  
Town/State/Zip: Hampton Falls, NH Phone: 603 772-9093  
Email: bkelly@heronfield.org Date of Application: July 11, 2018

### Organization Information:

Name: Heronfield Academy Address: 356 Exeter Road  
Town/State/Zip: Hampton Falls, NH Phone: 603 772-9093

### Reservation Information:

Type of Event/Meeting: 8th Grade Play and preceding rehearsals Date: May 14 - 17, 2019 <sup>16+17 Team</sup>

Times of Event: 14-15: 3-6, 16:3-8p, 17:12-4 Times needed for set-up/clean-up: \_\_\_\_\_

# of tables: \_\_\_\_\_ # of chairs: \_\_\_\_\_

List materials being used for this event: \_\_\_\_\_

Will food/beverages be served? \_\_\_\_\_ Description: \_\_\_\_\_

*May 21-24  
if 16+17  
not  
available*

### Requirements:

**Rental Fee:** For Town Hall use there is a fee of \$125.00 per day. A rental fee waiver may be requested for

**Cleaning Deposit:** A cleaning deposit of \$100 is required of any user serving food or beverages. If the town

the building was acceptably cleaned, the deposit fee will be returned to the user. No food is allowed in Main Hall of the Town Hall.

If food is to be served and/or prepared in foyer or room on the right of the foyer, the electrical outlet cannot exceed 20 amps.

**\*Tech/AV Services:** There is a fee of \$80 an hour for any Tech/AV services needed. Services must be arranged in advance. Email [extvg@exeternh.gov](mailto:extvg@exeternh.gov) to coordinate.

**Liability Insurance Required:** The Town requires liability insurance to be submitted with this completed application. Required insurance amounts: General Liability/Bodily Injury/Property Damage: \$300,000/\$1,000,000. The Town of Exeter must be listed as additionally insured.

**Keys:** Access to a town building after normal business hours requires a key sign out. Forms and keys can be obtained from the Town Manager's office at the Town Office during normal business hours (there is no other option for obtaining a key). A key can be collected up to 24 hours before your event (with the exception of Sunday events).

Signing below acknowledges receipt of and agreement to all rules, regulations and requirements pertaining to the use of a town facility. Access to the 2nd floor is not allowed during events. Bathroom are accessed from outside the Town Hall. Permit approvals are contingent upon proper insurance and fees paid to the Town of Exeter.

Applicant signature: Elizabeth Kelly Date: July 11, 2018

Authorized by the Select Board /Designee: \_\_\_\_\_ Date: \_\_\_\_\_

-----  
Office Use Only:

Liability Insurance: On file  In-process  Will receive by \_\_\_\_\_

Fee: Paid  Will pay by \_\_\_\_\_ Non-profit fee waiver requested



# Application for Town Hall Facility Use

Faxed #: 603-777-1514 or emailed: [sriffle@exeternh.gov](mailto:sriffle@exeternh.gov)  
Forms can be mailed: Town of Exeter, 10 Front Street, Exeter, NH 03833

Facility Requested: Town Hall (Main Floor/Town Hall Stage)  Balcony

### Representative Information:

Name: Alison Murphy Address: 11 Monroe St.  
Town/State/Zip: Concord, NH 03301 Phone: 603-513-3369  
Email: alison.murphy@leadershipnh.org Date of Application: 8/6/18

### Organization Information:

Name: Leadership New Hampshire Address: PO Box 3446  
Town/State/Zip: Concord, NH 03302 Phone: 603-513-3369

### Reservation Information:

Type of Event/Meeting: Session Day Date: 10/18/18  
Times of Event: 8:30-5:00 Times needed for set-up/clean-up: 8:00-5:30  
# of tables: 10 # of chairs: 50

List materials being used for this event: \_\_\_\_\_

Will food/beverages be served? yes Description: coffee and light breakfast, catered lunch

### Requirements:

**Rental Fee:** For Town Hall use there is a fee of \$125.00 per day. A rental fee waiver may be requested fee in writing.

**Cleaning Deposit:** A cleaning deposit of \$100 is required of any user serving food or beverages. If the town determines after use that the building was acceptably cleaned, the deposit fee will be returned to the user. No food is allowed in Main Hall of the Town Hall. If food is to be served and/or prepared in foyer or room on the right of the foyer, the electrical outlet cannot exceed 20 amps.

**\*Tech/AV Services:** There is a fee of \$80 an hour for any Tech/AV services needed. Services must be arranged in advance. Email [extvg@exeternh.gov](mailto:extvg@exeternh.gov) to coordinate.

**Liability Insurance Required:** The Town requires liability insurance to be submitted with this completed application. Required insurance amounts: General Liability/Bodily Injury/Property Damage: \$300,000/\$1,000,000. The Town of Exeter must be listed as additionally insured.

**Keys:** Access to a town building after normal business hours requires a key sign out. Forms and keys can be obtained from the Town Manager's office at the Town Office during normal business hours (there is no other option for obtaining a key). A key can be collected up to 24 hours before your event (with the exception of Sunday events).

Signing below acknowledges receipt of and agreement to all rules, regulations and requirements pertaining to the use of a town facility. Access to the 2nd floor is not allowed during events. Bathroom are accessed from outside the Town Hall. Permit approvals are contingent upon proper insurance and fees paid to the Town of Exeter.

Applicant signature: *Alison Murphy* Date: 8/6/18

Authorized by the Select Board /Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Office Use Only:

Liability Insurance: On file  In-process  Will receive by \_\_\_\_\_  
Fee: Paid  Will pay by \_\_\_\_\_ Non-profit fee waiver requested

**Town of Exeter  
Request for Fee Waiver**

Requests for fee waivers or reduced fees are determined on a case by case basis for community based events and community fundraisers that are aligned with the Mission of the Town of Exeter.

**Eligible Organizations:**

- Non-profits with 501(c)3 status.
- Clubs and organizations that provide educational or community program opportunities that are open to the general public and who donate services.
- Town of Exeter departments who are utilizing the hall for town use.

**Requirements:**

You must complete an application to reserve the town hall and pay the security deposit. You and the organization you represent are required to follow all established policies and town ordinances, rules, during and after the event.

**In order for your application to be considered you must complete this list of requirements. If you fail to comply with this list, the application will be denied.**

1. Complete the request for waived fees, and **attach your rental use application.**
2. If your agency is a non-profit, a copy of your 501(c)3 must be attached.
3. Event must benefit the town's community and be relative to the mission.

**Non-Waivable Fees:**

All renters regardless of waived fees will be required to pay the full security deposit and other fees that are established and associated with cleaning, staff time, setup/dismantle and custodial services along with IT services. Any other fees identified in the Select Board's adopted fees as non-waivable.

Organization: Leadership New Hampshire Phone: 603-513-3369  
Address: PO Box 3446 Town: Concord State: NH Zip: 03302  
Website: leadershipnh.org  
Type of Business:  Government  Non-profit  For-profit  Other: \_\_\_\_\_  
Representative: Alison Murphy Phone: 603-513-3369  
Address: 11 Monroe St. Town: Concord State: NH Zip: 03301  
Email: alison.murphy@leadershipnh.org

Brief Description of Events: We are hoping to host a session day for this year's LNH class, entitled "What is New Hampshire?" It's an overview of the state and it's history as well as current status.

Type of Events:  Fundraiser  Community Event  Private Event

I acknowledge that this request and any subsequent approval or denial does not guarantee the availability of the space(s). I further understand that I must have completed all applicable reservation procedures prior to submitting this request including but not limited to reserving the facility, providing the certificate of insurance and paying the security deposit. I further acknowledge that if the request is denied, the organization I represent must pay all remaining fees by the event date and that all established permit regulations and Select Board policies will be followed during and after the event.

Representative's Signature: *Alison Murphy* Date: 8/6/18

Select Board Approval Designee: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
ANDOVER MA 05501

DATE OF THIS NOTICE 09-03-92  
NUMBER OF THIS NOTICE: CP 575 E  
EMPLOYER IDENTIFICATION NUMBER: 02-0457914  
FORM: SS-4 TAX PERIOD: N/A  
0816505119 0

FOR ASSISTANCE PLEASE  
WRITE TO US AT:  
INTERNAL REVENUE SERVICE  
ANDOVER MA 05501

LEADERSHIP NEW HAMPSHIRE  
122 NO MAIN ST  
CONCORD NH 033014918

BE SURE TO ATTACH THE  
BOTTOM PART OF NOTICE  
OR YOU MAY CALL US AT:

1-800-829-1040

#### NOTICE OF NEW EMPLOYER IDENTIFICATION NUMBER ASSIGNED

Thank you for your Form SS-4, Application for Employer Identification Number (EIN). The number assigned to you is shown above. It will be used to identify your business account, tax returns and documents, even if you don't have employees.

1. Keep a copy of the number in your permanent records.
2. Use your name and the number exactly as shown above on all Federal tax forms.
3. Use the number on all tax payments and tax-related correspondence or documents.

Using a variation of your name or number may result in delays or errors in posting payments to your account. It also could result in the assignment of more than one Employer Identification Number.

We have established the filing requirements and tax period shown above for your account based upon the information provided. If you need help to determine your required tax year, get publication 538, Accounting Periods and Methods, which is available at most IRS offices.

Assigning an Employer Identification Number does not grant tax-exempt status to nonprofit organizations. Any organization, other than a private foundation, having annual gross receipts normally of \$5,000 or less is exempt by statute if it meets Internal Revenue Code requirements. Such organizations are not required to file Form 1023, Application for Recognition of Exemption, or Form 990, Return of Organization Exempt from Income Tax.

However, if your organization wants to establish its exemption and receive a ruling or determination letter recognizing its exempt status, file Form 1023 with the Key district Director. For details on how to apply for the exemption, see Publication 557, Tax-Exempt Status for Your Organization.

Thank you for your cooperation.



# Application for Town Hall Facility Use

Faxed #: 603-777-1514 or emailed: [sriffle@exeternh.gov](mailto:sriffle@exeternh.gov)  
Forms can be mailed: Town of Exeter, 10 Front Street, Exeter, NH 03833

Facility Requested: Town Hall (Main Floor/Town Hall Stage)  Balcony

### Representative Information:

Name: Kenneth Mendis Address: 5 Kinloch Drive  
Town/State/Zip: Stratham NH 03885 Phone: 603-395-1242  
Email: racialunityteam1@gmail.com Date of Application: Aug 8, 2018

### Organization Information:

Name: Racial Unity Team Address: 5 Kinloch Drive  
Town/State/Zip: Stratham NH 03885 Phone: 603-395-1242

### Reservation Information:

Type of Event/Meeting: Walk a Mile for Racial Unity Date: Sep 29, 2108  
Times of Event: 8 am to 2 pm Times needed for set-up/clean-up: \_\_\_\_\_  
# of tables: 10 # of chairs: 50  
List materials being used for this event: audio equipment  
Will food/beverages be served? No Description: \_\_\_\_\_

### Requirements:

**Rental Fee:** For Town Hall use there is a fee of \$125.00 per day. A rental fee waiver may be requested fee in writing.

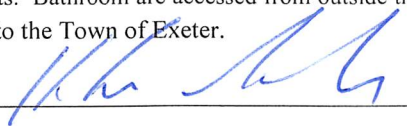
**Cleaning Deposit:** A cleaning deposit of \$100 is required of any user serving food or beverages. If the town determines after use that the building was acceptably cleaned, the deposit fee will be returned to the user. No food is allowed in Main Hall of the Town Hall. If food is to be served and/or prepared in foyer or room on the right of the foyer, the electrical outlet cannot exceed 20 amps.

**\*Tech/AV Services:** There is a fee of \$80 an hour for any Tech/AV services needed. Services must be arranged in advance. Email [extvg@exeternh.gov](mailto:extvg@exeternh.gov) to coordinate.

**Liability Insurance Required:** The Town requires liability insurance to be submitted with this completed application. Required insurance amounts: General Liability/Bodily Injury/Property Damage: \$300,000/\$1,000,000. The Town of Exeter must be listed as additionally insured.

**Keys:** Access to a town building after normal business hours requires a key sign out. Forms and keys can be obtained from the Town Manager's office at the Town Office during normal business hours (there is no other option for obtaining a key). A key can be collected up to 24 hours before your event (with the exception of Sunday events).

Signing below acknowledges receipt of and agreement to all rules, regulations and requirements pertaining to the use of a town facility. Access to the 2nd floor is not allowed during events. Bathroom are accessed from outside the Town Hall. Permit approvals are contingent upon proper insurance and fees paid to the Town of Exeter.

Applicant signature:  Date: Aug 8, 2018

Authorized by the Select Board /Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Office Use Only:

Liability Insurance: On file  In-process  Will receive by \_\_\_\_\_  
Fee: Paid  Will pay by \_\_\_\_\_ Non-profit fee waiver requested



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/08/2018

<b>PRODUCER</b> East Main Street Insurance Services, Inc. Will Maddux PO Box 1298 Grass Valley, CA 95945 Phone: (530) 477-6521 Email: info@theeventhelper.com	<b>THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b> Racial Unity Team Ken Mendis 5 Kinloch Drive Stratham, NH 03885	INSURER A: Evanston Insurance Company	35378
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	Y	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR Host Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC Retail Liquor Liability	3DS5466-M1702329	09/29/2018	09/30/2018	EACH OCCURRENCE INCLUDES BODILY INJURY & PROPERTY DAMAGE \$ 1,000,000
		MED EXP (Any one person) \$ 5,000				
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COMP/OP AGG \$ 1,000,000
						DEDUCTIBLE \$ 1,000
						\$
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$
						BODILY INJURY (Per person) \$
						BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$
						OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$
						AGGREGATE \$
						\$
						\$
						\$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

### DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder listed below is named as additional insured per attached CG 20 26 07 04.  
 Attendance: 200, Event Type: Festival & Cultural Event - Indoor.

### CERTIFICATE HOLDER

Town of Exeter  
 Town Hall  
 10 Front Street  
 Exeter, NH 03833

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>
Town of Exeter Town Hall 10 Front Street Exeter, NH 03833
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A.** In the performance of your ongoing operations; or
- B.** In connection with your premises owned by or rented to you.

**Town of Exeter  
Request for Fee Waiver**

Requests for fee waivers or reduced fees are determined on a case by case basis for community based events and community fundraisers that are aligned with the Mission of the Town of Exeter.

**Eligible Organizations:**

- Non-profits with 501(c)3 status.
- Clubs and organizations that provide educational or community program opportunities that are open to the general public and who donate services.
- Town of Exeter departments who are utilizing the hall for town use.

**Requirements:**

You must complete an application to reserve the town hall and pay the security deposit. You and the organization you represent are required to follow all established policies and town ordinances, rules, during and after the event.

**In order for your application to be considered you must complete this list of requirements. If you fail to comply with this list, the application will be denied.**

1. Complete the request for waived fees, and **attach your rental use application.**
2. If your agency is a non-profit, a copy of your 501(c)3 must be attached.
3. Event must benefit the town's community and be relative to the mission.

**Non-Waivable Fees:**

All renters regardless of waived fees will be required to pay the full security deposit and other fees that are established and associated with cleaning, staff time, setup/dismantle and custodial services along with IT services. Any other fees identified in the Select Board's adopted fees as non-waivable.

Organization: Racial Unity Team Phone: 603-395-1242  
Address: 5 Kinloch Drive Town: Stratham State: NH Zip: 02885  
Website: https://www.facebook.com/unity2030/  
Type of Business:  Government  Non-profit  For-profit  Other: \_\_\_\_\_  
Representative: Ken Mendis Phone: 603603-395-12  
Address: 5 Kinloch Drive Town: Stratham State: NH Zip: 03885  
Email: racialunityteam1@gmail.com  
Brief Description of Events: 4th Annual Walk a Mile for Racial Unity music and Art Fest

Type of Events:  Fundraiser  Community Event  Private Event

I acknowledge that this request and any subsequent approval or denial does not guarantee the availability of the space(s). I further understand that I must have completed all applicable reservation procedures prior to submitting this request including but not limited to reserving the facility, providing the certificate of insurance and paying the security deposit. I further acknowledge that if the request is denied, the organization I represent must pay all remaining fees by the event date and that all established permit regulations and Select Board policies will be followed during and after the event.

Representative's Signature:  Date: 8 Aug 2018

Select Board Approval Designee: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: DEC 07 2017

RACIAL UNITY TEAM  
5 KINLOCH DRIVE  
STRATHAM, NH 03885-0000

Employer Identification Number:  
82-3220338  
DLN:  
26053721002227  
Contact Person:  
CUSTOMER SERVICE ID# 31954  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
December 31  
Public Charity Status:  
509(a)(2)  
Form 990/990-EZ/990-N Required:  
Yes  
Effective Date of Exemption:  
August 1, 2017  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

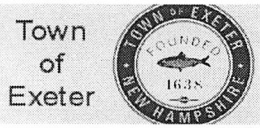
For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

RACIAL UNITY TEAM

Sincerely,

*Stephen A. Martin*

Director, Exempt Organizations  
Rulings and Agreements



Sheri Riffle <sriffle@exeternh.gov>

## Applications

Scott Ruffner <scotruffner@mac.com>  
To: Sheri Riffle <sriffle@exeternh.gov>

Fri, Aug 3, 2018 at 3:13 PM

Hi Sheri,

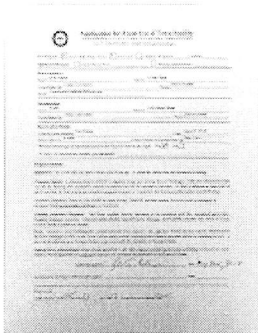
Please find attached two applications. Please note that one of the applications is for the 2nd Floor Gallery. Since there is currently no Arts Committee, we are submitting directly to the Select Board so that the gallery will not go unused during the months of September and October that the EAC had originally scheduled their own shows. We will be working with several other groups to make this a community event.

We will send a separate email to the BOS explaining this.

Thanks,  
Scott

Scott Ruffner  
603-512-8396

### 2 attachments



IMG\_4994.jpg  
690K

IMG\_4995.jpg  
739K



# Application for Town Hall Facility Use

Faxed #: 603-777-1514 or emailed: [sriffle@exeternh.gov](mailto:sriffle@exeternh.gov)  
Forms can be mailed: Town of Exeter, 10 Front Street, Exeter, NH 03833

*\*\*\* 2nd Floor Gallery \*\*\**

Facility Requested: Town Hall (~~Main Floor/Town Hall Stage~~)  Balcony

### Representative Information:

Name: Scott Ruffner Address: 11 Hall Place  
Town/State/Zip: Exeter, NH Phone: 603-512-8396  
Email: ScottRuffner@mac.com Date of Application: 8/3/2018

### Organization Information:

Name: TEAM / Arts Industry Alliance Address: 111R Water Street  
Town/State/Zip: Exeter, NH 03833 Phone: 603-512-8396

### Reservation Information:

Type of Event/Meeting: Community Art Show Date: Sept 5 - Oct 28  
Times of Event: varies Times needed for set-up/clean-up: \_\_\_\_\_  
# of tables: \_\_\_\_\_ # of chairs: \_\_\_\_\_  
List materials being used for this event: \_\_\_\_\_  
Will food/beverages be served? \_\_\_\_\_ Description: keeping the arts alive at the 2nd Floor Gallery

### Requirements:

**Rental Fee:** For Town Hall use there is a fee of \$125.00 per day. A rental fee waiver may be requested fee in writing.

**Cleaning Deposit:** A cleaning deposit of \$100 is required of any user serving food or beverages. If the town determines after use that the building was acceptably cleaned, the deposit fee will be returned to the user. No food is allowed in Main Hall of the Town Hall. If food is to be served and/or prepared in foyer or room on the right of the foyer, the electrical outlet cannot exceed 20 amps.

**\*Tech/AV Services:** There is a fee of \$80 an hour for any Tech/AV services needed. Services must be arranged in advance. Email [extvg@exeternh.gov](mailto:extvg@exeternh.gov) to coordinate.

**Liability Insurance Required:** The Town requires liability insurance to be submitted with this completed application. Required insurance amounts: General Liability/Bodily Injury/Property Damage: \$300,000/\$1,000,000. The Town of Exeter must be listed as additionally insured.

**Keys:** Access to a town building after normal business hours requires a key sign out. Forms and keys can be obtained from the Town Manager's office at the Town Office during normal business hours (there is no other option for obtaining a key). A key can be collected up to 24 hours before your event (with the exception of Sunday events).

Signing below acknowledges receipt of and agreement to all rules, regulations and requirements pertaining to the use of a town facility. Access to the 2nd floor is not allowed during events. Bathroom are accessed from outside the Town Hall. Permit approvals are contingent upon proper insurance and fees paid to the Town of Exeter.

Applicant signature: *Scott Ruffner* Date: Aug 2nd, 2018

Authorized by the Select Board /Designee: \_\_\_\_\_ Date: \_\_\_\_\_

### Office Use Only:

Liability Insurance: On file  In-process  Will receive by \_\_\_\_\_  
Fee: Paid  Will pay by \_\_\_\_\_ Non-profit fee waiver requested



# Application for Event Use of Town Facility

Forms submitted to: Town of Exeter, 10 Front Street, Exeter, NH 03833

Fax #: 603-777-1514 email: [stiffle@exeternh.gov](mailto:stiffle@exeternh.gov)

Use Request:  Town Hall (Main Floor)  Bandstand  Parking - # Spaces \_\_\_\_\_ Location \_\_\_\_\_

Signboard Request:  Poster Board Week: \_\_\_\_\_  Plywood Board Week: \_\_\_\_\_

### Representative:

Name: Scott Ruffner Address: 11 Hall Place  
Town/State/Zip: Exeter, NH 03833 Phone: 603-512-8396  
Email: TownExeterArtsMusic@Gmail.com

### Organization:

Name: TEAM Address: 111R Water Street  
Town/State/Zip: Exeter, NH 03033 Phone: 603-512-8396

### Reservation Details:

Type of Event/Meeting: First Friday Date: August 2, 2019  
Times of Event: 5-10pm Times needed for set-up/clean-up: 2pm-11pm  
Will food/beverages be served/prepared in the foyer or room to the right? Yes  No   
If Tech/ AV Services are Needed, provide details\*: \_\_\_\_\_

### Requirements:

**Rental Fee:** For Town Hall use there is a fee of \$125 per day. A rental fee waiver may be requested in writing.

**Cleaning Deposit:** A cleaning deposit of \$100 is required of any user serving food or beverages. If the town determines after use that the building was acceptably cleaned, the deposit fee will be returned to the user. No food is allowed in Main Hall of the Town Hall. If food is to be served and/or prepared in foyer of Town Hall, the electrical outlet cannot exceed 20 amps.

**\*Tech/AV Services:** There is a fee of \$80 an hour for any Tech/AV services needed. Services must be arranged in advance. Email [aswanson@exeternh.gov](mailto:aswanson@exeternh.gov) to coordinate.

**Liability Insurance Required:** The Town requires liability insurance to be submitted with this completed application. Required insurance amounts: General Liability/Bodily Injury/Property Damage: \$300,000/\$1,000,000. The Town of Exeter must be listed as additional insured.

**Keys:** Access to a town building after normal business hours requires a key sign out. Forms and keys can be obtained from the Town Manager's office at the Town Office during normal business hours (there is no other option for obtaining a key). A key can be collected up to 24 hours before your event (with the exception of Sunday events).

Signing below acknowledges receipt of and agreement to all rules, regulations and requirements pertaining to the use of a town facility. Permit approvals are contingent upon proper insurance and fees paid to the Town of Exeter.

Applicant signature: Scott Ruffner Date: Aug 2nd, 2019

Authorized by the Board of Selectmen/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

### Office Use Only:

Liability Insurance: On file  In-process  Fee: Paid  Non-profit fee waiver requested

**SWASEY PARKWAY USE APPLICATION  
EXETER, NH**

Application is hereby made for the privilege of using Swasey Parkway on the following date(s): 5/18/2019

Hours of 7am to 10pm. Expected number of participants: 1,000

Name of Applicant and Organization: Arts Industry Alliance / TEAM

Address: 111R Water Street, Exeter, NH 03833

Email: TownExeterArtsMusic@gmail.com Phone: 603-512-8396

Date of Event Contact Person and phone #: Sharon Marston / 603-395-0174

Will electricity be needed?  Yes  No Request parkway to be blocked off:  Yes  No

Please describe your event, including any details you feel the Trustees should take into consideration in granting this application: \_\_\_\_\_

This will be the 3rd Annual Exeter Arts & Music Fest with artist vendors, live music, cultural exhibits.

The Certificate of Insurance amounts required are: General Liability/Bodily Injury/Property Damage (combined)  
\$300,000-\$1,000,000 with additional personal injury of \$300,000 and the Town of Exeter listed as an additional insured.

Permit Fees: See attached Rules and Fees

*I have read the attached rules and fees governing the use of Swasey Parkway and pledge that the organization and/or individuals for which this application is intended will faithfully execute those rules and assume total responsibility in connection therewith. I also understand that if my request requires the Swasey Parkway road to be closed, this form will require the Board of Selectmen's approval.*

Applicant Signature:  Date: 5/18/2019

Mail application and applicable fees to Sheri Rinta, Town of Exeter, 10 Front Street, Exeter, NH; checks made payable to Swasey Parkway Trust:

Gerry Hamel - 770-7210; homerebuilder@comcast.net  
Florence Ruffner - 772-6675; florence@ruffner.net  
Mark W. Damse - 772-2818; mdamse@comcast.net

*This application conforms to the adopted policies of the Swasey Parkway Trustees and is hereby approved, subject to the exceptions as stated:* \_\_\_\_\_

Fee received: \$ \_\_\_\_\_ Cash  or Check Number: \_\_\_\_\_ Application must be approved by at least two Trustees:

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

*(If road closure is requested)*

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

As Authorized by the Board of Selectmen/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

**This permit is issued for the purpose indicated and shall be valid only during the times/dates indicated above.**



**SWASEY PARKWAY USE APPLICATION  
EXETER, NH**

Application is hereby made for the privilege of using Swasey Parkway on the following date(s): 9/21/2019

Hours of 7am to 10pm. Expected number of participants: 1,000

Name of Applicant and Organization: Arts Industry Alliance / TEAM

Address: 111R Water Street, Exeter, NH 03833

Email: TownExeterArtsMusic@gmail.com Phone: 603-512-8396

Date of Event Contact Person and phone #: Sharon Marston / 603-395-0174

Will electricity be needed?  Yes  No Request parkway to be blocked off:  Yes  No

Please describe your event, including any details you feel the Trustees should take into consideration in granting this application: \_\_\_\_\_

This will be the 5th Annual Fall Equinox Festival with artist vendors, live music, cultural exhibits, and performances.

The Certificate of Insurance amounts required are: General Liability/Bodily Injury/Property Damage (combined):

\$300,000-\$1,000,000 with additional personal injury of \$300,000 and the Town of Exeter listed as an additional insured.

Permit Fees: See attached Rules and Fees

*I have read the attached rules and fees governing the use of Swasey Parkway and pledge that the organization and/or individuals for which this application is intended will faithfully execute those rules and assume total responsibility in connection therewith. I also understand that if my request requires the Swasey Parkway road to be closed, this form will require the Board of Selectmen's approval.*

Applicant Signature:  Date: 7-9-18

Mail application and applicable fees to Sheri Ruffin, Town of Exeter, 10 Front Street, Exeter, NH; checks made payable to Swasey Parkway Trust:

Gerry Hamel - 770-7210; homerebuilder@comcast.net  
Florence Ruffner - 772-6675; florence@ruffner.net  
Mark W. Damsell - 772-2818; mdamsell@comcast.net

*This application conforms to the adopted policies of the Swasey Parkway Trustees and is hereby approved, subject to the exceptions as stated: \_\_\_\_\_*

Fee received: \$ \_\_\_\_\_ Cash  or Check Number: \_\_\_\_\_ Application must be approved by at least two Trustees:

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

*(If road closure is requested)*

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

As Authorized by the Board of Selectmen/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

*This permit is issued for the purpose indicated and shall be valid only during the times/dates indicated above.*

**SWASEY PARKWAY USE APPLICATION  
EXETER, NH**

Application is hereby made for the privilege of using Swasey Parkway on the following date(s): May 27, 2019

Hours of 9:30 to 12:00 Expected number of participants: 300

Name of Applicant and Organization: Memorial Day Parade Committee

Address: Town

Email: Florence @ ruffner.net Phone: 603-674-5440

Date of Event Contact Person and phone #: same as above

Will electricity be needed?  Yes  No Request parkway to be blocked off:  Yes  No

Please describe your event, including any details you feel the Trustees should take into consideration in granting this application: Annual Exeter Memorial Day Parade

**The Certificate of Insurance amounts required are:** General Liability/Bodily Injury/Property Damage (combined):  
\$300,000-\$1,000,000 with additional personal injury of \$300,000 and the **Town of Exeter listed as an additional insured.**

**Permit Fees:** See attached Rules and Fees Town Committee

*I have read the attached rules and fees governing the use of Swasey Parkway and pledge that the organization and/or individuals for which this application is intended will faithfully execute those rules and assume total responsibility in connection therewith. I also understand that if my request requires the Swasey Parkway road to be closed, this form will require the Board of Selectmen's approval.*

Applicant Signature: [Signature] Date: 6/5/18

Mail application and applicable fees to Sheri Riffle, Town of Exeter, 10 Front Street, Exeter, NH; checks made payable to Swasey Parkway Trust:  
Gerry Hamel - 770-7210; homerebuilder@comcast.net  
Florence Ruffner - 772-6675; florence@ruffnerre.net  
Mark W. Damsell - 772-2818; mdamsell@comcast.net

*This application conforms to the adopted policies of the Swasey Parkway Trustees and is hereby approved, subject to the exceptions as stated:* \_\_\_\_\_

Fee received: \$ \_\_\_\_\_ Cash  or Check Number: \_\_\_\_\_ Application must be approved by at least two Trustees:

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

.....(If road closure is requested).....

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

As Authorized by the Board of Selectmen/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

*This permit is issued for the purpose indicated and shall be valid only during the times/dates indicated above.*

**SWASEY PARKWAY USE APPLICATION  
EXETER, NH**

Application is hereby made for the privilege of using Swasey Parkway on the following date(s): 5/16/2020

Hours of 7am to 10pm. Expected number of participants: 1,000

Name of Applicant and Organization: Arts Industry Alliance / TEAM

Address: 111R Water Street, Exeter, NH 03833

Email: TownExeterArtsMusic@gmail.com Phone: 603-512-8396

Date of Event Contact Person and phone #: Sharon Marston / 603-395-0174

Will electricity be needed?  Yes  No Request parkway to be blocked off:  Yes  No

Please describe your event, including any details you feel the Trustees should take into consideration in granting this application: \_\_\_\_\_

This will be the 4th Annual Exeter Arts & Music Festival with artist vendors, live music, cultural exhibits.

The Certificate of Insurance amounts required are: General Liability/Bodily Injury/Property Damage (combined):  
\$300,000-\$1,000,000 with additional personal injury of \$300,000 and the Town of Exeter listed as an additional insured.

Permit Fees: See attached Rules and Fees

*I have read the attached rules and fees governing the use of Swasey Parkway and pledge that the organization and/or individuals for which this application is intended will faithfully execute those rules and assume total responsibility in connection therewith. I also understand that if my request requires the Swasey Parkway road to be closed, this form will require the Board of Selectmen's approval.*

Applicant Signature:  Date: 7-9-18

Mail application and applicable fees to Sheri Ruffin, Town of Exeter, 10 Front Street, Exeter, NH; checks made payable to Swasey Parkway Trust:

Gerry Hamel - 770-7210; homerebuilder@comcast.net  
Florence Ruffner - 772-6675; florraine@ruffner.net  
Mark W. Damsell - 772-2818; mdamsell@comcast.net

*This application conforms to the adopted policies of the Swasey Parkway Trustees and is hereby approved, subject to the exceptions as stated:* \_\_\_\_\_

Fee received: \$ \_\_\_\_\_ Cash  or Check Number: \_\_\_\_\_ Application must be approved by at least two Trustees:

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

.....(if road closure is requested).....

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

As Authorized by the Board of Selectmen/Designees: \_\_\_\_\_ Date: \_\_\_\_\_

*This permit is issued for the purpose indicated and shall be valid only during the times/dates indicated above.*

**SWASEY PARKWAY USE APPLICATION  
EXETER, NH**

Application is hereby made for the privilege of using Swasey Parkway on the following date(s): 9/19/2020

Hours of 7am to 10pm. Expected number of participants: 1,000

Name of Applicant and Organization: Arts Industry Alliance / TEAM

Address: 111R Water Street, Exeter, NH 03833

Email: TownExeterArtsMusic@gmail.com Phone: 603-512-8396

Date of Event Contact Person and phone #: Sharon Marston / 603-395-0174

Will electricity be needed?  Yes  No Request parkway to be blocked off:  Yes  No

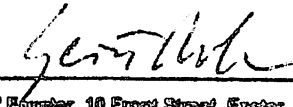
Please describe your event, including any details you feel the Trustees should take into consideration in granting this application: \_\_\_\_\_

This will be the 6th Annual Fall Equinox Festival with artist vendors, live music, cultural exhibits.

The Certificate of Insurance amounts required are: General Liability/Bodily Injury/Property Damage (combined):  
\$300,000-\$1,000,000 with additional personal injury of \$300,000 and the Town of Exeter listed as an additional insured.

Permit Fees: See attached Rules and Fees

*I have read the attached rules and fees governing the use of Swasey Parkway and pledge that the organization and/or individuals for which this application is intended will faithfully execute those rules and assume total responsibility in connection therewith. I also understand that if my request requires the Swasey Parkway road to be closed, this form will require the Board of Selectmen's approval.*

Applicant Signature:  Date: 7-9-18

Mail application and applicable fees to Sheri Ruffin, Town of Exeter, 10 Front Street, Exeter, NH; checks made payable to Swasey Parkway Trust

Garry Hamel - 770-7210; [homenbuilder@comcast.net](mailto:homenbuilder@comcast.net)

Florence Ruffner - 772-8675; [florence@ruffnerre.net](mailto:florence@ruffnerre.net)

Mark W. Damsell - 772-2818; [mdamsell@comcast.net](mailto:mdamsell@comcast.net)

*This application conforms to the adopted policies of the Swasey Parkway Trustees and is hereby approved, subject to the exceptions as stated: \_\_\_\_\_*

Fee received: \$ \_\_\_\_\_ Cash  or Check Number: \_\_\_\_\_ Application must be approved by at least two Trustees:

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

Trustee: \_\_\_\_\_ Date: \_\_\_\_\_

*(If road closure is requested)*

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

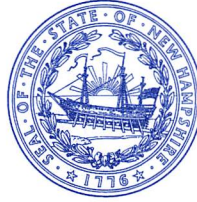
As Authorized by the Board of Selectmen/Designee: \_\_\_\_\_ Date: \_\_\_\_\_

**This permit is issued for the purpose indicated and shall be valid only during the times/dates indicated above.**

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD  
ATTORNEY GENERAL



*Town Manager's Office*

AUG 13 2018

*Received*

JANE E. YOUNG  
DEPUTY ATTORNEY GENERAL

August 9, 2018

Russell Dean, Town Manager  
Town of Exeter  
10 Front Street  
Exeter NH 03833

Re: Ambrose Swasey Trust Inquiry

Dear Mr. Dean:

This letter gives our thoughts and recommendations regarding the Swasey Parkway Trustees and the funds they administer. This letter is a follow-up to our meeting on July 20, 2018 in Exeter.

As you know, Ambrose Swasey established a trust in 1929 to benefit the Town of Exeter. The Ambrose Swasey Trust instrument set aside funds for the acquisition of land and construction of a parkway in Exeter, provided the Exeter Selectmen agreed to carry out the donor's directive. After completion of the parkway, any remaining money was to be invested by the trustee – an Ohio trust company - with the income paid to the Selectmen to be “used for the care, maintenance and improvement of said Exeter River Parkway.” After a period of 50 years (1979) the Selectmen had the right to terminate the trust and receive in distribution the trust assets, with the principal to be held in trust and the income to be used for the care, maintenance, and improvement of the Parkway.

The Town accepted the gift with these conditions and built the Swasey Parkway. The 1929 Town Meeting created an elected body known as the Swasey Parkway Trustees to oversee these assets. The Swasey Parkway Trustees have been elected ever since, and apparently have received and expended the income distributions from the Ambrose Swasey Trust. In 1979 the Selectmen chose not to terminate the trust. Instead they drafted a Memorandum of Understanding with the Swasey Parkway Trustees which copied language from the statute creating municipal trustees of trust funds. However, RSA 31:22 requires that all trust funds given to a town or city “shall be administered” by the duly elected trustees of trust funds. RSA 31:37 states “Each town shall pay over to the trustees [of trust funds] the full amount of its trust funds.” We suggest you review this with the Town's legal counsel.

There is also a question whether the Swasey Parkway Trustees are covered by the Town of Exeter's surety bond. Unlike the Trustees of Trust Funds, the Swasey Parkway Trustees are

<http://doj.nh.gov/charitable-trusts/>

Russell Dean, Town Manager  
August 9, 2018  
Page 2

not specifically named in RSA 41:6 as public officers required to be covered by the town's surety bond. We suggest you also review this with legal counsel.

Based on the foregoing, we advise that the income received annually from the Ambrose Swasey Trust be deposited with Exeter's Trustees of Trust Funds for investment and administration. The 1979 Memorandum of Understanding could then be amended to name the Swasey Trustees as agents to expend any or all of the Swasey Trust funds received by the Trustees of Trust Funds "for the care, maintenance, and improvement of the... Parkway." The Memorandum of Understanding should be further amended to require the Swasey Parkway Trustees to distribute to the Trustees of Trust Funds any funds they currently hold.

To complete this arrangement, the Town should notify Key Trust Company in Ohio that all future distributions of income from the Ambrose Swasey Trust should be made to the Exeter Trustees of Trust Funds. The Selectmen may wish to revisit the Town's 1979 decision to continue the trusteeship of Key Trust Company. If the Selectmen determined that this separate trust should be terminated, then the funds would be distributed, in trust, to the Trustees of Trust Funds, for them to invest and for the income only to become available "for the care, maintenance, and improvement of the... Parkway."

We understand that the Town generates income from licenses issued for private and nonprofit entities to use Swasey Parkway for events, and that income is paid to the Swasey Parkway Trustees. This revenue is not income of the Ambrose Swasey Trust. You should discuss the use of this income with legal counsel. We believe that any future income received from events held at Swasey Parkway should be paid to the Town treasurer. Those funds can be earmarked as revenue to offset a town meeting appropriation for Swasey Parkway, but only to the extent that the Town has created a special revenue fund pursuant to RSA 31:95-c.

Separately, we suggest you work with legal counsel to determine whether the Swasey Parkway Trustees are optional "public officers" who can be elected legally at town meeting. RSA 41:2. We are mindful that trustees of trust funds are named as public officers. As an alternative, the Swasey Parkway Trustees could be reconstituted as a committee chosen by the Selectmen.

Thank you for your attention to this matter. Please contact us if you have any questions.

Very truly yours,



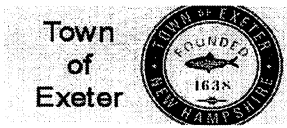
Thomas J. Donovan  
Director of Charitable Trusts  
(603) 271-3591  
tom.donovan@doj.nh.gov

TJD:ab









Russ Dean &lt;rdean@exeternh.gov&gt;

---

**Fwd: Railroad Land Sale - Pan Am Systems, Exeter**

---

Andy Swanson <aswanson@exeternh.gov>  
To: Russell Dean <rdean@exeternh.gov>

Fri, Aug 17, 2018 at 3:09 PM

----- Forwarded message -----

From: **Barker, Louis** <Louis.Barker@dot.nh.gov>

Date: Fri, Aug 17, 2018 at 12:02 PM

Subject: Railroad Land Sale - Pan Am Systems, Exeter

To: "Schmidt, Chuck" &lt;Chuck.Schmidt@dot.nh.gov&gt;, "Marshall, Jim" &lt;Jim.Marshall@dot.nh.gov&gt;, "Dobbins, Caleb" &lt;Caleb.Dobbins@dot.nh.gov&gt;, "Nyhan, Kevin" &lt;Kevin.Nyhan@dot.nh.gov&gt;, "Schutt, Brian" &lt;Brian.Schutt@dot.nh.gov&gt;, "Niewola, Carol" &lt;Carol.Niewola@dot.nh.gov&gt;

Cc: "Urban, Matt" &lt;Matt.Urban@dot.nh.gov&gt;, "Gamache, Christopher" &lt;Christopher.Gamache@dncr.nh.gov&gt;, "Klass, Michael" &lt;Michael.Klass@osi.nh.gov&gt;, "aswanson@exeternh.gov" &lt;aswanson@exeternh.gov&gt;

Colleagues, Per statute the State has been offered the right of first refusal on a parcel of land off of Rte. 85 in Exeter. Thank you for your time and consideration.

Lou Barker

Railroad Planner

NH Department of Transportation

Bureau of Rail &amp; Transit

603-271-2425

--  
Andy Swanson  
IT Coordinator/EXTV Manager  
Town of Exeter, NH  
10 Front St  
Exeter, NH 03833  
(603) 773-6118  
aswanson@exeternh.gov  
www.exeternh.gov

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**4 attachments****20180817 Deptal Review Memo.pdf**  
90K**A - Draft memo exeter 2018.doc**  
3131K**Land Sale Plan 20180625.pdf**  
73K**PAR Cover Letter 8-9-2018.pdf**  
61K



**STATE OF NEW HAMPSHIRE  
INTER-DEPARTMENT COMMUNICATION**

**From:** *AB* Louis A. Barker  
Railroad Planner **Date:** August 17, 2018

**At:** Bureau of Rail and Transit

**Thru:** Shelley Winters, Administrator *SW 08/17/18*  
Bureau of Rail & Transit

Patrick Herlihy, Director *PH 8/17/18*  
Division of Aeronautics, Rail & Transit

**Subject:** Sale of Railroad property, Town of Exeter

**To:** Chuck Schmidt, Bureau of Right of Way  
James A. Marshall, Bureau of Highway Design  
Caleb Dobbins, Bureau of Highway Maintenance  
Kevin Nyhan, Bureau of Environment  
Brian Schutt, District Engineer, District 6

The Boston and Maine Corporation (Pan Am Railways) has negotiated the sale of approximately 12,000 square feet (0.27 acres) of railroad property in Exeter to a third party for the proposed consideration of \$15,000.00. I am enclosing a copy of a plan and a map that shows the location.

Note that this parcel is isolated from the railroad system and was apparently a part of a right of way acquisition to access a remote signal component for maintenance purposes.

Pursuant to RSA 228:60-b, the Boston and Maine Corporation has offered the property to the State of New Hampshire, which has the right to match the offer made by the third party.

Please review the proposed sale to determine if the Department has any interest in the subject parcel for future projects. Please let me know within 30 days of any interest or concern your Bureau/District may have with the sale of this property by the railroad. If a response is not received after 30 days, it will be determined that your Bureau/District has is no interest in the parcel. If there is no interest, we will notify the railroad that the State releases its right of first refusal.

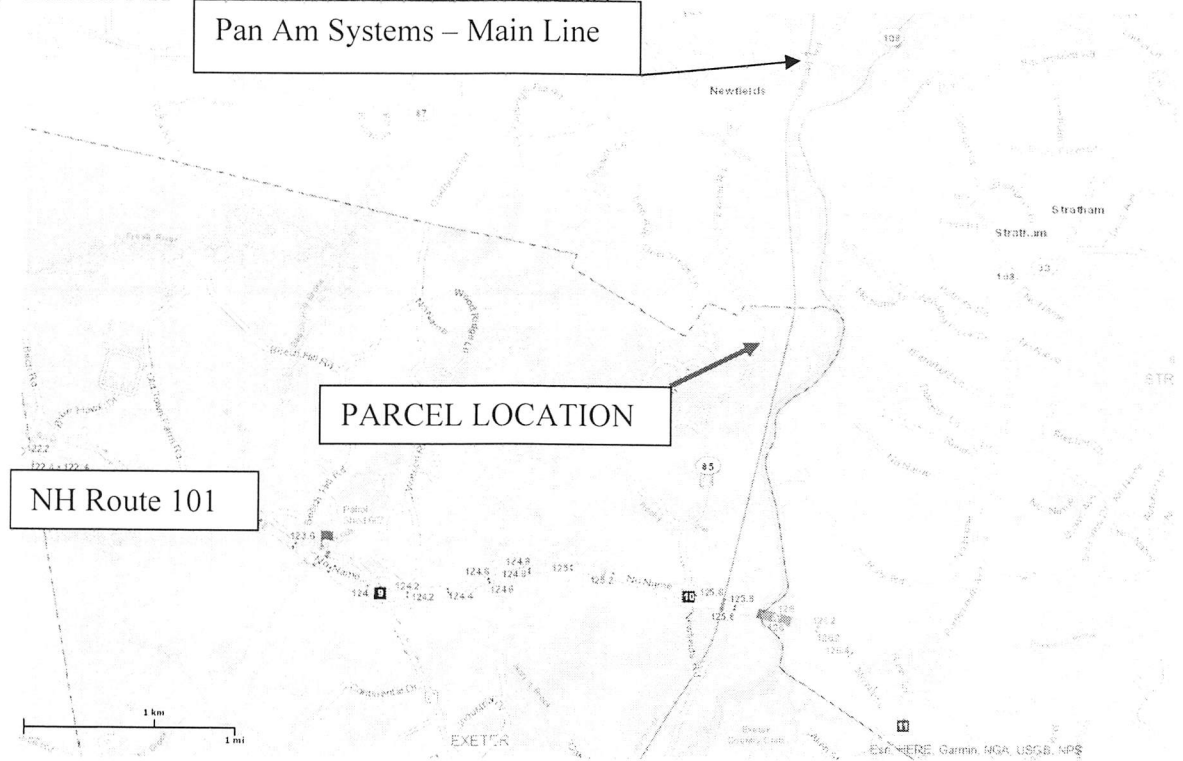
By copy of this memo I am also informing other State agencies and the Town of this transaction and asking that they forward any comments to me within 30 days.

If you have any questions, please don't hesitate to contact me.

Enclosures

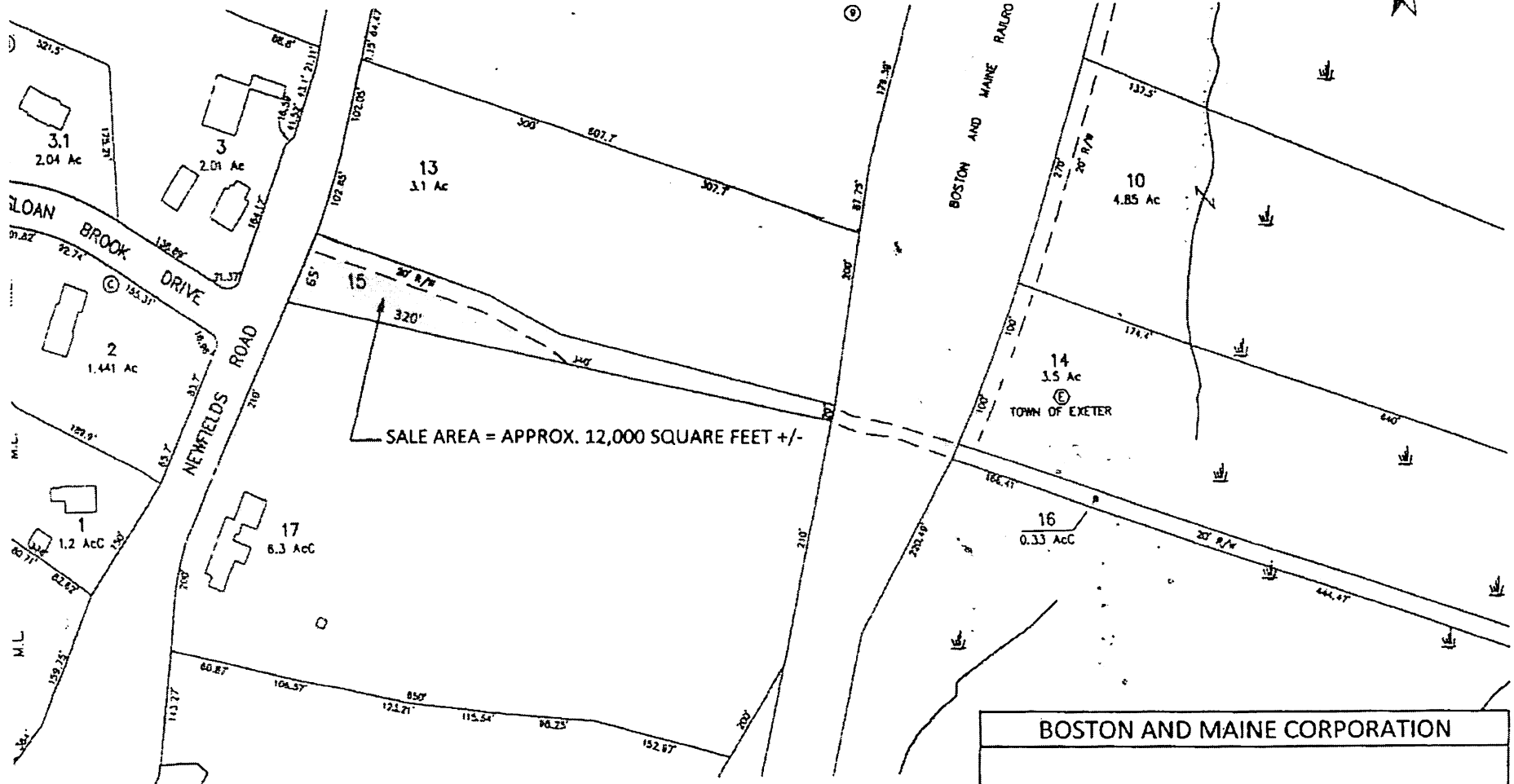
cc: Trails Bureau, DRED  
Selectmen, Town of Exeter  
Office of Energy and Planning

1) Exeter, NH – Newfields Road (NH Route 85)



2) Aerial

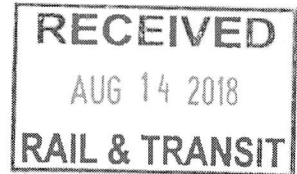




<b>BOSTON AND MAINE CORPORATION</b>	
LAND SALE PLAN EXETER, NH	
LINE: FREIGHT MAIN LINE	
V.S. 2 MAP 51	MILEPOST: 257.9
SCALE: Not to Scale	DATE 06/25/2018



PAN AM SYSTEMS  
1700 IRON HORSE PARK  
NO. BILLERICA, MA 01862-1681  
(978) 663-6949



August 9, 2018

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

**No.: 7016 2140 0000 9462 8747**

Louis A. Barker, Railroad Planner  
State of New Hampshire-Department of Transportation  
7 Hazen Drive  
P. O. Box 483  
Concord, NH 03302-0483

**Re: Sale of Railroad Land in Exeter, New Hampshire**

Dear Mr. Barker:

Pursuant to the provisions of the Revised Statutes Annotated, 228:60-b, we hereby notify you of a proposed sale of Boston and Maine Corporation property in Exeter, New Hampshire, containing an area of approximately 12,000 square feet and shown shaded in yellow on the attached plan.

We hereby offer the subject parcel of land to the State of New Hampshire as provided in said Statutes as mentioned above. This offer is made without prejudice to Boston and Maine Corporation's rights to challenge the lawfulness of said Statute.

If the State does in fact wish to acquire the property on the basis outlined above, please execute the enclosed Purchase and Sale Agreement in duplicate and return them to me together with a check in the amount of \$1,500.00 representing the Deposit. The Agreement will then be executed by a proper officer of Boston and Maine Corporation, and a fully executed copy will be returned to you.

Very truly yours,

PAN AM SYSTEMS, INC.

By:  (MAT)  
Philip D. Kingman, Sr. Vice President  
Real Estate & Development

Enclosure



**TO:** Key Officials

**FROM:** Judy A. Silva, Executive Director  
Cordell A. Johnston, Government Affairs Counsel

**DATE:** August 13, 2018

**RE:** 2019-2020 Legislative Policy Conference ~ Friday, September 14, 2018

### **Floor Policy Proposals**

Enclosed please find copies of the floor policy proposals that have been submitted for discussion and vote at the NHMA Legislative Policy Conference. These supplement the policy recommendations prepared by the three legislative policy committees, which were mailed to each municipality on June 20, 2018. Delegates at the conference will vote on the policy recommendations and the floor policy proposals, along with NHMA's Legislative Principles. If you need copies of any of these documents, you can find them on the NHMA website, [www.nhmunicipal.org](http://www.nhmunicipal.org). (Near the top of the home page, click on the "Advocacy" tab, then use the menu on the left to find "Legislative Principles," "2019-2020 Legislative Policy Recommendations," and "2019-2020 Floor Policy Proposals.")

### **Voting Delegate**

Each member municipality has one vote at the policy conference. Each governing body is asked to appoint a voting delegate to cast the municipality's vote on the policy proposals presented. **We are sending a voting delegate card to the chief administrative officer in each municipality (or the governing body chair if no administrative staff) to return to us indicating the governing body's appointment for voting delegate.** Please mail this card back to us no later than Friday, September 7. See the Legislative Policy Process Questions & Answers document, also sent with the June 20 mailing and available on the NHMA website, for a description of who will have voting privileges for a municipality in the absence of any formal designation.

### **Policy Conference**

The Legislative Policy Conference is scheduled for **Friday, September 14, 2018, at 9:00 a.m.** at NHMA's offices at **25 Triangle Park Drive** in Concord.

We urge the governing body of each municipality to discuss the full slate of policy recommendations, along with these floor proposals, and take a position on each proposal to give guidance to your voting delegate. ***Do not send your positions on the policy recommendations to NHMA; they are only for the guidance of your voting delegate, and each municipality can register its positions only by voting at the conference.*** At the conference, delegates may vote to approve, reject, amend, or table a policy proposal. They may also vote to change the order of priority of the various policies.

This is an important opportunity for each member municipality to participate in determining NHMA legislative policy for the 2019-2020 biennium—we count on your input! As always, please do not hesitate to call or e-mail ([governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org)) the Government Affairs Staff with any questions, comments, or concerns. We look forward to seeing you on September 14!

1

New Hampshire Municipal Association  
2019 - 2020 Legislative Policy Process

RECEIVED  
JUL 16 2018  
NHMA

Floor Policy Proposal

Submitted by (name): Hudson Board of Selectmen

Date: July 10, 2018

City or Town: Hudson

Title of Person Submitting Policy:

Selectmen

Floor Policy Proposal approved by vote of the governing body on *July 10, 2018*

To see if NHMA will SUPPORT/OPPOSE:

*To see if NHMA will support legislation to lower the abatement interest rate that municipalities pay from 6% to 4% (RSA 76:17-a) to better align it with the interest rate on delinquent taxes that were recently lowered by the NH Legislature.*

Municipal Interest to be accomplished by proposal:

*To align abatement interest paid by a municipality with the recent lowering of interest rates on delinquent property taxes.*

Explanation:

*Currently, after the timely payment deadline has passed on payment of property taxes, usually 30 days or more of grace time, 12% interest is charged, for a period of six (6) months, and then 18% interest is charged after those six (6) months. The NH Legislature and the Governor have passed into law, a significant decrease in the interest rate that is charged on late property tax bills. As of January 1, 2019, after the timely payment deadline has passed on payment on property taxes, 8% interest is charged, for a period of six (6) months and then 14% interest is charged. This proposal seeks to lower the interest rate on abatements paid by a municipality from 6% to 4% to better align with delinquent property tax interest rates.*



2

New Hampshire Municipal Association  
2019-2020 Legislative Policy Process

RECEIVED

JUL 24 2018

Floor Policy Proposal

NHMA

Submitted by (name) Jill White Date: July 23, 2018

City or Town Holderness Title of Person Submitting Policy Chair, Select Board

Floor Policy Proposal approved by vote of the governing body on (date) July 23, 2018

Submitted by (name) Brent T. Lemire Date: July 24, 2018

City or Town Litchfield Title of Person Submitting Policy Chair, Select Board

Floor Policy Proposal approved by vote of the governing body on (date) July 23, 2018

Submitted by (name) Rick Hiland Date: July 25, 2018

City or Town Albany Title of Person Submitting Policy Select Board - Chairman

Floor Policy Proposal approved by vote of the governing body on (date) July 25, 2018

Submitted by (name) David W. Swenson Date: July 31, 2018

City or Town New Durham Title of Person Submitting Policy Chair, Select Board

Floor Policy Proposal approved by vote of the governing body on (date) July 31, 2018

To see if NHMA will SUPPORT legislation clarifying that the Town Moderator has authority to postpone the official ballot voting session of town meeting in the event of severe weather or other emergency and establishing clear rules for addressing any practical issues involved in postponing the voting session.

Municipal interest to be accomplished by proposal: Preserve local control over elections and enable local officials to take necessary steps to protect public safety.



**Explanation:** RSA 40:4, II states that the moderator may postpone “the deliberative session or voting day of the meeting” in the event of a weather emergency. In 2017 many town moderators, relying on the statute’s language and on advice from their town attorneys and NHMA, postponed the “voting day” of their meetings because of a blizzard on town meeting day. The Governor, the Secretary of State, and some legislators subsequently claimed that this authority did not exist despite RSA 40:4, II language thereby creating confusion. In 2017 these conflicting inputs resulted in a need for legislation to ratify Town Meeting results so that bond counsel could give clean opinions on any bonds approved at postponed meetings. In 2018 when another forecasted severe snowstorm caused many town officials to consider postponing their official ballot voting sessions the Attorney General and the Secretary of State issued a memorandum prior to the predicted severe storm asserting that no such authority existed for Town Moderators to postpone “voting day of the meeting”; they also threatened criminal prosecution against the one Town Moderator who did postpone an official ballot voting session due to the severe weather on “voting day of the Town meeting”.

It is our opinion that to remove the current legislative authority for Town Moderators to postpone “the deliberative session or voting day of the meeting” in the event of a weather or other emergency may cause undue hardship and potential voter suppression issues to many affected voters.

Although to most Town officials the current statute is clear and the law has not changed, many Moderators are now reluctant to consider postponing the election portion of town meeting for fear of punishment by the State. Clarifying legislation is needed to eliminate any doubt and preserve local control over town elections. This proposal is specifically requesting the current statute to remain in place with specific amendments to address any perceived misinterpretation of the current legislation, address non-weather emergencies, establish procedures for dealing with absentee ballots in such cases of postponement, and address postponement by towns that are part of a multi-town school district or village district so that standardized procedures are part of the amended legislation.

**A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Mail to 25 Triangle Park Drive, Concord, NH 03301; or email to [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org).  
Must be received by August 10, 2018.**



3

New Hampshire Municipal Association  
2019-2020 Legislative Policy Process

RECEIVED  
JUL 26 2018  
NHMA

Floor Policy Proposal

Submitted by (name) Bedford Town Council Date July 18, 2018 City or Town  
Town of Bedford Title of Person Submitting Policy Rick Sawyer, Town Manager

Floor Policy Proposal approved by vote of the governing body on (date) July 18, 2018

To see if NHMA will SUPPORT/OPPOSE: legislation that would allow municipalities to be able to regulate the use of outdoor watering on all properties.

Municipal interest to be accomplished by proposal:

The proposal would allow municipalities to place outdoor watering restrictions on all properties during drought conditions not just residential properties as currently permitted under RSA 41:11-d.

Explanation: During two of the last three years the State of NH has faced drought conditions and the State Department of Environmental Services has recommended that municipalities ban or limit the outside watering of lawns, car washing, etc. Currently RSA 41:11-d limits the ability to place such a restriction to only residential land. It is very challenging to enforce such a restriction on our residents when the commercial properties they drive by are watering their grass and it significantly reduces the potential replenishment of the aquifer that the restriction could bring. During the last legislative session HB173 came close to providing for this change with the House approving it 249-100, but it ultimately failed in the Senate.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Mail to 25 Triangle Park Drive, Concord, NH 03301; or email to [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org). **Must be received by August 10, 2018.**



4

RECEIVED  
AUG 9 2018  
NHMA

**New Hampshire Municipal Association  
2019-2020 Legislative Policy Process**

**Floor Policy Proposal**

Submitted by (name) Robert Thibault Date August 9, 2018

City or Town Easton Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) July 30, 2018

Submitted by (name) Eric Meth Date August 9, 2018

City or Town Franconia Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) July 30, 2018

Submitted by (name) Margaret J. Connors Date August 9, 2018

City or Town Sugar Hill Title of Person Submitting Policy Select Board Member

Floor Policy Proposal approved by vote of the governing body on (date) 7/30/2018

To see if NHMA will SUPPORT/OPPOSE:

Support a bill that would clarify that the Site Evaluation Committee does not have jurisdiction over use of municipal roads by merchant utility projects.

Municipal interest to be accomplished by proposal: Maintain local control over municipal roads.

Explanation:

On Page 282 of the Site Evaluation Committee's March 30, 2018 written decision denying Northern Pass a certificate of site and facility the SEC explains why it believes it have the authority to supersede existing state law that gives the authority over control of use of municipal roads by utilities to the governing body of the municipality. Either the SEC has the authority to supersede municipal control over municipal roads or it doesn't. This needs to be made clear for all municipalities and for all future potential applicants to the SEC. While it is clearly stated in RSA 162:H (the authorizing statute for the SEC) that its authority supersedes local land use regulation, there is no reference at all to control over municipal roads. Municipalities are vulnerable to losing control over their own roads if this legal confusion is not cleared up.

*Working together is success.*  
— Henry Ford



## Town of Exeter Goal Setting Report

May 14, 2018

**Primex**<sup>3</sup>  
NH Public Risk Management Exchange

Center for  
**Public Sector**  
Advancement

Promoting Excellence in the Public Sector

## Purpose and Intended Result of the Session

The purpose of the session was for the Board and Town Manager to come together to lay the horizon for the Town and establish goals and strategies that will help guide the Town over the next twelve (12) months.

## Participants

Julie Gilman, Chairwoman

Donald Clement, Select Board

Anne Surman, Select Board

Molly Cowen, Select Board

Kathy Corson, Select Board

Russ Dean, Town Manager

*The exercise was facilitated by:*

Rick Alpers, Risk Management Consultant, Primex<sup>3</sup>

Shelley Walts, Member Service Consultant, Primex<sup>3</sup>

## 2016 Goals Review Discussion

The session began with the Select Board and Town Manager reviewing previous goals and identifying what is going well within the Town and what needs work or improvement.

Rick Alpers also reviewed the process for the new members of the Select Board for establishing goals.

## Top 2016 Goals

### **GOAL #1: *Master Plan Update***

The update has been completed and is available for public use.

### **GOAL #2: *Continue to Improve Economic Development Program***

- Looking at Grants to assist
- Master Plan came into being so Economic development will flow from document
- New Planner hired and processes implemented
- Continue to encourage commercial development in identified locations in Town

### **GOAL #3: *Community Relations and Outreach***

- Communication Advisory Committee being formed
- An App for being designed for smart phones
- Continuous work is being done to the website to improve functionality

### **GOAL #4: *Capital Improvement Strategy***

- Continue to develop and plan CIP strategy
- Continue to work on achieving identified targets
- Planning Board oversees Capital Improvement Program (CIP)

## **What is Going Well with the Town of Exeter**

- Economic Development
- Great Select Board that is respectful
- Vitality and energy within Town and Volunteerism
- Master Plan process got more people involved
- Police / Fire / Public Safety satisfied with the Town of Exeter
- Great restaurants
- Synergy between Economic, Planning and Zoning Boards - working well together
- Amazing communication – Great volunteers
- Desirable place to be / live
- Schools will have full day Kindergarten in Fall 2018
- Sidewalks

## **What Needs Work in the Town of Exeter**

- Parking
- Traffic
- Facilities
- Communication
- Budgeting – balance between needs versus wants
- Unaffordable

## 2018-19 Discussion

### Molly Cowan

1. Increase participation in Town Government
2. Economic Development- bring together CEO, CFO, COO, DR, Educators within the local community to network and "brain dump" for development ideas

### Anne Surman

1. Retention of youth/millennials to stay/live/work in Exeter NH
2. Review policies

### Kathy Corson

1. Communication- establish different mediums of communication
2. Facilities- establish Committee to utilize Plan

### Julie Gilman

1. Intersection Review on All Roads
  - Inter-modal focus
  - Complete Streets
2. Historic Preservation to remain a priority in Exeter's identity

### Russ Dean

1. Review of Tax Exemptions / Credits as they currently stand
2. Craft Housing Strategy - regionally and locally
3. Review Parking / Traffic concerns
4. Town-owned facilities need a detail plan and prioritization of repair or replacement

### Don Clement

1. Board needs to develop clear mission and vision – be accountable to citizens
2. Continue to message where Town the town is headed
3. A long-term Strategic Plan is needed for the community

## Goals for 2018-19

The Select Board and the Town Manager identified the top goals for the Town of Exeter and to develop a work plan. The goals were formulated from the individual goals listed above. The goals and deadline for an update or completion are listed below.

### **GOAL #1: *Facilities***

- Initiate a Plan
- Develop long-term sustainable strategy to update current facilities
- Potential steering committee formation to help drive the process

Select Board to have a work session by **June 30, 2018** to review facilities report and rating system of facilities and provide clear message on direction

### **GOAL #2: *Traffic and Parking Review***

- Develop strategy to review and enhance parking
  - ➔ Explore off street parking options
  - ➔ Grant for engineering study
  - ➔ Public input session
  - ➔ 2019 message for a clear understanding to provide to voters
- Review of traffic flow as development continues
- As roads are updated- keep in mind Complete Streets
  - ➔ Intersections
  - ➔ Sidewalks
  - ➔ Cycle lanes

Policy education of Complete Streets by Dave Sharples by **August 1, 2018**

### **GOAL #3: *Quality of Life Concerns***

- Housing strategy / affordability
- Communications - social media
- Keeping the millennials and future generations and attracting new citizens
- Increase participation in local government
- "Brain Dump" of local citizens for networking and strategy planning for betterment of the Town



## Other Objectives to Consider

- Policy Review
- Review of Exemptions / Credits

Center for  
**Public Sector**  
A d v a n c e m e n t

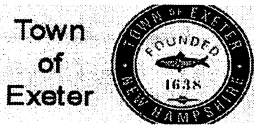
**Primex**<sup>3</sup>  
NH Public Risk Management Exchange

Bow Brook PLace  
46 Donovan Street  
Concord, NH 03301

603-225-2841  
800-698-2364

[www.nhprimex.org](http://www.nhprimex.org)

Trust. Excellence. Service.



Russ Dean &lt;rdean@exeternh.gov&gt;

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## Fwd: Yard waste fees

---

Enna Grazier <enna\_grazier@yahoo.com>  
 To: Russ Dean <rdean@exeternh.gov>

Thu, Aug 23, 2018 at 12:28 PM

Hello Russ,

I meant to include you in this. Just a bunch of questions to add to the pot on waste fees. I would like to see the town plan for a more long-term sustainable solution, my sense is that the fee structure proposed a couple of weeks ago is overly reactive, and not as proactive as it should be.

Enna

Begin forwarded message:

**From:** Enna Grazier <enna\_grazier@yahoo.com>  
**Subject:** Yard waste fees  
**Date:** August 22, 2018 at 12:01:10 PM EDT  
**To:** Kathy Corson <kcorson@exeternh.gov>, Julie Gilman <jgilman@exeternh.gov>, Molly Cowan <mcowan@exeternh.gov>, Don Clement <dclement43@comcast.net>, ASurman@exeternh.gov

Dear Select Board Members,

With regard to dumping brush by Exeter residents: I strongly discourage the town from charging a "per-load" fee for residents (non-commercial). With a pay-per-load system, people who do not own a large truck or trailer will pay a disproportionately higher fee, as they have to make multiple small dump runs to dispose of the same volume. This will unfairly burden residents who either do not own a large vehicle or cannot afford a landscaping service, many of these residents may be in a lower income bracket.

Below I share a number of other questions that I hope will be considered on the topic, mostly related to how commercial entities are using our facility:

Does the dump not have a scale? It seems that charging per weight may be helpful.

What is the rate at which our facility is reaching capacity? How does the fee correlate to changing/managing this capacity?

Is there a way to utilize funds from a more reasonable fee to purchase equipment that will help process brush and yard waste?

As I stated at the previous Selectboard meeting, it is not clear to me what the purpose of the fee is: is the higher fee for commercial entities intended to help process the waste, or is a higher fee intended to reduce or discourage commercial use altogether? If the town's intention is to reduce or eliminate commercial dumping, I'd encourage setting a policy that supports that. If the town's intention is to raise funds in order to manage/process the material that is dumped, then I'd like to see what facility/equipment improvements are necessary, and base new fees on those costs.

How much brush is processed and re-used by residents or the town? I am aware of the free mulch that is available at the dump, and wonder how much that is utilized. If this service were better utilized or improved, would this help address the issue of diminishing space?

Can the town invest more resources in educating residents on how to compost yard waste (and kitchen waste) on their own property? When properly managed, some yard and brush waste can be recycled right at home. This will not work for the volume of waste generated by commercial entities... which brings me back to my earlier question: is the town trying to deter commercial dumping altogether?

When large-scale and luxury properties are added to our town infrastructure, does this also increase the rate of commercial landscaping (and associated dumping) that happens in our town? How can large-scale landscaping or land-ownership be addressed equitably in the dumping fee structure?

If the town can improve how it tracks where waste is coming from, could commercial entities be charged a different rate for non-residential property?

Can our town limit yard waste to a certain size: i.e. require that brush be under a maximum length, and trunks under a maximum width?

Could the town develop a separate drop-off and processing area for yard/landscaping waste - perhaps add composting and more sophisticated recycling, with education and resources?

Incidentally, some residents in my neighborhood already dump yard waste into a stream/wetland area off of Hale Street. I am afraid that raising of fees will discourage even more residents from using town facilities, and result in an increase of dumping brush into inappropriate places. Dumping on land such as the stream in my neighborhood increases the rate of ticks, mice and vermin, and also disrupts healthy water drainage patterns.

<https://www.cityofmadison.com/streets/yardWaste/brushprocessing.cfm>

<http://www.merrimac01860.info/154/Yard-Waste>

Thank you,

Enna Grazier  
8 Warren Ave.  
Exeter NH 03833

**web:** [www.ennachocolate.com](http://www.ennachocolate.com)

**instagram:** @ennachocolate

**tel:** 617-817-0698

sign up for my email list: <http://eepurl.com/b4IIPj>

**Mission:** *make, taste, share fine chocolate: finding my way in the chocolate revolution.*