

# TOWN OF LITCHFIELD BOARD OF SELECTMAN

## December 17, 2012

### Selectmen's Meeting

Members Present: John R. Brunelle, Chairman  
George Lambert (Vice Chair)  
M. Patricia Jewett  
Frank Byron

Absent: Brent Lemire (excused)

Also Present: Jason Hoch, Town Administrator

5:00 p.m. Paperwork review  
5:45 p.m. Non-Public Session per RSA 91-A:3 II (c)  
6:00 p.m. Call to Order

### **Pledge of Allegiance**

#### **Review of Items for Consent:**

1. Approval of Accounts Payable for December 18 and prospective approval of Accounts Payable for December 26 (if necessary).
2. Approval of Payroll for December 20 and prospective approval of Payroll for December 27.
3. Elderly Exemption applications.
4. Renewal of Boat Agent Agreement with Irwin Marine.

### **Approval of Consent Items**

Selectman John Brunelle **motioned** to the Board of Selectmen to approve the items for consent. Selectman P. Jewett **seconded** the motion. **Vote carries 4-0-0.**

**Non-Public Session: Motion** by Selectman Brunelle to go into non-public session per RSA 91-1A:3II(b), seconded by Selectman Jewett. Roll Call vote taken: Brunelle, aye, Lambert, aye, Byron, aye, Jewett, aye. Board went into a non-public session at 6:08 pm. Returned and resumed meeting at 6:20 pm.

Selectman F. Byron made a **motion** to hire on a full time basis Donna Baril with a start date of December 17, 2012, at a Grade 7, Step 3 with a salary of \$32,022 which equals an hourly rate of \$15.88. Selectman P. Jewett **seconded** the motion. **Vote carries 4-0-0.**

Selectman F. Byron made a **motion** to hire on a full time basis Karen White as Finance/Human Resource Coordinator with a start date of November 1, 2012, hired at a Grade 11, Step 5 with a salary of \$50,404, which equals an hourly rate of \$24.23. Selectman P. Jewett **seconded** the

motion. **Vote carries 4-0-0.** Selectman J. Brunelle gave rave reviews to both over the last 4 months and welcomed them both to their new positions.

### **Requests for Items - Other Business:**

Selectman F. Byron would like to discuss the purchase by the Town of a Defibrillator AED for the Recycling Center. Selectman J. Brunelle would like to discuss a request from a citizen about the addition of a Warrant Article, and will discuss the matter in the Old Business section on Warrant Articles. Selectman P. Jewett would like to thank all the town residents for donating items as well as their time in sending off Holiday boxes to our men and women serving overseas and here. Boxes were sent to Afghanistan, Spain, also to homes of some military families here in the United States. Special Thank you to Jack Algeo, of New England Small Tube for mailing the packages, and to volunteers who went above and beyond, they include Joan Taylor, Janice Hood, Elizabeth Robinson and Debbie.

**Public Input:** No members of the public were present

### **Administrator Report**

#### **New Business**

Administrator J. Hoch discusses the return of an insurance surplus from Primex who the town use to be a member with. Currently no surplus has been returned, other than through premium holidays and workers compensation, which the town is receiving. There is an open property liability issue pending that Jason is not sure how they will be dealing, but wanted to make sure there was nothing else out there since we are no longer a customer and that the town might be missing something. Selectman F. Byron makes a **motion** for the Board of Selectmen to direct Town Counsel to send a letter to our Insurance providers past and present who may have excess funds of the town, and if so return them to the town of Litchfield. Selectman J. Brunelle **seconds**. Selectman F. Byron continues the discussion by asking J. Hoch to verify that the two providers are Primex and LGC. Selectman J. Brunelle states that LGC has returned funds, J. Hoch mentions that they have returned them in the form of premium holidays, but there is a separate issue that is part of the Secretary of State's hearing which states that they have been ordered to return more and that has not been committed to yet and that issue is going to the State Supreme Court. J. Hoch mentions that he spoke with Primex and their settlement agreement from earlier this year with the Secretary of State's office, Bureau of Security Regulation Department mentions an eligibility for return of funds to customers as of 2009. However, things remain unclear so a letter to follow up with questions formed by Town Counsel is necessary at this point. **Vote carries 4-0-0.**

#### **Old Business**

##### **Year End Funds and Encumbrances**

Administrator J. Hoch starts out by stating he tried to sharpen his pencil again to try and pull out some more items from budget. He would like to highlight a few items to see if there is an opportunity to approve some things this evening and move forward with possible purchases before year end and possibly save a few dollars on year end deals. Other items can be discussed at the next meeting that has been scheduled for December 27, 2012 to finalize and

approve everything at that time. J. Hoch states that he feels comfortable and it is looking like the budget should have \$200,000 for year end available. What he has outlined this evening totals about \$110,000 of that money. Selectman F. Byron asks if the items Jason includes have been put into the budget and approved by the Budget Committee. J. Hoch states that almost all are and that he will go through each item and make a note of which are or are not. There are some carry over items that he will flag as well. Jason starts with the Highway Department, tree removal and gravel. All gravel did not get put out this year and tree removal after discussion with J. Pinciario back in September, money was to be set aside. Skid Steer replacement at the Solid Waste Facility the town was waiting to hear about a possible grant of up to \$5,000. However, the Town got \$2,500; the town's additional match share he put in this line. Copier for police department had been approved in the Police budget for a one time expense. The Selectmen approved an impact fee update when they reviewed the planning budget back in September in the amount of \$13,500. Camera system expansion in the town office was approved in the general government budget as a one time expense of \$1,000. Next, emergency management- code red alert system, this fee was paid by a FEMA reimbursement in 2012, so it was not part of the operating budget; the cost of this service is about \$4,500. Jason states he would like to set aside half of this money in encumbrances and the other half in next year's budget. Road repair we have \$38,000 savings from winter work we had this past year. Emergency Management exercise, we budgeted \$1,000 but in reality it will be more like \$2,500. Selectman F. Byron asks a question about the Highway's \$38,000 being residual from the Highway Block Grant money. Jason states that no that money has already been spent, this was money from winter maintenance savings and from road work not done. Next were two items for the Fire Department, one set of protective gear as well as Fire software training and data preparation. Police in car camera system software which is a one time expense. Next are IT items including storage expansion, data switch and Cisco 3 years smart net maintenance. Records management, this pulls some of the additions that Jason had put into different departments such as some supplies and puts in just a flat \$5,000 and sets it aside for this purpose. Next would be the air conditioning unit for the Fire Department, the town had set some money aside last year. However, it was insufficient, this item is not out of the operating budget, it is just a clean up from a prior year encumbrance. Jason has a request from the Recreation Commission for \$6,000 of their unspent funds to be encumbered for soccer equipment that they have not purchased as of yet. Selectman F. Byron asks isn't soccer a separate and independent function from the Recreation Commission. He thought that there is a Youth Soccer league and the equipment is supplied for that league separate from the Recreation Department. Jason states that he will have a discussion with the Commission and get clarity on this item for a future meeting. Defibrillator AED for the Solid Waste facility, there is not one currently there, and with the volume of people going thru, the Fire Department feels it would be a good idea, price should be around \$850. Next up is the tax map update, Jason said this should be done yearly and will cost around \$1,750. Selectman F. Byron asks what are we getting for that money? Jason says that it includes GIS parcel data, all data compiled to date, data preparation, digitize all missing building footprints from 2010 aerials, looks at all edits done since 2005, build the map index grid and produce all the maps. Selectman F. Byron states that a tax map update is usually just the perimeter of the lots. J. Hoch responded by stating that merging all the data and aerials is the best course for updating and that the Board can certainly pull this item or

change it but the savings for just lot updates would probably only save around \$200. Selectman F. Byron feels that this is a lot more than a tax map update and that the update only should be around \$500. Jason states that the last update was probably 6-7 years ago and that the price quoted is a maximum dollar amount, that he is not looking for contractual approval this evening so if he is wrong and updating the lots comes in at around the \$500 dollar mark than the town has saved \$1,250 to go back into the fund balance. Also if working with NRPC, once the map templates are complete, they can edit annually at no further cost. Next on list would be the Fire Department exterior stair repair for \$1,000. The next item is retaining a portion of the funds for the roof on the Town Hall, of the funds raised out of the warrant article, most all of the balance can drop back. But Jason would like to retain about \$3,000, this still gives back about \$12,000 that was committed out of the fund balance last year for the project. Assessing Services is the annual carryover of assessing costs. Next is Wage Scale Implementation and there is no provision in the budget for this for the coming year, so Jason put out a figure to address the issue, if it is decided to take on the project of implementing a new step and wage scale, it would need to be funded. Selectman J. Brunelle mentioned that after discussion with Jason that if the Town decided to take on a new step and wage scale, this would be a way to start moving forward with the project without having to wait an additional year. Selectman J. Brunelle asks why the board is not voting for approval of the items not impacting the budget because they are meeting with the Budget Committee tomorrow. Jason says that he is looking for approval on a few items, because he would like to get some purchase orders in before year end. Discussion follows over which items should be approved, Selectman G. Lambert states that he would like to make sure we properly communicate to the voters that we are trying to offset spending for next year and that we are returning money to the taxpayer. There are two separate attempts to take things out of the operating budget that have already been sent to the Budget Committee and is reducing their tax bill. Selectman J. Brunelle asks the Board which items they would like to approve this evening. Selectman P. Jewett asks if items such as the copier has gone out to bid. Jason and Selectman J. Brunelle respond that this item they want to match what the town already has for parts and service reasons as well as maintaining the existing vendor. Same with IT, it is a single source and needs to be maintained by existing person. J. Hoch mentioned that the emergency software has been put to bid and that this amount is \$2,000 dollars cheaper than the current system. Selectman J. Brunelle asks if the copier, Emergency Alert software and the 3 IT items can be approved and proceed to Budget Committee. Selectman G. Lambert makes a **motion** to approve the items Selectman J. Brunelle mentioned. Due to lack of a **second**.

**Motion fails.**

Selectman J. Brunelle makes a **motion** to approve the following for encumbrances, tree removal, gravel, skid steer, copier, Emergency Alert software, road repair, Emergency Management exercise, protective gear, storage expansion, data switch, 3 years maintenance, records management, Fire Department AC, Defibrillator AED, stairs. Selectman G. Lambert **seconds** the motion. **Vote Fails 2-2-0.**

Selectmen J. Brunelle asks if anyone else would make a suggestion on the next motion. Selectman P. Jewett states she would like to include copier, protective gear, Defibrillator AED, 3 IT items and stairs and makes a **motion** for these items, then P. Jewett adds that she would like something to be done with the stairs as far as having them covered for safety issues, the Board

tells her that there is nothing budgeted for that at this time. Selectman G. Lambert **seconds** the motion. Selectman G. Lambert discusses that any item not passed will go into next year's budget some of which is money that the town will not spend out of the operating budget. He feels that the voters will not see the difference in that, in a way that is useful. But the Board gets to explain to them, look we asked you for this much money to do these things and we have asked you next year for money to do these things. He goes on to explain that many of these items are going to be paid for out of the Operating Budget or the Default Budget but this way the board does not have to put them in either budget, plus we are topping off our Fund Balance and reducing taxes it just seems to make sense to him. Selectman F. Byron then asks Jason to list items that were not contained in the Budget Committee's proposed budget. J. Hoch states the road repair for \$38,000 is not a matched item, the exercise for Emergency Management was for \$1,000 and this year it is \$2,500 this item was budgeted too low and when prices were checked it came in higher. When asked if this is a town wide event, Jason states that it is what they call a table top exercise and that it is a paper exercise and not a town wide people deployed exercise. Next item the A/C for the Fire Department, soccer equipment, Defibrillator AED and the tax maps, were items not in the budget. Jason then goes on to say let me give you the items to revise the budget that were removed but were previously approved by the Budget Committee and the Board of Selectman they include, Fire Department stairs, records management, the Cisco 3 years maintenance, the data switch, storage expansion, the in car camera system software, protective gear, part of the exercise that was just discussed, the full cost of the notification of the Alert System, the camera system expansion for the Town Government Building, the copier and the skid steer are all items that were approved by this Board and the Budget Committee. On the **motion** the **Vote carries 4-0-0**.

Selectman G. Lambert makes a **motion** for the road repair work to be approved. Selectman J. Brunelle **seconds** the motion. Selectman G. Lambert discusses in years past we would have used Highway Block Grant money to do this repair. He states that the board decided a few years ago to start for clearer budgeting purposes to go ahead and add these items to the budget, so that the town has income offsetting these particular types of projects. So paying for it now with available funds seems to be a good idea and feels that is why the Board should vote for it now, also so it can move forward the first of the year. Selectman P. Jewett would like to leave this item until later, she feels that all the bills are not in from Department Heads and that there might be something more pressing to come up before the year ends. Selectman J. Brunelle mentions that this is why the Board is not depleting the \$200,000 dollar budget and leaving \$80,000 there even with the passing of these items. **Vote carries 4-0-0**.

Selectman J. Brunelle moves on to discuss the Wage Scale. Discussion is to put aside \$15,000 of year end funds for taking action next year on the implementation from the existing step program to the new wage scale; this would allow the Board to have funds available to start this process next year instead of possibly waiting another year. Selectman P. Jewett still has concerns and would like to put off vote until later. Selectman F. Byron asks why the Board could not take the money out of the existing budget at the time if approved? Selectman J. Brunelle says the Board could, but is concerned that money may not be there when the time comes. Selectman F. Byron states that we have an excess fund of \$200,000 we should have money

available and he feels it is premature to put money aside at this time, and that more discussion needs to happen before presenting this to the employees. Discussion is tabled until a later date.

Selectman F. Byron asks Jason to discuss the re-encumbrances he has listed. J. Hoch states that these three items have already been encumbered from last year and the balances need to be carried forward. He estimates that they will be around \$18,000 to \$20,000, action does not need to be taken at this time, these items will be listed and refreshed so they do not expire and can be discussed at next meeting.

Selectman J. Brunelle makes a **motion** to have the highway tree removal and highway gravel approved. Selectman G. Lambert **seconds**. **Vote carries 3-1-0.**

Discussion moves on to replacing the phone system for the Town. Selectman J. Brunelle states that the money has already been put aside for this, it is just a question of whether the Board agrees to authorize the spending of it on this item or not. Selectman J. Brunelle goes on to say he brought forward the proposal to replace the aging phone system with an IP based system and to replace all the handsets, core systems here in the Town Hall, the Police Department, Fire Department and all associated infrastructure. Estimate was for \$45,000 but feels it would not exceed \$43,000. This would be a town wide system upgrade, that could be upgradable in the future and has features not present with the current aging system. Current system can no longer be supported, it is no longer available and can no longer be serviced appropriately, the service provider we have will only contract the Town for 1 more year, and there are no guarantees that parts can be found and the system could be repaired. This year, we had two system failures, and had a very difficult time finding parts. Selectman J. Brunelle would like to have the system approved before it becomes an emergency situation with no funding available. Selectman P. Jewett asks how old our current system is and Selectman J. Brunelle states that it was installed in 1998 and it was an older system at the time, he believes it was manufactured in 1992. Selectman F. Byron asks how is this going to be funded? Selectman J. Brunelle answers that funding is from FEMA, from a prior year expense that was put aside and allocated for this possible IT expense. Selectman F. Byron asks if this should be a warrant article, and if there is a cheaper phone system that can be obtained, he feels we do not need all the extras this system has. Selectman J. Brunelle states that the Police Department has special needs of recording and other features that are forced on the Town side of a phone system which needs some special requirements. Further discussion of some of the features include that it would tie all departments together, including the Fire Department who now has no connection with the Town facility at all. Selectman J. Brunelle also mentions that if the warrant for the Town Network Connectivity Project passes it would combine and allow all the town buildings such as Fire, Library and Police to connect with the new phone service in the town building. Selectman F. Byron asks how much FEMA money was put aside. Jason answered \$48,000. Selectman G. Lambert makes a **motion** to put the phone system to a warrant article and let the voters decide. Selectman P. Jewett **seconds**. Jason asks how the board would like to fund the warrant, first to let the encumbered funds lapse and risk the chance of losing it if the article fails, or two ignore the fund balance and ask the taxpayers for a new \$43,000 because you put it on a warrant, and if you are successful raise taxes to cover the cost of it. Jason discusses that if the

board chooses not to go with the warrant that this money is not going away and is hanging out in limbo, because the money was not committed anywhere. So he has to check, but at end of year the Board could take action to place the monies somewhere to be used at a future time and date. Selectman F. Byron asks if the board could apply the funds already put aside from FEMA and tie them to a warrant article to go before the voters. Jason states that you can not because the money has already been appropriated thru the actions of the Board in accepting it. Selectman F. Byron believes that the board did not appropriate the funds but put them aside in a separate fund. J. Hoch states he is trying to make sense of what the Board's wishes are and states that he is hearing that they would like to offset the money so the net effect is not to raise taxes. Selectman F. Byron discusses how he feels this is a large sum of money \$43,000 and feels the need for this to pass, but also feels that the citizens should have a chance to voice their opinions on it. He also would like it so it does not raise taxes, and asks how can we accomplish that. Selectman F. Byron states that to do that the Board should accept the funds and place them in the General Fund, then put a warrant article forward that takes money to do this from the General Fund. Jason says that he has no doubt that one of these suggestions can be done and not to get bogged down in how to do the mechanics of it at the moment, he will figure it out. Selectman J. Brunelle goes on to discuss that if the system fails, he is the one that will have to deal with it, and if the system fails it is going to cost a substantial amount of money, \$30,000 at least. Plus an additional \$14,000 in consulting fees to get the system running, he mentions that he can save the Town that deployment fee by doing the work himself because that is what he does for work. This would bring the amount down to \$29,000. Selectman G. Lambert at this time makes a **motion** to withdraw his previous motion. Selectman P. Jewett withdraws her **second**. Selectman G. Lambert make a **motion** to encumber \$29,000 for the phone system and not to appropriate funds for consulting fees where we have a community member that is qualified to do the work and save the voters \$14,000. Selectman F. Byron **seconds**. Selectman P. Jewett goes on to say that she feels that Selectman J. Brunelle should not be expected to do so much additional work and not be compensated. **Vote carries 2-0-2**. Jason asks for clarity on where the money that was voted will be taken from, and Selectman J. Brunelle states from the \$43,000 from FEMA Fund.

Selectman F. Byron makes a **motion** for the residual \$19,000 left in the FEMA Fund to be released back to the General Fund. Selectman P. Jewett **seconds**. Jason mentions that awhile back there was a discussion about Financial Software and he wanted to put aside \$3,000 to \$4,000 in the event that a vendor came up with a Human Resource Module assuming it meets the town's needs, and an upgrade in the Payroll Module, they are not there yet but before releasing all the funds he would like the Board to consider putting some money aside for this or does the Board want to hope we find the money when an opportunity comes up. He is just putting it out there for thought. Selectman F. Byron feels the board will find the monies when the time comes. **Vote carries 4-0-0**.

### **Budget Revisions**

Assumption of a possible Health & Dental insurance increase of 5%. Jason states that in looking forward he is anticipating fuel, diesel at \$3.85/gallon and gasoline at \$3.50/gallon. These are based on the Department of Energy numbers and their assumptions for the coming

year. Selectman F. Byron asks if this amount contains tax, to which Jason answers yes. Selectman P. Jewett asks if this is put out for bid, Jason says that it is a state bid, and is spot pricing not a contract. Selectman F. Byron mentions that diesel fuel is no different than #2 heating fuel and asks why can't the Town contract that price like has been done in the past and run this in the vehicles that use diesel. Jason states that we get the untaxed fuel and that everything else runs on natural gas for the town. For revision purposes, Jason needs to know if they want to switch to another fuel rate, then they need to let him know so he can make necessary adjustments and recalculate all those lines that would be affected. Discussion then moves on to the IRS mileage rate of 56-1/2 reimbursement over 55-1/2 cents starting January 1, 2013. Selectman J. Brunelle asks when we take all these revisions and adjustments what does it bring us to for a bottom line. Jason states that for the 2013 budget the changes reflect a revised budget of \$5,055,646 dollars, which is an increase over the prior year of \$91,449 this number includes all the encumbrances being taken out. Selectman J. Brunelle asks what is the number from the Budget Committee, Jason states it is \$5,088,562 which means that the budget is lower than the Budget Committee anticipated when all the changes are said and done. Discussion continues to see what action needs to be taken for the Board to approve the Health & Dental, Fuel and line changes. Selectman F. Byron states that in the past it has been done by voting the whole spreadsheet that Jason puts together and have that approved to be incorporated into the 2013 Budget with approval of the Selectman. Selectman J. Brunelle asks Jason to list the line items that have not been approved yet. Jason mentions that the camera system for Government buildings, Emergency Management exercise, protective gear, in car camera system for the Police Department, and records management are all the items that were taken out of the Operating Budget. Selectman J. Brunelle makes a **motion** to encumber \$1,000 for the camera system in the Government buildings. Selectman G. Lambert **seconds** **Vote carries 4-0-0.**

Selectman J. Brunelle makes a **motion** to encumber \$1,000 for the Emergency management exercise, \$19,995 for in car cameras for the Police Department, and \$3,000 for the records management. Selectman F. Byron **seconds**. **Vote carries 4-0-0**

Selectman J. Brunelle makes a **motion** to accept the revisions for the 2013 budget made by Jason and approved by this board. Selectman F. Byron **seconds**. **Vote carries 4-0-0.** Selectman J. Brunelle mentions that Jason and he as well as Selectmen G. Lambert as liaison will be attending the Budget Committee meeting tomorrow and that he will be there to support the changes made to the budget this evening and answer any questions. Also asks if Jason can get this revised document of the budget information along with the revised 2013 complete spreadsheet sent to the Committee so that they can distribute it to the members for review before the meeting.

(SEE ATTACHED DOCUMENT - [Budget 2-13 Revisions](#))

### **Default Budget**

Jason discusses the questions that were raised at the last Selectman meeting and the Board wanted them to be run by Counsel for guidance regarding appropriations, solid waste, overtime and accounting changes. Jason goes on to read the Counsel's response

*"In my opinion, the "baseline" for calculating the default budget is "the amount of the same appropriation as contained in the operating budget authorized for the previous year." Thus, you would start with the fixed dollar amount in the prior year's operating budget. I think that the best way to conceptualize the default budget is as a "budget freeze," and the place to start the calculation is with the amounts in last year's operating budget. Stated otherwise, the default budget is, for all intents and purposes, last year's operating budget, with adjustments as permitted under RSA 40:13,IX.*

*Using your hypothetical, if last year's budget included \$25.00 for pencils, and you anticipated spending \$100.00 next year, the default budget amount would be \$25.00. The reverse would also be true; if last year's budget included \$100 for pencils, and you anticipated spending \$25.00, the default budget amount would be \$100.00.*

*I am reluctant to suggest that if you anticipate that next year's expenditure within a particular line item will be less than last year's expenditure, that the default budget should reflect the lower amount. First, I think the default budget is a math problem beginning with fixed amounts from last year's operating budget. The fixed amounts can only be adjusted, upward or downward, as a result of "debt service, contract, and other obligations previously incurred or mandated by law." or reduced by "one-time expenditures." I consider these adjustments to be non-discretionary. Once you start adjusting your default budget based on anticipated expenditures, then you are no longer calculating a default budget; you would be in essence calculating your proposed operating budget. Second, in practical terms, if faced with a default budget, the Selectmen may need to transfer appropriations between line items, and I would not recommend a discretionary reduction to line items in the default budget (even if that were permissible) when there is no corresponding discretionary ability to increase line items in the default budget.*

*It is my recommendation, as a general rule, to use the same methodology and reasoning when you calculated the default budget which was used to calculate the previous year's operating budget. This is true both "horizontally" from last year's operating budget to this year's default budget, and "vertically" from line item to line item within the default budget. Thus, if there are grounds to increase or decrease the amounts in the default budget, that same reasoning should be applied equally."*

Jason goes on to say that he took the guidance from Counsel and ran everything thru the Default Budget calculations that he had put together. With advice and calculation, it brought the Default Budget bottom line to \$5,025.653, which is approximately \$30,000 less than the modified proposed budget. Selectman J. Brunelle asked what was the difference between last year's and this year's, and Jason states about \$60,000. Selectman J. Brunelle goes on to state that the reason the Board asked the question was because it is the practice of this Board to reduce line items in the examples that Jason provided. So this year, as proposed, if we spend \$25 for pencils were are going to budget \$25 and not \$100. The Board also took adjustment within the contracted services or things that the Town are bound to such as Union contracts, or increases that we are contracted to, that were also increased. Selectman J. Brunelle states the problem arose when Jason did not like that the Board reduced some numbers, such as Solid Waste last year budgeted 220 tons, but this year reduced it to 200 tons but also incurred the

committed contract increases, stating that the Counsel has suggested not to do either one, Selectman J. Brunelle's understanding is increase but keep the tonnage the same. Selectman F. Byron disagrees that is not how he interprets the lawyer's response, and states that the lawyer's job is to give legal advice and opinions, but that does not mean that advice has to be taken by the Board. Selectman F. Byron views the advice as, that if we have a contract yes, we are obligated to include those costs in the Default Budget, and he fully supports that. However, his understanding is that the Town is not under a contract or increase for the tipping fee? J. Hoch states that the tipping fee increases, the number of tons does not increase, but the cost per ton does. Selectman J. Brunelle goes on to discuss the difference between the Counsel's strict advice, and Jason's holding to the RSA, and the Board's desire is to lower the Default Budget based on what they feel the expenses will be next year, which include the reductions that were taken in line items as well as increases that the Board is contracted or committed to do. Solid Waste there were two examples, one they knew the tipping fees and price per ton were increasing, but the Board also in the budget lowered the tonnage account due to more recycling, it was "a double whammy" because we lowered the tonnage but increased the cost because they are contracted to do so. Which is in the face of what Counsel is advising the Board. Selectman J. Brunelle asks Jason what is the amount of the default budget. Jason responds with two budget amounts one for \$4,940,936 a total amount that is less than last year's budget with all contractual obligations added, or you factor a default budget based on the guidance from Town Council the amount would be \$5,025.653. To that Selectman G. Lambert asks what was last year's approved budget, Jason states \$4,964,196. Selectman G. Lambert makes a **motion** to use that amount for this year's budget. Selectman J. Brunelle **seconds**. Selectman G. Lambert goes on to discuss that the attorney see the default budget as a minimum figure that we need to do. He feels if the Town goes with the amount from last year and adds the contractual obligations than that is the lowest number the Board can come up with and should use that figure. Selectman F. Byron adds that the Board should discuss each item separately and vote accordingly. The difference of \$85,000 can be addressed and voted on with each item questioned. Selectman G. Lambert withdraws his **motion** and Selectman J. Brunelle withdraws his **second**. Discussion about getting the proposed budget to the Budget Committee continues and Selectman F. Byron states that if the Board agrees on all items this evening that you can generate a draft Default Budget to deliver to the Budget Committee tomorrow. Further discussion is regarding best language for the voters to understand this process of how a Default Budget works. Also that the Operating Budget and Default Budget are going to be too close for voters to understand how the differences work. Also how to get a motion worded that the Board can include these items that have been discussed and advised upon by Counsel. J. Hoch feels that the Board is getting hung up on the mathematical components of this, that the two budget amounts can be close they can be within a dollar of each other; it is not really intended as giving the voter a choice of this proposed budget that the Budget Committee has presented or a maintenance style budget that is based on what has last been approved previously. Selectman G. Lambert mentions that one of the benefits of a Default Budget is to prevent a "rogue" Budget Committee from increasing a budget too much or decreasing a budget to much. In an ideal world the Operating and Default would be the same number, or the Default budget could be lower, this would mean the the Boards are doing their jobs and doing right by the taxpayer. He would like to do as the attorneys suggest. Selectman F. Byron makes a **motion** that the Board

adopts the policy for the Default Budget and that if we reduce the spending we will reduce the amount of the Default Budget. Selectman J. Brunelle **seconds**. Selectman F. Byron states that this is contrary to Legal advice, but he feels it is in the best interest of the citizens. **Vote carries 4-0-0.**

### **Solid Waste Disposal/Gasoline**

Selectman F. Byron makes a **motion** for the Board of Selectmen to set the 2013 Default Budget based upon the tonnage for Solid Waste or the number of estimated gallons of gas and fuels, as well as any contractual costs. Jason recommends from Town Counsel that the Board use the same estimate for tonnage that was used last year with the increase contract price. Jason would also like to make a note that this is counter to the recommendations of the Town Counsel, because the Board is giving him direction which goes against Counsel. Selectman J. Brunelle assures J. Hoch that the Board takes full responsibility for their decision and that he is only doing what is asked and the paperwork for the Board's approval. Selectman G. Lambert **seconds. Vote carries 4-0-0.**

### **Overtime**

Jason reads the recommendation from Legal Counsel regarding overtime.

*"Whether or not increases to the default budget for overtime wages would be permissible, based on contractual increases to wages (another non-discretionary increase), is a very difficult question. The default budget could contain the same amount as last year based on the premise that overtime is not guaranteed. The default budget could also be prepared in the same manner as discussed above with regard to solid waste disposal fees, i.e., use the same number of overtime hours used to estimate last year's operating budget, and multiply that figure by the increased wage figure attributable to contractually obligated pay increases. In my opinion, either option would be permissible, although I would recommend calculating the default budget based on the increased wage figure".*

Jason goes on to say that in the simplest terms if you had \$10,000 in an overtime line and your contractual obligation went up 3% you would use \$10,000 plus 3%. Selectman J. Brunelle makes a **motion** that whatever the dollar amount was last year apply it to this year plus whatever percentage increase if there is a contractual agreement. Otherwise nothing changes because it is just based on the flat hours. Selectman P. Jewett **seconds. Vote carries 4-0-0.**

### **Accounting for School District Gasoline Usage**

Selectman F. Byron states that the issue up for discussion is that last year's budget does not show an appropriation for purchase of school district gasoline. He states that \$3,400 for gasoline was purchased however, it was washed out of the budget because the Town received revenue of \$3,400 from the school for it. But by default the Default Budget does not consider that. Selectman J. Brunelle makes a **motion** that for accounting purposes the Board takes the recommendation of Counsel. Selectman P. Jewett **seconds. Vote carries 4-0-0.**

### **Ambulance Service**

Selectman J. Brunelle makes a **motion** that the Town has a legal obligation to incur the costs that the provider is telling the Town. Also that the Board is taking the recommendation of Counsel. Selectman F. Byron **seconds. Vote carries 4-0-0.**

Selectman F. Byron makes a **motion** that the Town Administrator J. Hoch will calculate the Default Budget based upon those and markets his draft and be able to present that to the Budget Committee tomorrow evening. Selectman J. Brunelle **seconds.** Selectman F. Byron would like to amend his **motion** that along with the draft of the Default Budget Jason brings along a copy of Town Counsel's letter. Selectman G. Lambert **seconds. Vote carries 4-0-0.**

Selectman F. Byron makes another amendment to his **motion** that the Board release the Town Counsel's letter to the public. Selectman J. Brunelle **seconds. Vote carries 4-0-0.**

Selectman G. Lambert makes a **motion** that the Board of Selectman acknowledge that they have put the Town Administrator J. Hoch in a difficult position about unclear direction from both the State and the Board of Selectmen on the appropriation of the Default Budget and that the Board has taken their best judgement and given J. Hoch instruction. Selectman J. Brunelle **seconds. Vote carries 4-0-0.**

Selectman G. Lambert temporarily leaves the meeting at 9:10pm

### **Warrant Articles**

Jason discusses that he reviewed these with Counsel and got notes back from DRA. Jason suggests that on the Assessing Trust Fund the Board removed that article altogether. The means for implementing it require an annual article appropriation not through budget. This was not Jason's intention to do it that way, so stay with the same process because this will not get the Board anywhere better without much greater confusion. Next Jason speaks to the Building Systems Expendable Trust Fund, the question for Counsel was can this be used by the Library. Counsel's comments "Think this fund could be used for repairs for the Library building, if the Library had unanticipated system failure and did not have money in their budget, they would be asking the Selectmen to transfer money to their budget anyway. I see having this fund available being no different and can be used for any town building." Selectman J. Brunelle asked if DRA had any problem with the wording, to which Jason stated no.

Jason goes on to speak about Article 6 this reflected a few of the fund balances. The question was could the Board change the wording of the statement from the unexpended fund balance, up closer to the beginning of the sentence. The preference for DRA is the second one. Jason will be rewriting them.

There was also a general question about taking all of the Trust Funds and bundling them up into one article for all the different purposes. Counsel states "I do not recommend combining all of the Trust Fund Articles into one single article, it may be legally permissible but I think that the potential for a negative vote defeating all proposed Trusts weighs heavily against consolidating the articles".

Selectman J. Brunelle continues with discussion of Article #5 Network Expansion. He was asked to correct the wording, it is as follows, To see if the Town will vote and raise \$20,000

for the implementation of a Town wide network to connect all departments to the Town Hall consolidating all services. With a recurring cost of \$2,510 a month for all services. Selectman J. Brunelle goes on to say that when he started this project he was working with the school and trying to work out a few options. So in their last pass in trying to reduce the size and bandwidth, it made sense with the Town's sizing that its \$20,000 for the first year's cost and \$2,600 a month. With that the Town consolidates all of its data networks; it allows for extending it out to the Library, Fire, and at Town Hall, it also allows for a backup link to the High School to be able to move services to the High School if ever needed. Selectman J. Brunelle asks when does the Board have to vote on all the warrants? Jason states they need to be voted by January 28th, they can be presented at the public hearing on the annual budget by January 15th, so you have to at least decide if you are bringing them forward by then. Selectman J. Brunelle asks if the Board can approve some of the articles this evening? Selectman J. Brunelle makes a **motion** that the Board approves Article #2 as written and approved by DRA. Selectman F. Byron **seconds**. Jason suggests that what the Board may want to do is rather not include "approve as written" with this article because you will be rewriting based on the others. So he suggests that the Board recommends or goes forward with everything that is a money article then the Board can bless everything that has to be rewritten. Selectman J. Brunelle says that if its the Board's pleasure not to vote anything at this time, they can still present them as unapproved at this time. Selectman P. Jewetts states that she would like to have all 5 members in attendance to vote on these articles due to the money that is involved.

Selectmen G. Lambert is back in attendance at 9:20pm.

Discussion continues about delaying proceeding with the approval of the Warrants until they have more time for discussion and all members can be present. Selectman F. Byron mentions that the Budget Committee can receive a draft it does not have to be a final version for them to look over and consult on the articles. Jason states that all the articles have to introduced on January 15, 2013, and voted on by January 28th. Selectman J. Brunelle withdraws his **motion** and Selectman F. Byron withdraws his **second**. Selectman P. Jewett makes a **motion** to hold a Board of Selectmen meeting to discuss and approve all the Warrant Articles on January 7, 2013 at 6:00pm at Town Hall. Selectman F. Byron **seconds. Vote carries 4-0-0.**

### **Selectman Reports**

Selectman G. Lambert said he met with the Budget Committee and they are concerned about the Board of Selectmen wanting to change the number of members on the Budget Committee without the Committee's request. The concern was expressed to him so he is sharing it with the Board. Selectman J. Brunelle responds that Budget Committee was asked to appear in front of the Board and discuss the matter and have not. The Warrant Article has been put forward and he would like to hear what the Committee disagrees with. Selectman J. Brunelle goes on to say that the Budget Committee feels that it is difficult enough to find volunteers for their Committee without having to add more. Selectman J. Brunelle states that the request by the Board of Selectman for an additional member was necessary due to the Committee being an even number for voting purposes. Selectman F. Byron asks if the Committee would be in favor of dropping a member instead. Selectman G. Lambert was asked to express the desire of the

Board at the meeting tomorrow evening and if the Budget Committee has any concerns to please come and discuss it at the next Selectmen's meeting.

Selectman F. Byron mentions that tomorrow evening December 18th there is a Planning Board meeting at 7:00 pm which is a public hearing to discuss two proposed Ordinances to change zoning. One for multi family and one for changing an area in the southern part of town from Commercial Industrial to Residential due to it being landlocked, it is bordered by all residential. Selectman F. Byron states that it could be an interesting meeting due to the fact that the he is being told that as of now the Chairman and the Vice Chairman cannot attend that meeting.

Selectman J. Brunelle would like to extend a congratulations to two Litchfield Fire Fighters, who were promoted to Lieutenant and it becomes effective on January 1, 2013, they are Lt. Robert Desmond and Lt. Ed Clancy. Selectman G. Lambert makes a **motion** to request that the Town Administrator J. Hoch to prepare a letter of congratulations to each individual and have it available for the members of this Board to sign. Selectman P. Jewett **seconds. Vote carries 4-0-0.**

Selectman P. Jewett mentions that she met with the Conservation Committee last week and it was a very short meeting.

### **Other Business**

Selectman J. Brunelle mentions that he meant to discuss this in the Warrant part of this meeting but overlooked it, but would like to discuss that a citizen made a request to the Board of Selectmen that the Board construct a Warrant Article to make it mandatory for all public meetings to be recorded, and that they enforce this change. This comes from the request to have the Recreation Commission recorded, he goes on to mention that the Town has 3 Boards that are not recorded as of now. This has been a topic of conversation in the past and Selectman J. Brunelle is in favor of the Boards being recorded but has concerns for the members or volunteers who do not want to be televised and recorded. But if the Board wants to take action on this proposed Warrant and put it to the voters to let them decide. Selectman P. Jewett brings up that she has stated in the past that the Recreation Commission is not in favor of this action. Selectman J. Brunelle expresses concern that he feels not enough citizens are watching the meeting now and not sure why we are paying for that service, states that the Town is getting 25 or less people viewing a month. Mentions that there is no argument over if this should be done and that if put in a Warrant that the Town would pass this article because it makes sense to do it, but struggles with the financial gain of doing this. Selectman G. Lambert expresses that he agrees mostly with this and that the Board has expressed a preference to have meetings recorded but does not want to get into saying "all" or "absolute" across the board to everything. Selectman J. Brunelle states that this request would mean that all Boards and Committees would meet in the Town facility, because that is where the recording equipment is located. Selectman F. Byron in trying to find a compromise makes a **motion** that the Board of Selectman hereby directs the Cable Committee that all the Town organizations will be televised effective May 1, 2014. Selectman F. Byron states that this would give people notice and allow their terms to expire in April 1, 2013 as well as until 2014 and they can make up their minds if

they want to be televised and recorded in any of the Town Committees. Selectman J. Brunelle **seconds**. Selectman P. Jewett does not like this proposal and feels the Town will lose members and volunteers that are needed. Selectman G. Lambert would like to have all the Department Heads and other concerned individuals to come to the Selectmen meeting on January 14, 2012 to discuss this matter. Selectman F. Byron makes a **motion** to table this discussion until the meeting of the 14th. Selectman G. Lambert **seconds**. **Vote carries 4-0-0**. Selectman J. Brunelle asks that the petitioner of the Warrant be asked to attend this meeting on the 14th and Selectman F. Byron asks that a copy of the motion be sent to the Department Heads as well as this individual. Jason mentions that January 8th is the last day to present Warrants for approval and if the citizen is not happy with what the Board chooses than he has no recourse. So Selectman J. Brunelle makes a **motion** to reschedule the meeting for January 7, 2013. Selectman P. Jewett **seconds**. **Vote carries 4-0-0**. Selectman J. Brunelle then asks for notification by letter be sent to all elected bodies, Committees and Boards, the public as well as the petitioner so discussion can continue regarding all public meetings.

Selectman J. Brunelle discusses that last week the Board received a 91 A request. The request has since been rescinded. But this opened up a concern for him, so he is asking how do they as a Board and as a Town respond to the 91 A request. In the case of this request it was all done with a number of individuals by email. He states that the Board's method of discovery is very difficult we do not have a very good method. The Board would have to reach out to all parties involved and ask them to take out and forward information, it would just be too much work to try and gather all the data, and he is not sure if the Board could do it in the time frame that might be requested. Selectman J. Brunelle asks how do we resolve this problem? Selectman G. Lambert stated that the Attorney General is quite clear on RSA 91 A and that he has a copy he could forward to Selectman J. Brunell and Board if needed. States the the RSA says that you only have to make available the records that you have immediately within your access and control, you do not have to go and reconstruct if anything has been deleted, RSA 91 A states only what is in your control. However, once you have that request you can not destroy any records. Selectman G. Lambert mentions that any electronic record is subject for a right to know request. Selectman J. Brunelle states that is what he has a problem with, if a request is made there is no way that the Board can ensure that deleted information can be recovered. Selectman F. Byron states that would not be a Town issue that it would be an individual issue. Selectman J. Brunelle mentions that the Town could turn on a vaulting service that allows for discovery within our environment. He is looking to propose allocating funds to enact this vaulting service that would retain messages longer than if someone deletes information and then the town finds out that they need that information. Selectman J. Brunelle would like to add \$5,000 to the IT account. Selectman F. Byron feels that once subpoenaed that individual is under the guidelines of the law to produce what is asked and if they hold something back or destroy something whatever it may be they are accountable for those actions. The Board decides not to take any action on this matter at this time, the feeling is that the Town is protected with things they have in place now.

Selectman F. Byron discusses taking money from the General Fund and applying it to the Budget ranging from \$100,000 to \$40,000. Selectman J. Brunelle goes on the say that if

everything works out the way that it is now the Net Increase over last year is \$91,000, and asks why would we not want to take that amount? Selectman G. Lambert states unless you go out and explain to the public that their tax bill is going up substantially next year on the town side because the Board did that, we would have to explain that even if we spent the same amount of money your tax bill is increasing. He states that the public has expressed negative feedback about their taxes going down the however, the Board did not mention that my taxes were going to go back up due to them voting on a particular item. Jason points out that last year the Board used \$100,00 of Fund Balance because that was left over money. So in an apples for apples comparison we should at least use \$100,000 this year so the question becomes what amount over that figure are we looking at. Jason states that the Board does not want to make a radical shift and ask for a large amount say \$200,00 to \$200 to zero, because you could talk about all the Budget items you want but if you then go and adjust the Fund Balance that is what would crush the tax rate more that the hours of discussion here will. Jason feels the Board should aim to put the \$100,000 again like was done before and feels that can be accomplished. Selectman F. Byron states that he was looking more at about \$50,000 and asks if Jason is comfortable with that figure? Jason says he is figuring on the \$100,000 because that would keep things even. Selectman F. Byron states that the Board lays out what they want to spend then they lay out what they are going to get from revenue. Revenue floats until September/October time frame at that point the Board has to come up with a firm number or as firm as they can make it. But the original number that goes in that we set our taxes on is really going to be a number that is composed of how much money the Board wants to appropriate along with money that the Board can put against that immediately. Asks if there is a methodology for taking money out of the General Fund immediately except thru a Warrant Article? He feels that there is a way to take General Funds monies and apply them to the Budget. Jason feels that Selectman F. Byron is correct somewhere, but does it have to be decided this evening, would the Board be ok with postponing the discussion until the 27th meeting so that he may process the information and give an informed recommendation. The Board decided to continue this conversation on the December 27, 2012 meeting of the Selectmen.

Selectman G. Lambert asks to move on to Public input. Selectman J. Brunelle states that the Board has not had Public input at the end of a meeting in over 2 years. However, Jason Guerrette is present and would like to speak. Selectmen J. Brunelle asks if he can make his point in 5 minutes to which Mr. Guerrette says yes. Selectman J. Brunelle asks if there are any objections from the Board, hearing none opens the meeting for Public Input.

### **Public Input**

Jason Guerrette states that having the public input at the end allows someone to speak to what was just discussed at the meeting rather than waiting another week. With the right to know request Mr. Guerrette states that you have 5 days to respond to how you are going to get that information however, if it takes 6 months to gather the information so be it. He states that he is very dismayed with what happened this evening regarding the Default Budget. States that a Government that can skirt the law and do something which they believe is in the best interest of the public and in this case spend less money, can certainly do the opposite and feels that is a problem. So when the Board feels empowered to skirt the law because you feel it right

and justified as the School Board does it can go in the opposite direction. Because they feel justified to add things into the Budget and have been very slick about it by using words like level of service its not about a level of service, the law is very exact and says level of appropriation. When you look up what that means it is a dollar amount its not about how much service you provide. In this case, Mr. Hoch and Town Legal Counsel are right, he states that he understands it all makes very good rational sense but the Board took a position that in his opinion was in violation of the law. It may be better for the Town, but the Board do not have the right to take a position for the people in violation of the law. So he states he is dismayed again at that, and that the Board and he probably will not agree on that. But felt Jason tried to get you to see that, and it was a comical thing to watch in the audience, The problem is the Board knows that they did it, they willingly went against the law. So to him that makes everything they do arbitrary ,no on purpose. But that the Board can arbitrarily decide to follow or not follow the law at their discretion is just not acceptable.

Selectman G. Lambert responded by saying that all Government exists by one of two ways by consent or by force. The force of Government is guns in this particular case however, it did not enable any guns for disciplinary compliance. So if we as a Board broke the law by having the best interest of the Town that he did the right thing, that is why he feels that they elected him and that the bad news is until the State legislature gets its head right and actually makes it so we must enforce the law, it is a law without any enforcement provision, he's sorry.

Selectman J. Brunelle closes public session.

**Items moved from consent**

No items moved

Selectman J. Brunelle made a **motion** to adjourn. Selectman G. Lambert make a **second** .  
**Vote carries 4-0-0.** Meeting was adjourned at 10:20 pm

The next Board of Selectmen's meeting will be on December 27, 2012.

*Approved January 7, 2013*