Select Board Meeting Monday, May 20th, 2019, 7:00 p.m. Nowak Room, Town Office Building 10 Front Street, Exeter NH

- 1. Call Meeting to Order
- 2. Board Interviews
- 3. Proclamations/Recognitions
 - a. Proclamations/Recognitions
- 4. Public Comment
- 5. Approval of Minutes
 - a. Regular Meeting: May 6th, 2019
- 6. Appointments Planning Board
- 7. Discussion/Action Items
 - a. Right To A Healthy Climate Ordinance
 - b. Adopt Facilities Committee Revised Charge
 - c. Public Works Project Updates
 - d. Parks/Recreation Parks Capital Reserve Fund Requests
 - e. Parks/Recreation Design/Engineering Recommendation
 - f. Epping Road TIF Update
- 8. Regular Business
 - a. Tax Abatements, Credits & Exemptions
 - b. Permits & Approvals
 - c. Town Manager's Report
 - d. Select Board Committee Reports
 - e. Correspondence
- 9. Review Board Calendar
- 10. Non-Public Session RSA 91:a:3 2 a, b, d
- 11. Adjournment

Kathy Corson, Chair

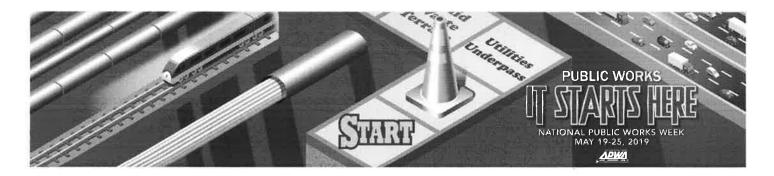
Select Board

Posted: 5/17/19 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.

AGENDA SUBJECT TO CHANGE

Board Interviews



National Public Works Week Proclamation May 19 – 25, 2019

"It Starts Here"

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of the Town of Exeter, New Hampshire; and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the Town of Exeter to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2019 marks the 59th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now,

RESOLVED, we, the Exeter Select Board, do hereby designate the week May 19 – 25, 2019 as National Public Works Week; we urge all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

IN WITNESS WHEREOF, we have hereunto set our hand and caused the Seal of the Town (to be affixed),						
DONE at the Town of Exeter, New Hampshire, t	this	day of	_ 2019.			
Kathy Corson, Chair						
Molly Cowan, Vice Chair						
Niko Papakonstantis, Clerk						
Julie D. Gilman						

Anne L. Surman

Minutes

Select Board Meeting Monday May 6th, 2019 Town Offices, Nowak Room Draft Minutes

1. Call Meeting to Order

Members present: Anne Surman, Kathy Corson, Julie Gilman, Molly Cowan, Niko Papakonstantis, and Russ Dean were present at this meeting. The meeting was called to order by Ms. Corson at 6:50 PM. Ms. Cowan was present electronically, so all votes were roll call votes.

2. Board Interviews

The Board went downstairs for interviews with Peter Steckler and Kris Weeks for the Planning Board. The Board returned to the Nowak Room after the interviews, and the meeting reconvened at 7:11 PM.

3. Public Comment

There was no public comment at this meeting.

4. Proclamations/Recognitions

- a. Ms. Corson spoke about Exeter resident Don Robie, who passed away April 22nd, and read from his obituary.
- b. Ms. Corson thanked the Planning Board members for their service: Marcia Moreno-Baez, John Greuter, Nick Gray, Aaron Brown, Gwen English, Kelly Bergeron, Robin Tyner, Jen Martel, Pete Cameron, and Lang Plumer. Mr. Plumer said the Planning Board is driven by dedication, common sense, and a love for Exeter.
- c. Municipal Clerks Week Mr. Papkonstantis read the proclamation:

Whereas, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

Whereas, The Office of the Municipal Clerk is the oldest among public servants; and Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

Whereas, the Municipal Clerk serves as the information center on functions of local government and community: and

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations; and

Whereas, It's most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk; and

Now, Therefore, We the Select Board of Exeter, do recognize the week of May 5 through May 11, 2019 as Municipal Clerks' Week, and further extend appreciation to our Municipal Clerk, Andrea Kohler, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

5. Approval of Minutes

a. Special Meeting: April 20th, 2019

MOTION: Ms. Surman moved to accept the minutes of April 20, 2019 as submitted. Mr. Papakonstantis seconded. By a roll call vote, all were in favor.

- b. Regular Meeting: April 22nd, 2019
 - i. Mr. Papkonstantis requested that on page 4, the phrase "asked if they are asking them" be changed to "asked if the sustainability proponents are asking the Board."

MOTION: Ms. Surman moved to approve the minutes as amended for the Select Board meeting of Monday April 22nd. Mr. Papkonstantis seconded. By a roll call vote, all were in favor.

6. Appointments

There were no appointments at this meeting.

7. Discussion/Action Items

a. Facilities Committee Update

Ms. Corson prefaced the presentation by stating that Rob Corson is her husband.
Rob Corson of the Facilities Committee said that the committee started in September of last year, and they have been looking at original charge from the Select Board, assessing current info, defining conditions of success and how to help the community, and looking to create a plan for the future.

Peter Lennon presented a draft of the charge revisions. The committee added two new charges: 1) to create an Exeter Facilities Master Plan and a Facilities Renewal Policy and 2) to coordinate with other boards and committees on facilities-related questions. They also intend to look beyond the documents named in the original charge, the 2018 Master Plan and the 2015 Town Facilities plan, to incorporate other relevant documents. Their goal is to be fully involved in the 2021 Budget Process, but they will not be fully ready to participate in 2020. Ms. Corson asked if the CIP is primarily the part of the budget process the committee would be involved with, and Mr. Lennon said yes. He added that the "items to consider" in the original charter weren't restated in the revised charter, but they will still take a look at the items and add more as they arise.

Greg Colling of the Facilities Committee said that another goal is integration of their committee with other boards and committees. For example, he met with the library architects to review the library renovation project, and Mark Leighton is meeting with the Parks and Rec Advisory Committee. They also plan to invite someone from the Energy Committee to an upcoming meeting, and they will help with the Public Safety study to be done in 2019.

Mark Leighton of the Facilities Committee said that one of their primary goals is to create a facilities condition assessment. This was last done in 2015/16, and this document can serve

as a baseline, but they hope to do more. They will determine the needs of each property over the next 10 to 15 years. Ms. Corson asked about the cost, Mr. Dean said they are hoping to carve out some of the maintenance budget.

Mr. Corson said they hope to create a live tool for tracking facilities that will be updated on a yearly basis. They want to understand the current state of the physical plant and compare it to the future use of the building. Ms. Gilman said she's looking forward to a product that could be kept live.

Mr. Corson closed by saying he'd like the Select Board to adopt the revised charge as written. Ms. Corson asked the committee to put the revised version in a form more like the original and the Select Board will adopt it at the next meeting.

b. Energy Committee Update

Renay Allen-Hitzrot of the Energy Committee spoke about three projects they have been working on: LED Streetlights, Electric Vehicle Charging, and the Sustainability Office.

Regarding the LED streetlight conversion, the Energy Committee filmed a public service announcement that will be on EXTV. Affinity Lighting will begin the replacement work this month and will take 3 weeks to complete it. There will be a NH Saves Rebate to Exeter of \$118,319, and they will save 193,000 kw hours of energy, 158 tons of carbon in greenhouse gases, and \$30,000 annually after payback.

They have also been focusing on Electric Vehicle Charging. NH is the missing link in charging stations between Massachusetts and Canada. The Volkswagen settlement money could be used for Electric Vehicle Charger (EVC) corridors, creating an "e-gas station". The committee is interested in both a level 3 off-ramp station and a level 2 downtown charger in Exeter. This money would require a matching grant.

They also had a work session last month with the sustainability advocates to find out what the advocates are working on and how it would overlap with the Energy Committee's charge. The Conservation Committee and the Communications Committee were invited as well. The Energy Committee had three findings: 1) that the person hired for this position should work across many departments and committees; 2) qualified people are graduating now with degrees in sustainability; 3) the person hired should write grants and apply for rebates on projects. The Energy Committee supports the sustainability office proposal and suggests that the sustainability advocates become an official town ad-hoc committee, so that their minutes would be public

Ms. Corson opened the discussion to public comment.

June Fabre of 10 Chestnut Street said that a Sustainability Officer would pay for itself and fund the future. She would love to see smart environmental practices in Exeter.

Ms. Corson said that if the sustainability proponents were a town ad-hoc committee, all of their meetings would be at the Town Offices and adhere to RSA 91a. A member of the Select Board would have to be on the committee, and possibly someone from the BRC and Planning Office. Ms. Surman added that the Select Board would need to come up with a charge for the committee. Ms. Gilman explained the difference between a town committee and an ad hoc committee: the ad hoc membership is more free, since members are not appointees. Since the Select Board had asked the proponents to come to the Select Board with ideas on the sustainability office, Ms. Gilman felt that the Select Board had already given the advocates an

official charge. Ms. Corson said that the charge should be to come back with a plan for how to spend money on sustainability. Ms. Surman said the committee should also define sustainability. She pointed out that the sustainability office was approved by the voters but was advisory only. Mr. Papakonstantis was concerned that a committee, whether ad hoc or appointed, would become a silo. Ms. Surman asked what areas are not being covered by the Conservation Commission, the Natural Resources Planner, and other committees. Ms. Gilman responded that the committees have all been working separately.

Mr. Papakonstantis said that any position has to go through the budget process and someone from the town must come up with a job description. In the short term, the voters have given them a charge, and they should identify what the town is already doing and who's doing it, communicate with the proponents, and move forward with plan for 2020. Ms. Corson asked if an ad hoc committee the best way to engage with town employees and reach out to experts in the sustainability field. Ms. Gilman said the Select Board had asked the advocates to advise them, but should they be a town committee or not? Mr. Dean said that "ad hoc" means formed for a specific purpose for a specific length of time.

Mr. Papakonstantis asked if it were possible for existing staff to help identify what the town is doing. Ms. Corson said they are already doing that through a department heads meeting, and Dave Sharples would be putting a list together.

Ms. Allen-Hitzrot said the Sustainability Office does not lie entirely under the Energy Committee's charge; maybe a third of it does. Ms. Gilman said who the office reports to was one of the things the Select Board asked the proponents to identify. Ms. Corson pointed out that the Board hasn't yet seen the proponents' recommendations. Robin Tyner, a sustainability proponent, said that they are looking to present their research to the Select Board. Ms. Corson said they would put it on the agenda of an upcoming meeting.

c. Preliminary Parking Discussion

Ms. Corson introduced a preliminary discussion of parking regulations. Mr. Dean itemized the issues to consider: 1) parking regulations and ordinances; 2) zoning ordinance on parking; 3) an enforcement program; 4) parking supply, for example on Lincoln Street with its construction and parking issues; 5) parking utilization, what hours and for how long; 6) parking permits; 7) paid parking; 8) administration of paid parking, since the town's only dedicated enforcement officer recently retired; and 9) reviewing parking policy in comparable communities.

Ms. Corson asked if it were too late to consider parking improvements on Lincoln Street, and Mr. Dean said this is the time to take a look. There's a possible expansion to the Lincoln Street School parking lot, which would add 48 spaces. Mr. Papakonstantis said he would like to have an isolated area for train parking or paid parking, but didn't know how they would enforce it. Ms. Gilman asked if they could treat Lincoln Street differently than elsewhere, or if the decisions they made would affect downtown. She also suggested promoting bicycle use. Ms. Surman said that train ridership will only go up, so train parking should be an area of focus. Ms. Corson said that merchants on Lincoln Street are having a tough time with parking issues. Mr. Dean said his group will meet again to focus on Lincoln Street and come back to the board.

Dave Sharples added that the Master Plan Oversight Committee was looking at this, but they don't have a lot of data, so he's been going out once a month and counting cars to determine the utilization rate. The Lincoln Street train station lot is 95-100% utilized.

d. 2019 Bond Document

Mr. Dean asked the clerk of the Board to read through this resolution regarding bond issues approved in the ballot. The total is \$575,000: \$250,000 for the Rec Park and \$325,000 for Salem Street improvements. Mr. Papakonstantis read the resolution:

I, the undersigned Clerk of the Issuer, hereby certify that a meeting of the Governing Board of Issuer (the "Board") was held on May 6, 2019. A quorum of the Board was in attendance and voting throughout.

I further certify that there are no vacancies on the Board, that all of the members of the Board were duly notified of the time, place and purposes of said meeting, including as one of the purposes the authorization of bonds and the approval of a Loan Agreement between the New Hampshire Municipal Bond Bank (the "Bond Bank") and the issuer.

I further certify that the following is a true copy of resolutions unanimously adopted at said meeting:

RESOLVED: That under and pursuant to the Municipal Finance Act, Chapter 33, N.H.R.S.A., as amended, the New Hampshire Municipal Bond Bank Law, Chapter 35-A, N.H.R.S.A., as amended, and other laws in addition thereto, and to votes of the Issuer duly adopted on March 12, 2019 under Articles 7 and 8 of the Warrant for such annual meeting of the Issuer there be and hereby is authorized the issuance of a \$575,000 Bond of the Issuer (the "Bond") which is being issued by the Issuer for the purposes of financing (i) the creation of final design and engineering plans for the Recreation Park Development Project and (ii) the design and engineering costs for utility improvements including water, sewer, roads and drainage in the Summer/Salem Street, Park Street and Warren Avenue areas.

The Bond shall be dated as of its date of issuance, shall be in such numbers and denominations as the purchaser shall request, shall mature in accordance with the schedule set forth in Exhibit A to a certain Loan Agreement hereinafter described (the "Loan Agreement"), shall bear a net interest cost rate (as defined in the Loan Agreement) of three and one- quarter percent (3.25%) per annum or such lesser amount as may be determined by a majority of the Board. The Bond shall be substantially in the form set forth as Exhibit B to the Loan Agreement and otherwise shall be issued in such manner and form as the signatories shall approve by their execution thereof.

RESOLVED: That the Bond shall be sold to the Bond Bank at the par value thereof plus any applicable premium.

RESOLVED: That in order to evidence the sale of the Bond, the Treasurer of Issuer and a member of the Board are authorized and directed to execute, attest and deliver, in the name and on behalf of the Issuer, a Loan Agreement in substantially the form submitted to this meeting, which is hereby approved, with such changes therein not inconsistent with this vote and approved by the officers executing the same on behalf of the Issuer. The approval of such

changes by said officers shall be conclusively evidenced by the execution of the Loan Agreement by such officers.

RESOLVED: That all things heretofore done and all action heretofore taken by the Issuer and its officers and agents in its authorization of the project to be financed by the Bond are hereby ratified, approved and confirmed.

RESOLVED: That the Clerk and the signers of the Bond are each hereby authorized to take any and all action necessary and convenient to carry out the provisions of this vote, including delivering the Bond against payment therefor.

RESOLVED: That the useful life of the project being financed is in excess of five (5) years.

I further certify that said meeting was open to the public; the aforesaid vote was not taken by secret ballot nor in executive session; that notice of the time and place of said meeting was posted in at least two (2) appropriate public places within the territorial limits of the Issuer, or published in a newspaper of general circulation in said area, at least twenty-four (24) hours, excluding Sundays and legal holidays, before said meeting; that no deliberations or actions with respect to the vote were taken in executive session; and that the minutes of said meeting have been promptly recorded and have been or will be made open to inspection within one hundred forty-four (144) hours of said meeting, all in accordance with Chapter 91-A, N.H.R.S.A., as amended.

I further certify that the above vote has not been amended or rescinded and remains in full force and effect as of this date.

MOTION: Ms. Surman moved to adopt the certificate of vote regarding the authorization of bonds as read. Mr. Papakonstantis seconded. By a roll call vote, all were in favor.

MOTION: Ms. Surman moved to authorize the Town Manager to sign the bond agreement and any other necessary documentation theretofore. Mr. Papakonstantis seconded. By a roll call vote, all were in favor.

8. Regular Business

a. Tax, Water/Sewer Abatements and Exemptions

MOTION: Mr. Papakonstantis moved to approve a Jeopardy Bill of \$297 for 87/8/D-01. Ms. Surman seconded. By a roll call vote, all were in favor.

MOTION: Mr. Papakonstantis moved to approve a Jeopardy Bill of \$332.75 for 103/15/4. Ms. Surman seconded. By a roll call vote, all were in favor.

MOTION: Mr. Papakonstantis moved to approve an intent to excavate for 113/5. Ms. Surman seconded. By a roll call vote, all were in favor.

MOTION: Mr. Papakonstantis moved to approve a land use change tax warrant of \$22,500 for 47/8/1. Ms. Surman seconded. By a roll call vote, all were in favor.

b. Permits & Approvals

Mr. Dean said that he had been asked to review the legal services proposal that was submitted. They only received one bid, from the Mitchell Municipal Group, which serves as the town's current legal services. The rates were for 1 year, with year 2 & 3 rates TBD, so his recommendation is to accept the bid for now and not change the status quo. They can revisit the issue later this year to decide if they will go out for another proposal.

MOTION: Mr. Papakonstantis moved to approve the cost proposal by Mitchell Municipal Group for May 2019 - May 2020. Ms. Surman seconded. By a roll call vote, all were in favor.

c. Town Manager's Report

- i. Stephen Poulin was formally promoted to Police Chief. The swearing-in ceremony date is TBD.
- ii. Devin West was sworn in as a new police sergeant on May 2nd.
- iii. Neil Jones, the Animal Control Officer and parking enforcement officer, retired April 30th. There was a lunch and ceremony for him.
- iv. Mr. Dean testified before the House Finance Committee on Senate Bill 254 on state aid for wastewater facilities. He thought the testimony went well. House Finance Committee ITL'd the bill ("inexpedient to legislate") and punted it to the Senate. He added that Senator Morgan is supportive of Exeter and Epping. He also spoke regarding a Senate Election municipal affairs repeal of default budget legislation, and that also seemed to go well.
- v. Mr. Dean met with the principal of PEA, Bill Rawson, for a discussion of the role of the academy in the town. PEA is wanting to do more, and Mr. Rawson is interested in speaking to the Board members.
- vi. MPA students from UNH will be at the Town Offices on Wednesday May 8th at 8:30 AM. Greg Bisson will take them out for a tour of facilities.
- vii. On May 20th there will be an Ambassador Appreciation luncheon, with a presentation speaking about Exeter, put together by DownEaster.
- viii. His office is reviewing HR assistant applications.
- ix. The Public Safety study is on the street with a June 8th deadline for submittals.
- x. TIF work is continuing, the road is just about ready to be paved. Route 85 work has begun, all flagged. Public Works repainted the crosswalks and yellow lines downtown.

d. Select Board Committee Reports

i. Ms. Surman attended the promotion of officer Devin West and said it was exciting to see everyone come together.

- ii. Ms. Cowan attended a Parks and Rec Advisory Committee meeting. They did not have a quorum, but had a robust discussion about RFP responses. She also wanted to thank people who did Picking the Parks.
- iii. Mr. Papakonstantis said his meetings are coming this week. He also wanted to thank those involved in Picking the Parks, and acknowledge six second grade girls who gave up a day of their vacation to pick up trash on Holland Way.
- iv. Ms. Gilman said there were very few bills in the House. There was a Conservation Commission event on bats in NH on Saturday. The HDC Preservation Plan grant has been delayed, as the Department of the Interior hasn't decided if money should go to towns. The Heritage Commission heard demolition permits for Main Street/Brad's Auto Body. It's a nice house but compromised by additions. They lost another nice house to a demolition that was not discussed with Heritage Commission. For the Historic District Commission, the Park Street historic survey should be done by the end of September.
- v. Ms. Corson had a Swasey Parkway Trustees meeting, and they are gearing up for the summer. A Communications Committee meeting is tomorrow.

e. Correspondence

- i. A letter from the State of NH Dept of Transportation talking about the resurfacing project on 101 between exits 6, 7, 8, and 9.
- ii. A Federal Communications Commission notice of Section 106 filings regarding an antenna on the Exeter Mill Smokestack and a monocle cell tower off of Cross Road..
- iii. Notice of public hearing for Pease Development Authority for moorings and anchorages on May 22nd. There is a proposed change to the administrative rules.
- iv. A notice to all taxpayers pursuant to RSA 76:13 from the Board of Tax and Land appeals, notifying of the date which final tax bill was sent, no later than May 1.
- v. The DownEaster Ambassador luncheon invite with statistics on the train.

9. Review Board Calendar

- a. Upcoming meetings are May 20th, June 3rd, and June 17th.
- 10. Non-Public Session

There was no non-public session at this meeting.

11. Adjournment

MOTION: Mr. Papakonstantis moved to adjourn. Ms. Surman seconded. By a roll call vote, all were in favor, and the meeting adjourned at 9:19 PM.

Respectfully Submitted, Joanna Bartell

Board Appointments and Resignations

Board and Committee Appointments May 20th, 2019

Planning Board (Alternate)	*						
Kris Weeks, Peter Steckler – 2 candidates for one alternate position term ending 4/30/22.							
Motion: Move the Board appointwith a term to expire 4/30/22.	to the Planning Board alternate position						
Resignations							

Anne Torrez, Recreation Advisory Board Nick Gray, Planning Board Rep to HDC (from HDC only)



Russ Dean <rdean@exeternh.gov>

Fwd: Exeter Recreation Board resignation

1 message

Greg Bisson <gbisson@exeternh.gov>

Tue, May 14, 2019 at 6:37 PM

To: Russell Dean <rdean@exeternh.gov>, Sheri Riffle <sriffle@exeternh.gov>

FYI

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

From: Anne Torrez - Tri It Your Way <anne@triityourway.com>

Date: Tue, May 14, 2019 at 6:29 PM

Subject: Exeter Recreation Board resignation

To: <kcorson@exeternh.gov>

CC: Greg Bisson < GBisson@exeternh.gov>

Hello Kathy-

I am writing to resign from the Exeter Recreation Advisory Board. Due to the change in meeting schedule from quarterly to monthly, I am no longer able to meet the commitment.

Thank you for the opportunity to learn more about the great things Exeter is doing, and thank you for your service.

Best regards, Anne Torrez

--

From Greg's phone



Russ Dean <rdean@exeternh.gov>

Exeter HDC Resignation

2 messages

Nicholas Gray <nicholas.gray.nh@gmail.com>

Fri, May 17, 2019 at 3:12 AM

To: Aaron Brown <aaron.b@atrioproperties.com>, David McGilvary <DJMcGilvary@gmail.com>, Don Clement <dclement@exeternh.gov>, Gwen English <gwenexeter@yahoo.com>, Jennifer Martel <jmartel@gmail.com>, John Grueter <grueterj2002@yahoo.com>, Kathy Corson <kathykcorson@comcast.net>, Kathy Corson <kcorson@exeternh.gov>, Kelly Bergeron

bergeron

| Sergeron | Sergeronkj@gmail.com>, Langdon Plumer <langplumer@gmail.com>, Nicholas Gray
| Nicholas.gray.nh@gmail.com>, Pete Cameron

| Appakonstantis

| Papakonstantis

| Papakonstantis

| Papakonstantis@exeternh.gov>, Anne Surman

| ASurman@exeternh.gov>, "Julie D. Gilman"

| Sigilman@exeternh.gov>, mcowan@exeternh.gov, Curtis Boivin

| Soivin

| Soivin

Exeter HDC, Planning Board, & Select Board Members.

I'm writing to let you know that I need to resign from the HDC effective this evening. I have greatly enjoyed the opportunity to serve on the Commission over the past two years, but I am increasingly finding that I am unable to devote the time and energy that should be expected of its members. Given my multiple careers, other Exeter board involvement, charity work, military service, and various other ventures, every day and night of my month is already accounted for and it's time for me to pare my schedule back a bit.

Having just attended the May HDC meeting tonight, I am giving the Planning Board 30 days to find a replacement and I trust that one of my colleagues can step up. I will retain my positions on the Exeter Planning Board and Budget Recommendations Committee.

I hope that you're all doing well and I look forward to continuing to serve Exeter, albeit in a slightly more limited capacity.

Best Regards, Nick

Email dictated via mobile device voice recognition. Please excuse any typos.

Nicholas Gray

Multi-Family Investor/Agent - The Boulos Company 14 Manchester Square, Suite 235 Portsmouth, NH 03801 C: (603) 770-1738 | O: (603) 570-2658 ngray@boulos.com | www.boulos.com

Sales Engineer - J.F. Gray & Associates One New Hampshire Avenue, #125 Portsmouth, NH 03801 C: (603) 770-1738 | O: (603) 570-4860 nick@jfgray.com | www.jfgray.com

Staff Sergeant & Officer Candidate - NH Air National Guard Pease Air National Guard Base 302 Newmarket Street Portsmouth, NH 03801 nicholas.t.gray.mil@mail.mil | 157arw.ang.af.mil

Pamela Gjettum <pgjettum@gmail.com>

Fri, May 17, 2019 at 8:56 AM

Pete Cameron <dpgc@islc.net>, Robin Tyner <rd.tyner88@gmail.com>, Niko Papakonstantis <npapakonstantis@exeternh.gov>, Anne Surman <ASurman@exeternh.gov>, Julie Gilman <jgilman@exeternh.gov>, "mcowan@exeternh.gov" <mcowan@exeternh.gov>, Curtis Boivin <boivincurtis@gmail.com>, Doug Eastman <deastman@exeternh.gov>, Elizabeth Herrick <ehlizzyeh@gmail.com>, Gregory Colling <gcolling@merrimackdesign.com>, Linda Allen <lallen09@comcast.net>, Valerie Ouellette <gvouel@yahoo.com>, Russ Dean <rdean@exeternh.gov>, David Sharples <dsharples@exeternh.gov>

Oh no! I felt a frisson of fear last night when you were telling us about your NG commitment. You will be very much missed, very knowledgeable and always prepared. Oh dear never enough hours in the week. Pam



Town of Exeter

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

Statement of Interest Boards and Committee Membership

Committ	ee Selection: Plar	nning Board				
	New 🔳	Re-Appointment	Regular	Alternate		
Name:	Peter Steckler		Email: petersteckler@gmail.com			
Address:	4 Locust Ave, Ex	eter	Phone: 603-706-5852			
Registere	d Voter: Yes	No 🗌				
Statement of	of Interest/experience	e/background/qualification, etc. (re	esume can be attached).			
i feel strong	ly about encouraging	and directing appropriate land use	in Exeter for the benefit of curre	ent and future residents, and I am		
		ty for the Town. I am a certified wetla				
of profession	nal natural resource	management and planning experience	ce to the Planning Board. In my	current professional role and in		
past position	ns I have worked clos	sely with engineers on infrastructure	and land development and plar	nning projects. I currently work on		
		to enhance climate resilience and r				
		m sea level rise or more severe storr				
If this is re-ap	opointment to a pos	ition, please list any training session	ns you have attended relative t	o your appointed position.		
who has not After submit	subsequent vacan t filed a similar app ting this application application will be re	cation will be presented to the E cies on the same board; 2. The T clication; 3. this application will be for appointment to the Town Mana eviewed and you will be scheduled f the Board will vote on your potentia	own Manager and Selectbo. De available for public inspec- ager: The an interview with the Select The an interview with the Select	ard may nominate someone ction.		
Clerk	pointed, you was rec	your service on the committee or b	er and will be required to com-	plete paperwork with the Town		
Signature:	T	SCC 2	Date:	4/4/14		

May 6, 2019 6:50pm



Town of Exeter

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

Statement of Interest Boards and Committee Membership

Committee Selection: Planning Board							
	New	Re-Appointment	Regular	Alternate 🔳			
Name:	Kris Weeks Email: krisweeks12@gmail.com						
Address:	7 Penn Lane, Exeter, NH 03833 Phone: Cell 413-341-7000						
Registere	d Voter: Yes	No 🗌					
Statement	of Interest/experience,	/background/qualification, etc. (re	esume can be attached).				
I am intere	ested in volunteering	my time and expertise to the P	lanning Board for the To	own of Exeter. I am an architect by			
profession	, and I work for a firr	n in Manchester, NH called Lav	vallee Brensinger Assoc	iates. We moved to Exeter in June			
of 2017. N	ly wife Karyn and I h	ave 3 kids in the Exeter school	system, and we really I	ike living here. I would like to			
contribute	to the continued wel	l-being of this community. Atta	ched is my resume for y	our consideration.			
Thank you	ι,						
Kris Week	s						
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:							
i certity th	at i am 18 years of a	ge or older:		4/00/0040			
Signature			Dat	e: 4/23/2019			

7 Penn Lane Exeter, NH 03833 Cell phone/text: 413-341-7000 Home phone: 603-418-7558 Email: krisweeks12@gmail.com

EXPERIENCE

September 2018-Present

Project Architect / Project Manager

Lavallee Brensinger Associates, Manchester, NH

April 2017-September 2018

Project Architect

William Rawn Associates, Architects, Inc., Boston, MA

- Project: King Open-Cambridge Street Upper Schools and Community Complex in Cambridge, MA, a \$130M, net-zero-energy building complex that includes two new K-8 schools, shared recreational and performance spaces, a city library branch, and a community swimming pool. Expected completion: August 2019.
- Construction Documents phase: Led the efforts to design, detail, and document shell and core
 features, including curtain wall, roof, solar electric system, and various wall systems using brick,
 terra cotta, granite, metal, and high-pressure laminate panels. Coordinated our scope with the
 design team.
- Construction Administration phase: Point person for the design team. Leading the review of submittals, RFIs, change orders, payment applications, and schedules of value. Coordinating reviews of the same with design team consultants. Creating proposal requests, architect's supplemental instructions, and sketches as needed. Leading junior staff in CA tasks.
- Leading weekly Owner-Architect-Contractor meetings and conducting weekly field observations during construction. Working on site with the client's team and the construction management team to resolve field issues and stay on schedule.
- Working with LEED, net-zero energy, and commissioning consultants to ensure building meets our performance goals.

March 2014-April 2017

Project Architect & BIM Manager

The S/L/A/M Collaborative, Glastonbury, CT and Boston, MA

- Projects included the Campus Crossroads Project at the University of Notre Dame (UND-CCP), the renovation of the Martha Van Renssalaer Hall at Cornell University, the Kent School Racquet Center in Kent, CT, and the renovation of Nonnewaug High School in Woodbury, CT.
- Performed architectural duties 75% of the time and BIM Management duties 25% of the time.
- Performed code review, programming, design, documentation, and visualization tasks as part of the design and technical teams for the projects listed above.
- Lead project architect for the Kent School Racquet Center project.
- Served as BIM Manager for all aspects of the UND-CCP project (a \$450M, multi-building project, the largest in the school's history), including Revit modeling, BIM execution planning, and Revit

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training and troubleshooting for other team members. Coordinated model sharing among the design teams, and led the design consultant coordination of Navisworks models.

- Conducted firm-wide BIM projects, such as automated the printing and file sharing process, developed cost estimating processes for Revit models, and used Dynamo for early concept models.
- Member of the BIM Council for the Construction Institute at the University of Hartford. Presented at two monthly meetings and co-authored a white paper in 2016.

May 2013-July 2015

Instructor, Part-time

University of Massachusetts at Amherst, MA

• Taught *Introduction to Revit* to graduate and undergraduate architecture students during summer semesters.

August 2013-March 2014

Architectural Designer & BIM Manager

Brady Sullivan Properties, Manchester, NH

- Performed architectural design of large-scale residential projects, including the conversion of New England mill buildings into apartment and condominium units. Projects included the Lofts at Millwest in Manchester, NH, and the Lofts at Lancaster Mills in Clinton, MA.
- Implemented a new process for generating CAD drawings on existing condition surveys.
- Worked with state and federal historic resource offices to ensure compliance with historic preservation standards.
- Responsible for developing BIM best practices and standards for the architecture department.

May 2012-August 2013

Intern Architect

Caolo & Bieniek Associates, Inc., Chicopee, MA

- Worked on design projects for a middle school renovation, a new library addition, a new public safety complex, and office/commercial renovations.
- Converted the firm from AutoCAD to Revit. This included implementing new software and hardware, training five fellow staff members, and running all new projects in Revit.
- Authored a certified study for an office and classroom building at Westfield State University.

2009-2012

CAD Instructor & Master of Architecture Candidate

Department of Architecture, University of Massachusetts, Amherst, MA

- Taught an undergraduate AutoCAD and Sketchup course. Rewrote the course material.
- Helped initiate and implement the department's first laser cutter program.

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- Completed the Master's degree program. Areas of focus included digital design and fabrication, history of Modern architecture, organic design, visualization and performance analysis.
- Master's thesis research focused on digital design and fabrication in architecture. Explored
 how these tools may be used to create full-scale building components.

2010-2012

Architectural Intern

Ford Gillen Architects, Amherst, MA

- Provided design, drafting, and IT support while completing my M. Arch. degree.
- Helped the firm execute their first Revit-based project: a new 7,000 SF multi-use building for the Amherst Survival Center, a local non-profit organization in Amherst. Created renderings that were used in successful fund-raising campaigns.
- Worked on design projects for the renovation of municipal courthouses in Massachusetts.

2003-2009

Various Roles in Technical Publications

Autodesk, Inc., Manchester, NH and Waltham, MA *User Assistance Manager (2007-09)*

- Led various teams of up to 10 people with a goal of improving the help and tutorial documents for Autodesk's AutoCAD and Revit products for the AEC industry.
- Succeeded in releasing new tutorials that were much more concise (over 53% fewer pages on average), were organized according to real-world workflows, and featured a common building model across the Revit Architecture, MEP, and Structure tutorials.
- Led the implementation of training videos as a standard part of our help and training documentation. Worked with the staff to implement authoring techniques and processes.
- Incorporated training videos in the tutorials that were also used in technical marketing presentations. This eliminated redundant efforts and saved the technical marketing team tens of thousands of dollars in development time.

Subject Matter Expert, MEP BIM (2006-07)

- Provided support to the writing teams by creating systems that were used in the Revit MEP and AutoCAD MEP documentation.
- Assisted the software team by identifying areas for improvement within the Revit MEP software.

Lead Technical Writer (2003-06)

Wrote help and tutorial documentation for AutoCAD MEP and AutoCAD Architecture. Worked
with our internal experts and customers to discern real-world workflows and structure the
documentation accordingly. Also worked with vendors/developers from IES and Trane to
document the energy analysis and duct sizing capabilities being built into AutoCAD MEP.

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EDUCATION

2009-2012

Master of Architecture University of Massachusetts, Amherst, MA

2008-2009 Architectural Coursework Boston Architectural College, Boston, MA 1987-1991

Bachelor of Science Mechanical Engineering Worcester Polytechnic Institute, Worcester, MA

PUBLICATIONS

Braving the New World of BIM
Architectural Evangelist, August 23, 2012

Fabricating a Future Architecture
Master's Thesis on ScholarWorks, May 2012

Without a Trace: Creating an Existing-Conditions BIM Model for Renovation Architectural Evangelist, September 27, 2012 Time to Align: BIM Geographic Positioning Construction Institute, June 2016

CREDENTIALS/ORGANIZATIONS

Registered Architect • State of Massachusetts • No. 951101 AIA Member • License No. 38021659 LEED AP BD+C • GBCI No. 10679597 MCPPO Certified

Right To A Healthy Climate



Kira Aakre Kelley, Attorney at Law

Kira Kelley, Esq 21B Acme St Windsor VT 05048 kakelley436@gmail.com (802) 683-4086 NH Bar ID: 271359

Exeter Select Board % Russell Dean, Town Manager 10 Front Street Exeter, NH 03833

May 6, 2019

Dear Exeter Select Board:

I am writing on behalf of Citizen Action for Exeter's Environment, which engaged the Community Environmental Legal Defense Fund in October of 2018 for assistance in drafting the Right to a Healthy Climate Ordinance. As CELDF's New Hampshire counsel, I have carefully reviewed the applicable law and our opinion is that the law requires you to sign and date the "Right to a Healthy Climate Ordinance" by following the procedure that NH RSA 31:128 outlines: "Certification shall be by the town or city clerk, or by the official enacting the legislation, or by the chairman, secretary or clerk of the board or body enacting the municipal legislation."

Standing alone, NH RSA 31:128 does not require a select board or a town clerk to sign and date all ordinances. The procedure outlined in RSA 31:128 *does* become mandatory, however, when laws that *do* impose binding obligations upon a select board or town clerk incorporate the RSA 31:128 procedure into their directives.

Both State law and the Exeter Select Board Operating Procedures require you to sign and date the Right to a Healthy Climate Ordinance.

NH RSA 41:8 requires select boards to "manage the prudential affairs of the town and perform the duties by law prescribed." The ordinance itself is a law that prescribes a duty to the Select Board: to sign and date the ordinance as outlined in RSA 31:128. Even if the decision to sign an ordinance is normally a prudential affair over which a select board has discretion, townspeople may override this discretion with a majority vote. *Moulton v. Beals*, 98 N.H. 461, 464 (1954). By enacting an ordinance that prescribes a specific method for adopting this ordinance, Exeter voters have overridden any discretion that the Select Board may have had in this matter.

The Exeter Select Board Operating Procedures reiterate the Board's duty to abide by town ordinances. The Select Board "derives its authority from NH RSA 41:8,



Kira Aakre Kelley, Attorney at Law

Kira Kelley, Esq 21B Acme St Windsor VT 05048 kakelley436@gmail.com (802) 683-4086 NH Bar ID: 271359

other NH RSA's, and Town Ordinances." (Operating Procedures, § 3). "Board members must "abide by all Board decisions, policies, procedures, and ordinances." (Operating Procedures, § 8).

The Right to a Healthy Climate Ordinance prescribes a nondiscretionary duty to the Board to be "signed and dated by the town selectmen in accordance with NH RSA 31:128."

According to state law, Exeter Select Board's operating procedures, and this properly enacted local ordinance, the Select Board must sign and date the Right to a Healthy Climate Ordinance. Neither the personal nor the legal opinions of Select Board members regarding the content or enforceability of the ordinance allows any Board member to violate this legal mandate.

Thank you for your time and consideration of this matter.

Sincerely,

Kira Aakre Kelley Attorney At Law

MITCHELL MUNICIPAL GROUP, P.A.

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246
www.mitchellmunicipalgroup.com

WALTER L. MITCHELL LAURA A. SPECTOR-MORGAN STEVEN M. WHITLEY NAOMI N. BUTTERFIELD JUDITH E. WHITELAW (OF COUNSEL)

TELEPHONE (603) 524-3885

March 18, 2019

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

Dear Russ:

I am responding to your request, forwarded on your behalf and that of the Board of Selectmen, asking for guidance after the voters' approval of the petitioned article captioned "Right to a Healthy Climate Ordinance". Specifically, you have asked for guidance on what the Board should do? By this, I assume you are asking with reference to both the immediate future and the longer term.

In its simplest terms, my response must be: "Do Nothing". Let me explain:

- 1. For the short run, the language of Section 2 of the ordinance calls for "amendment of the New Hampshire Constitution and the federal Constitution". However, unlike some similar articles, it does not require any representative of the town to inform any particular individual or official about the outcome of this vote.
- 2. At the end of the Ordinance, there is a directive that the Ordinance be "signed and dated by the town selectmen", supposedly "in accordance with NH RSA 31:128". However that directive results from a significant misreading and misunderstanding of that statute. That statute has nothing to do with the process for adoption of an Ordinance, or its validity. Instead, it provides for a standard methodology for proving the existence and validity of a local ordinance in a court proceeding. The Board of Selectmen in fact has no role in signing or dating an ordinance after adoption by the voters.

Therefore, in the short run there is nothing required of you or the Board.

3. In the longer run, the only time that you or the board may be faced with whether there is a need to do anything involving this ordinance is when a citizen, or group of citizens, approaches you requesting that the town "enforce" the ordinance.

This ordinance consists of three parts: the Preamble is just that, a gathering of background facts and principals that the writer believed were relevant.

The second part, Section 1, is also labeled "Statements of Law". It contains little or no "law" but instead consists of a listing of goals or aspirations. It contains no regulation or proscription of activity. The only exception is that it purports to eliminate *in the town of Exeter* the legal concept of "preemption", attempting to sweep away

Town of Exeter March 18, 2019 Page 2

generations of state and federal court decisions which have recognized the superiority of our state and federal constitutions.

The third part, captioned "State and Federal Constitutional Changes" implicitly recognizes the illegality of that attempt to eliminate preemption by local declaration, when it calls for changes to the state and federal constitutions.

In sum, analysis of the ordinance compels the conclusion that there is nothing regulatory or prohibitory in it to enforce. Therefore, should the town be requested to enforce the ordinance in the future, I would have no choice but to advise that no action should be taken.

- 4. Because this ordinance purports to grant residents rights to take direct action, it is certainly possible that an attempt may be made to draw the town into such an action as a Co-Defendant, with a request that the court compel the town to "enforce" the ordinance. If that occurs, I expect that the court would dismiss the town from the action and would seriously consider awarding the town its attorney fees because of the many significant ordinance deficiencies described above.
- 5. And finally, in the last sentence of Section 1 (a), the writers of this ordinance seek to override state law by stating that if one wants to amend this particular ordinance, it will require not just a majority of the voters voting on such an article, or even a majority of all voters *registered* in the town. Instead, what it requires is that a majority "of the residents of the town" must vote to amend this ordinance for such an amendment to be valid, which of course is a practical impossibility.

If you assume that such a self-restriction is valid, then the vote of that *majority of the residents* would be required to try to fix any of the legal deficiencies described above.

Please let me know if there are further questions.

1

Walter L. Mitchell

Sincerely.

walter@mitchellmunigroup.com

Adopt Revised Facilities Committee Charge

Current

Facilities Advisory Committee

Committee Charge

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.
- · 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.
- Deferred level of capital replacement needs.
- 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.

Membership of the Committee shall consist of five (5) residents, one non-voting Select Board member, and two (2) alternate members appointed by the Select Board. The 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 30th. 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. The Committee shall provide an annual report to the 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 Select Board April 11th, 2016 Revised and Adopted August 27th, 2018

Facilities Committee

Committee Charge

The purposes of the Facilities Advisory Committee are as follows:

- Assess and analyze municipally-owned facilities in order to prioritize physical plant needs and budgets.
- Develop a quantifying, data driven facilities assessment and analysis methodology and process that informs decision makers and enables priority-setting among Capital Improvement Program (CIP), replacement, renovation, and maintenance projects.
- Advise the Select Board, Town Manager, Planning Board, Budget Recommendations Committee, and Public Works Department (DPW) on facilities priorities, including construction, replacement, renovation, and maintenance, and the development of an overall facilities strategy.
- Consider developing an Exeter Facilities Master Plan and a Facilities Policy.
- Coordinate where possible with other town Boards, Commissions,
 Committees, and other local entities, including the Public Library Building Committee.
- Make any recommendations resulting from carrying out the aforementioned purposes.

In carrying out its Charge, the Committee also shall take into account the Facilities priorities described in the 2018 Town Master Plan adopted by the Planning Board, the 2015 Town Facilities Plan, and any other relevant studies and reports.

Membership of the Committee shall consist of five (5) residents, one non-voting Select Board member, and two (2) alternate members appointed by the Select Board. The 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 30th. Initial terms shall be set for 1, 2, and 3 years, and thereafter be set at 3 years. Members may be reappointed 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.

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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 Select Board April 11, 2016 Revised and Adopted August 27, 2018 Revised and Adopted



Exeter Facilities Advisory Committee Goals and Objectives

Goals and Objectives 2019

- Perform Facilities Condition Assessment for all Town
- Commissions, Committees, and other entities through Engage regularly with other relevant Town Boards, liaison representatives A
- Identify how best to interface with Select Board, Town Manager, Planning Board, Budget Recommendations Committee, Town Planner, and DPW to enable full participation in the FY 2021 Budget Process A
- Recruit additional Committee Members (1 voting, 2 alt) to broaden workload A
- Where possible, become partly involved in the **FY 2020 Budget Process** A

Goals and Objectives 2020

- Analysis Tool and Process to enable priority-setting **Deliver data-driven Facilities Assessment and** among facilities-related projects
- Participate fully in FY 2021 Budget Process on facilities-related projects A

Recommendations Recommendations Exeter Facilities Advisory Committee FY 2021 Budget Inputs Proposed Timeline Comm by early-Recommendations to Planning Board by August 1 to Town Planner by Recommendations Recommendations to Town Manager by mid-May-early June **Facilities-related** Meet with Town Departments on **Proposals**

to Budget

Public Works Project Updates

Parks/Recreation Capital Reserve Fund Requests

TO:

Russ Dean, Town Manager

CC:

Doreen Chester, Finance Director

FROM:

Greg Bisson, Director of Parks and Recreation

RE:

ADA lift-Daniel R Healy Pool

DATE:

05/20/2019

Exeter Parks and Recreation recently solicited a structural engineer to consult and design plans for the installation of an ADA lift. Emmanuel Engineering was contracted to create a set of plans for Exeter Public Works to following in construction of a cement pad and installation of a Spectrum Freedom. ADA requires both Title ii (public) and Title iii (private) entities to provide "accessible means of entry for swimming pools". This law was passed in 2011 and entities needed to be compliant by 2013. The only pools exempted from this law is privately owned pools. Failure to comply could result in a \$75,000 fine with the fine doubling thereafter until installation is achieved. We have owned the lift for 6 years. The cost of the ADA lift was \$6000. There is a large cost saving with Public Works performing the install. Cost for Emmanuel Engineering is \$2,600. Cost of the Surface mount for the ADA lift is \$500, Weather Cover for ADA lift is \$400, Concrete is \$850.

Cost: \$4,350

Motions:

To make a motion to allow the Parks and Recreation Department to expend \$3,300 out of Impact Fees for engineering plans to install the ADA lift as well as additional material and parts required for compliance.

Respectfully Yours,

Greg Bisson

Director, Exeter Parks and Recreation Department

TO:

Russ Dean, Town Manager

CC:

Doreen Chester, Finance Director

FROM:

Greg Bisson, Director of Parks and Recreation

RE:

Stewart Park Dock Expansion

DATE:

05/20/2019

Exeter Parks and Recreation submitted an application to DES in 2018 for installation of a Kayak Cradle and dock expansion. After months of delays in approval, DES requested an engineered plan for the dock as there was none on file from the initial installation. The dock was originally put in by the State of NH but had since been given to the town. DES suggested Ambite Engineering of Greenland to assist in this plan as they deal with DES quite often. Cost of this service is \$3,300. We have conditional approval from DES once this plan is submitted.

Cost: \$3,300

Motions:

To make a motion to allow the Parks and Recreation Department to expend \$3,300 out of Park Improvement Capital Reserve Fund for engineering plans of the existing dock and future expansion.

Respectfully Yours,

Greg Bisson

Director, Exeter Parks and Recreation Department

TO:

Russ Dean, Town Manager

CC:

Doreen Chester, Finance Director

FROM:

Greg Bisson, Director of Parks and Recreation

RE:

Fencing-TownHouse Common

DATE:

05/20/2019

Exeter Parks and Recreation is looking to replace the western red cedar fencing along Bow Street with a granite post fencing. This type of fencing would mirror the fencing already located in the park. The granite post fencing has a longer lifespan than all wooden fences. The current fence, only 11 years old, was replaced in 2008 and is currently beyond repairs. The future plan is to also fence in the entire Court Street side of the park.

We only received 1 quote for this job. It was submitted by AAA Fencing, Dover, NH.

Cost: \$9,862.00

Motions:

To make a motion to allow the Parks and Recreation Department to expend \$9,862.00 out of Park Improvement Capital Reserve fund.

Respectfully Yours,

Greg Bisson

Director, Exeter Parks and Recreation Department

Fund Balances	Current Totals	Project Expenses
Recreation Revolving Fund (as of December 31st, 2018)	\$ 76,837.00	
Recreation Impact Fees (as of Feburary 28, 2019	\$ 125,350.93	
ADA Lift		\$ 4,350.00
Town Docks Engineering		\$ 3,300.00
South live and the state of the	d 70 700 00	
Park Improvement Fund	\$ 78,700.00	
Townhouse Common Fence		\$ 9,862.00
Possible Projects with funding sources for 2019		
Kid's Park (Impact fees, Parks Improve Fund, Donation, Grants)		
Gale Park walkway (Park Improvement Fund)		
Gilman Park Pavilion		

New Totals
\$ 76,837.00
\$ 117,700.93
\$ 68,838.00

Parks/Recreation Design/Engineering Recommendation – Recreation Park

TO: Russ Dean, Town Manager

CC: Doreen Chester, Finance Director

FROM: Greg Bisson, Director of Parks and Recreation

RE: RFP-Recreation Park

DATE: 05/20/2019

Exeter Parks and Recreation recently solicited proposals for the design and engineering (renovation and expansion) of the Recreation Park located at 4 Hampton Rd. Six firms submitted proposals. The selection committee interviewed five firms that the Recreation Director believes met the RFP requirements on May 7, 2019. Allen and Major Associates, Inc was not selected to interview as they did not meet the requirements of our scope of services. The five firms selected for interviews were: Eaglebrook Engineering & Survey, Tighe and Bond, Weston and Sampson, Woodard and Curran, and Gale Associates.

The Selection Committee was made up of Dave Sharples, Town Planner, Doug Eastman, Building Inspector, Mark Leighton, Director of Facilities Management for PEA, Stephanie Papakonstantis, Chair Woman, Recreation Advisory Board, Rob Ficara, Alternate to the Recreation Advisory Board, Melissa Roy, Assistant Director of Parks and Recreation, David Tovey, Recreation Coordinator and Greg Bisson, Director of Exeter Parks and Recreation.

Exeter Parks and Recreation Department, with the support of the selection committee, recommends Tighe and Bond be awarded the contract for the design and engineering of the Recreation Park. Exeter Parks and Recreation previously worked with Tighe and Bond to create an initial set of conceptual designs in 2015. Tighe and Bond is familiar with this project and the challenges the current layout of the property creates.

Tighe and Bond has worked on comparable projects such as the Windham School Athletic Track and Fields, Exeter High School Track and Athletic fields, The University of New Hampshire Athletic Flelds and Facilities renovations and Watkin's Field Rehabilitation (Gardner, MA). Tighe and Bond's proposal was submitted for a total of \$205,125. The Parks and Recreation Department request additional funding from the Selectboard for additional work with Tighe and Bond not included in the scope of services. Any additional requests for funds (under the \$250,000 warrant limit) would pertain to the project such as boring land samples for the proposed building site or a drainage plan for the existing field. This contingency balance would be \$44,875 with the total project not to exceed \$250,000.

Select Board Suggested:

Move the board to approve the award of the recreation park design and engineering to Tighe and Bond for \$205,125, and to authorize the Town Manager Russ Dean to be the signatory on the contract.

Respectfully Yours,

Greg Bisson
Director, Exeter Parks and Recreation Department

Epping Road TIF Update

TO:

Select Board

FROM:

Town Manager

RE:

Epping Road TIF Update

DATE:

May 17th, 2019

Economic Development Director Winham will be present to update the Board on activities within the Epping Road TIF District including water/sewer extensions, and projects either under construction or in the planning stages.

Tax Abatements, Credits & Exemptions

List for Select Board meeting May 20, 2019

Timber Tax

Map/Lot	Location	Amount
47/8	7 Willey Creek	79.54
104/70	98 Linden St/ Cypress Cir	571.64
42/1	228 Epping Road	4,603.88

Approval for Exempt Properties

Tax Warrant First Bill 2019 \$24,487,771.37

Intent to Cut

Map/Lot	Location	
46/3	20 Continental Dr	

Correspondence



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 1 5 POST OFFICE SQUARE, SUITE 100 BOSTON, MA 02109-3912

VIA EMAIL

May 14, 2019

Russell Dean Town Manager

And;

Jennifer Mates, PE Assistant Town Engineer 13 Newfields Road Exeter, NH 03833 imates@exeternh.gov

Re: National Pollutant Discharge Elimination System (NPDES) Permit ID: NHR041007, Town of Exeter, NH

Dear Jennifer Mates:

Your Notice of Intent (NOI) for coverage under the 2017 NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in New Hampshire (MS4 General Permit) has been reviewed by EPA and appears to be complete. You are hereby granted authorization by EPA to discharge stormwater from your MS4 in accordance with applicable terms and conditions of the MS4 General Permit, including all applicable Appendices. This authorization to discharge expires at midnight on **June 30, 2023.**

For those permittees that certified Endangered Species Act eligibility under Criterion C in their NOI, this authorization letter also serves as EPA's concurrence with your determination that your discharges will have no effect on the listed species present in your action area, based on the information provided in your NOI.

As a reminder, your first annual report is due by **September 30, 2019** for the reporting period from May 1, 2018 through June 30, 2019.

Information about the permit and available resources can be found on our website: https://www.epa.gov/npdes-permits/new-hampshire-small-ms4-general-permit. Should you have

any questions regarding this permit please contact Suzanne Warner at warner.suzanne@epa.gov or (617) 918-1383.

Sincerely,

Thelma Murphy, Chief

Stormwater and Construction Permits Section

Thetrail Murphy

Office of Ecosystem Protection

United States Environmental Protection Agency, Region 1

THE SERVICE AND ACTION ARM OF NEW HAMPSHIRE MUNICIPALITIES

LEGISLAIIWE BULLETIN

Increasing Alarm About Constitutional Claims Bill

The House Judiciary Committee voted this week to recommend passage of **SB** 36, the bill providing that any government entity that deprives a person of rights secured by the New Hampshire Constitution will be liable to that person in an action for damages. By a 12-7 vote, the committee approved an amendment that replaces the entire bill, but only after narrowly rejecting, by a 10-9 margin, a further amendment supported by NHMA.

We wrote about this bill in <u>Legislative Bulletin #26</u>, expressing concern that the bill would result in duplicative litigation when governmental conduct that violates a state statute might also be deemed to violate the state constitution. For example, the bill would allow someone filing a complaint under the Right-to-Know Law to add a claim for violation of Part 1, Article 8 of the New Hampshire Constitution, which guarantees public access to "governmental proceedings and records."

There are any number of other existing cases that could be converted into constitutional claims under **SB 36**: employment discrimination claims, eminent domain appeals, zoning appeals, even road layout cases. **SB 36** guarantees (1) a jury trial and (2) in almost all cases, an award of attorney fees to a prevailing plaintiff, neither of which would otherwise be available in most of these cases, so they would immediately become more expensive.

NHMA's proposed amendment is simple—it would add one sentence to the committee amendment: "This section shall not apply to any case in which the plaintiff has a separate statutory remedy." This would avoid the multiplication of claims while still honoring the intent of the bill.

NHMA does not oppose the stated goal of the bill, which is to provide a remedy to someone whose state constitutional rights have been violated when he or she has no other remedy—such as a federal constitutional claim or a statutory or common law tort claim. The bill is intended, as several people stated at the committee hearing, to "fill the gap," and "provide a key to the courthouse." Our proposed amendment would accommodate that purpose. If the plaintiff had no other remedy, the amendment would

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allow application of the newly created constitutional claim, complete with jury trial and an award of attorney fees. Only in cases where the plaintiff *already has a remedy* would the amendment deny an *additional* claim.

Our concern about duplicative litigation is not something we have imagined, nor is it new. The New Hampshire Supreme Court recognized exactly the same concern over 30 years ago. When a town declined a request to lay out roads to benefit certain properties, the property owners appealed under RSA 231:34. In addition to the statutory remedy, they sought money damages for deprivation of their property rights under the New Hampshire Constitution. The supreme court declined to allow such a claim. Writing for a unanimous court, Justice David Souter stated:

We frankly fear, however, that provision of a *supplemental cause of action* to provide an additional remedy for a constitutional violation in these circumstances would inevitably lead to the conversion of every road dispute into a constitutional tort action. . . . Unlike the statutory appeal for layout, such a damages action would carry a *right to jury trial* and, hence, to a trial separate from the layout appeal. The likely *multiplication of litigation* resulting from a local squabble would be too high a price to pay for such a supplemental cause of action.

Rockhouse Mt. Property Owners Assoc. v. Town of Conway, 127 N.H. 593, 599 (1986) (emphasis added). Without our amendment, **SB 36** would accomplish by legislative action exactly what the supreme court declined, for sound public policy reasons, to do by judicial action.

The only objection we have heard to our proposed amendment is that the analogous federal statute, 42 U.S.C. § 1983, does not contain a similar provision. That is hardly persuasive. We think most legislators would agree that New Hampshire law doesn't always need to mimic federal law regardless of the merits.

We have one other concern about the bill. Under the committee amendment, a claim would be filed against a "natural person," not against a municipality or the state. This suggests that in all cases the lawsuit would be filed against the *individual municipal officials or employees* who were responsible for the claimed violation. The bill does provide for mandatory indemnification by the municipality, but that will be of little comfort to the newly elected zoning board member who finds himself named individually in a lawsuit claiming he violated the constitution by voting to deny a variance. As every municipal official knows, it is hard enough to find people to fill elected or appointed positions; the prospect of being sued individually for goodfaith actions taken in the ordinary course of business is certain to drive more volunteers away.

This week's to-do list

- Contact your representatives and urge them to support the floor amendment on SB 36, relative to constitutional claims, and to kill the bill if the floor amendment fails.
- Ask your senator to support a floor amendment to HB 616, the retiree COLA bill, to have the COLAs paid by the state, and to kill the bill if the floor amendment fails.
- ✓ Repeat the first two items.
- Contact your senator if you are concerned about the costs of stricter arsenic standards under HB 261.
- Call the governor and ask him to sign HB 409, the municipal transportation improvement fee bill, and HB 365, the net metering bill.

All of this could be solved, or at least significantly mitigated, by the one additional sentence included in the amendment we proposed. That amendment will be offered again as floor amendment #2033h when the bill goes to the House next Thursday, May 23.

When **SB** 36 comes up for consideration, the first item will be the committee amendment. Whether that passes or fails, the next item will be the floor amendment, and then the House will vote on the bill with whatever amendment(s) have passed. We are asking representatives to:

- Vote FOR the committee amendment (which is an improvement on the original bill); then
- Regardless of what happens with the committee amendment, vote <u>FOR floor amendment #2033h</u>. This is by far the most important message.
- If the floor amendment passes, we do not object to passage of the bill as amended.
- If the floor amendment fails, then the bill must be voted down.

Please contact all your representatives as soon as possible with the above message, and let them know how dangerous this bill is without the floor amendment. This is one of the most important votes for your city or town this year.

Property Tax Increases to Fund Retiree COLAs

On Thursday the Senate Executive Departments and Administration Committee voted 3-2 to recommend Ought to Pass on HB 616, which provides a 1.5 percent cost-of-living adjustment (COLA) to New Hampshire Retirement System (NHRS) retirees who have been retired at least 5 years on July 1, 2019. The cost of this COLA will be paid by increases in future employer contributions rates over the next 20 years and will result in increased property taxes. As we reported in Bulletin #19, the cost to local government employers (cities, towns, school districts and counties) is estimated to be approximately \$116.3 million; the cost to the State of New Hampshire is estimated to be \$26.7 million, for a total cost of \$143 million.

At the committee meeting two weeks ago, a proposed amendment was distributed that would have provided a temporary supplemental allowance (TSA) of \$500 to each retiree with 20 years of creditable service who had been retired at least 5 years prior to July 1, 2019 with a pension of \$30,000 or less—to be paid from the state general fund, not by employers. This proposed amendment was identical to **HB 1756**, which passed in the 2018 session, provided a \$500 TSA to retirees last summer, and cost the state about \$8 million. Unfortunately, the TSA amendment was not brought forward at the committee meeting on Thursday, presumably due to the governor's announcement earlier in the week supporting **HB 616** – which mandates increased employer costs to pay for the COLAs.

We have no issue with retiree COLAs. It's how the COLA is funded that concerns us. If the state believes COLAs are important, why is it not willing to pay for them? According to the fiscal note on **HB 616**, the cost of the COLA, if paid by June 30, 2019 is \$65 million, an amount well below the anticipated June 30, 2019 year-end state surplus of \$173 million to \$194 million.

However, neither the governor or the House chose to make the COLA a budget priority by paying for it from anticipated state surplus, instead opting to charge local government employers over the next 20 years. As we have previously explained, paying for the COLA over time is very similar to paying a mortgage over time, which results in the total cost being much higher due to the effect of interest. This is why the cost of the COLA jumps from \$65 million in 2019 to \$143 million in total over the next 20 years.

We also understand lawmakers want to provide some monetary remuneration for retirees with low pensions. Funding a \$500 TSA, as was done last year, is a way to provide those with the lowest pensions *more* than a 1.5% increase, at a reasonable cost to the state. In fact, such a TSA could be provided each year of the upcoming biennium for less than \$20 million of state funds, without charging property taxpayers over the next two decades for \$116 million.

Finally, **HB** 616 in its current form is very likely an unconstitutional unfunded mandate, as explained in our April 27 Article 28-a letter to the committee.

Please contact your <u>senator</u> and urge him or her **not** to support the committee recommendation of Ought to Pass on **HB 616**, but instead **support** a **floor** amendment that provides a payment to retirees funded by the state. In the absence of such a floor amendment, urge them to avoid the unfunded mandate on property taxpayers by **killing the bill**.

Stricter Arsenic Standard

On Tuesday the Senate Energy and Natural Resources Committee voted unanimously to recommend amendment 2019-1913s to HB 261, which requires the Department of Environmental Services (DES) to lower both the maximum contaminant level (MCL) in drinking water and the ambient groundwater quality standard (AGQS) for arsenic from 10 parts per billion (ppb) to no more than five ppb. The amendment requires the effective date of the stricter arsenic standard to be no sooner than July 1, 2021. Our understanding is that at least a two-year period before stricter standards take effect is consistent with what the federal Environmental Protection Agency provides when establishing new or revised MCLs, and in some cases the delay may be up to 6 years.

The amendment also clarifies that competitive grants and/or loans from the Drinking Water and Groundwater Trust Fund may be available to assist with the capital costs of compliance with new or revised MCLs or AGQS. However, as we have explained in previous *Bulletins*, the fiscal impact of the stricter arsenic standard will increase system operation and maintenance costs, since the treatment media will need more frequent replacement. Such maintenance costs are not eligible for trust fund grants or loans. Additionally, it is anticipated that municipal land-fills and wastewater facilities will also see increased costs to comply with the stricter arsenic standard.

Analysis of the estimated costs and estimated potential health benefits (6 to 19 fewer bladder/lung cancer cases and 4 fewer skin cancer cases in New Hampshire over the next 70 years) as a result of implementing the stricter arsenic standard is detailed in the DES **Review of the Drinking Water MCL and AGQS for Arsenic report** issued December 31, 2018.

HB 261 with the recommended committee amendment will go to the full Senate for a vote next week. Please contact your senator if you have concerns about this bill.

Help Push Net Metering Over the Finish Line

As we reported last week, the House concurred with the Senate's amendment on <u>HB 365</u>, the **NHMA policy bill** that increases the capacity limit for net metering projects to five megawatts. The bill could arrive soon on the governor's desk. The governor vetoed a similar bill last year, and although the bill did garner solid veto-proof majorities in both houses this year, the many supporters of **HB 365** would prefer to avoid the need for another override campaign.

We know many local officials support this bill, and you know who you are. Please consider calling the governor's office and urging him to sign HB 365.

Local Option Transportation Improvement Fee

On Wednesday the Senate voted 15 to 9 to pass <u>HB 409</u>, the NHMA policy bill that increases the cap on the local option transportation improvement fee from \$5 to \$10. As we have explained in previous *Bulletins* (and contrary to some comments during debate on the Senate floor), revenue raised from this local option fee must be placed in a capital reserve fund, and can only be spent on transportation related projects or services after appropriation by the legislative body of the municipality. Additionally, RSA 261:153, VI specifically prohibits the money from being spent on non-transportation appropriations.

NHMA thanks the many legislators, local officials, and others who have diligently advocated in support of this local option fee increase over the past several years. **HB 409** now heads to the governor for final action. We encourage local officials to contact the governor and ask him to sign the bill.

Solid Waste Reporting Returns

It's started, right on time. By "it," we mean the Lazarus-like return of bills thought to be dead. In this case it is **SB 79**, the bill that requires municipalities to report annually on the amount of solid waste sent to landfills or incinerators, the amount recycled or otherwise diverted, and efforts to achieve source reduction, reuse, recycling, and composting. As we reported previously, NHMA had worked out an amendment with the Department of Environmental Services to address our concerns with the bill, and submitted it when the House Environment and Agricultural Committee had a hearing on the bill in April. That committee, however, decided to retain the bill, and that was that.

But that wasn't really that. This week the Senate amended an unrelated bill, **HB 560**, which would have restricted the distribution of single-use carryout bags, by deleting the entire bill and substituting the text of **SB 79**, with <u>our amendment</u>. The Senate then passed the bill. ("How can they do that?" you ask. "Isn't that a non-germane amendment?" Perhaps, but under Senate rules, "The prohibition on non-germane amendments shall not apply in the case of a bill . . .

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previously found ought-to-pass by the Senate being added to a subsequent bill " If that seems heavy-handed, don't worry—the House has a similar rule.)

Here, then, is where we are. **SB** 79 itself is still retained in the House Environment and Agriculture Committee, and it is not going anywhere this year. But **HB** 560 now contains the **SB** 79 language with our amendment. **HB** 560 will now go back to the House, which presumably will be unhappy that the Senate (1) removed the carryout bag restriction that the House had passed and (2) passed the solid waste reporting language that the House committee had retained. The bill seems destined for a committee of conference.

HOUSE CALENDAR

TUESDAY, MAY 21, 2019

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

11:15 a.m. SB 285-FN, establishing a coastal resilience and economic development program.

SENATE CALENDAR

There are no hearings of municipal interest.

HOUSE FLOOR ACTION

There was no House floor action for the week.

SENATE FLOOR ACTION

Wednesday, May 15, 2019

HB 110-FN-A, relative to the cost of fiscal analysis of legislation relating to the retirement system. **Passed with Amendment.**

HB 128, establishing a committee to study veterans property tax credits and exemptions. **Passed.**

HB 149, relative to the apportionment of costs in cooperative school districts. Inexpedient to Legislate.

HB 272, relative to temporary workers. Re-referred.

HB 281, relative to flow devices designed to control beaver damming and minimize the risk of flooding behind an existing beaver dam. **Passed.**

HB 303, relative to certification of building code compliance inspectors. Re-referred.

HB 326, relative to the definition of prime wetland. Passed with Amendment.

HB 345, relative to certification of devices for the electronic counting of ballots. Passed.

HB 358, relative to combustion of wood residue at municipal waste combustors. **Inexpedient to Legislate.**

HB 384, relative to access to historic burial sites on state-owned land. Re-referred.

HB 407-FN, clarifying the non-taxability of certain telecommunications devices and equipment. Tabled.

HB 409, relative to the maximum optional fee for transportation improvements charged by municipalities when collecting motor vehicle registration fees. Passed. NHMA Policy.

HB 415, relative to the official ballot referendum form of town meetings. Passed. NHMA Policy.

HB 443, relative to municipal watering restrictions. Passed with Amendment.

HB 539-FN, establishing a committee to study the implementation of the One4All ballot in municipal elections. **Passed with Amendment**.

HB 560-FN, (New Title) relative to required reporting on waste reduction. Passed with Amendment.

HB 562, relative to the state building code. Passed with Amendment. NHMA Policy.

HB 582-FN, relative to the regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. **Passed with Amendment**.

HB 591, amending the laws governing OHRVs and snowmobiles. Passed with Amendment.

HB 592, relative to OHRV operation and license. Passed with Amendment.

HB 710-FN, relative to adoption of state building code and fire code amendments. Passed with Amendment.

	2019 NHMA UPCOMING EVENTS FOR MEMBERS
June 6	Municipal Trustees Training, Concord
June 13	2019 Fundamentals of Local Welfare
June 14	NHMA/NHMLA: Ethics for Municipal Attorneys
June 25	Municipal Trustees Training, Gorham
June 26	Webinar: 2019 Legislative Wrap-up

To register for an upcoming event, go to our website: www.nhmunicipal.org and scroll down on the left under CALENDAR OF EVENTS. Click on the green bar *View the Full Calendar* and go to the workshop or webinar you are interested in. For more information, please call NHMA's Workshop registration line: (603) 230-3350.