

TOWN OF LITCHFIELD BOARD OF SELECTMEN
November 28, 2016

Selectmen's Meeting

Members Present: Frank A. Byron, Chairman
Brent T. Lemire, Vice Chairman
John R. Brunelle

Absent: Steven D. Perry - Excused
Kevin C. Bourque - Excused

Also Present: Troy Brown, Town Administrator

5:00 p.m. Paperwork review

6:00 p.m. Call to Order

Pledge of Allegiance

Review of Items for Consent:

1. Approval of November 14, 2016 Board of Selectmen Minutes
2. Approval of Account Payable Manifest 11/22/16 (\$54,119.81) & 11/29/16 (\$1,142,292.28)
3. Approval of Payroll Manifest 11/23/16 (54,911.06) & 12/01/16 (\$52,640.81)
4. Timber Tax (1) \$806.60
5. General Fund Transfer
 - a) \$60,000 - Town Earned Time Accrual Expendable Trust Fund (Article #11)
 - b) \$30,000 - Building System Trust Fund (Article #14)

Approval of Consent Items

Selectman F. Byron reads aloud the Items for Consent

Selectman B. Lemire **motioned** for the Board of Selectmen to approve the Items for Consent

Selectman J. Brunelle **seconds** the motion. **Vote carries 3-0-0.**

Request for Additional Items/Other Business - None

Business

New Hampshire Interlocal Trust - 2017 health Insurance Rates

Al Jones the Administrator of NH Interlocal Trust and McKenzie MacDougall the Assistant Member Services Manager are here to discuss with the Board of Selectmen the reasons for a 20.79% renewal increase for the Town's health insurance premiums for 2017.

Selectman F. Byron states when they received notification of the increase to the Town's insurance rate, they wanted to know why.

Al Jones states Interlocal Trust is in its 5th year, it started on July 1, 2012. They have 42 members, 4,000 employees and 9,000 lives covered. He mentions they are partnered with Harvard Pilgrim, but the Trust is a joint purchasing arrangement of all its members. It is owned and governed by its membership and is non-profit. Al Jones states the Trust has been doing well, in 2013/2014 they returned a surplus of \$525,000 and 2014/2015 \$1,100,000. Returning any surplus that is not needed to pay all its requirements of running the Trust must be returned to its Membership as required by NH law. He explains to the Board being a member of a purchasing exchange means everyone is pooled together and helps out each other within the exchange, most years it balances out, some years such as this year it does not. Mr. Jones states the reason Litchfield has a large rate increase, is due to high claims. He tells the Board he cannot discuss the exact numbers due to it being prohibited under Federal law to discuss claims with a group of under 50 people. He states this year Litchfields insurance claims exceeded its premiums. The Trust also has to pay for reinsurance to protect the Town, administration expenses and several hundred dollars were paid by the Trust for the Affordable Care Act taxes.

Selectman F. Byron asks Mr. Jones if the excessive claims he is mentioning are from Litchfield only, and not spread throughout the Trust membership.

Mr. Jones discusses how large claims are smoothed out between the whole membership pool, and how reinsurance the Trust purchases works to benefit the group from large claims as well. He mentions all claims between \$50,000 and \$100,000 are pooled internally and spread out evenly and pro-rated amongst the Trust. Mr. Jones states both of these things have a substantial smoothing activity from year to year.

Selectman F. Byron again asks who had the excessive claims, Litchfield only.

Al Jones states Litchfield had some large claims and totaled approximately 25% of the Town's total claims, but overall the Trust paid more in claims than the Town paid in premiums. This is what has caused the rate increase adjustment to Litchfields insurance premiums. Mr. Jones states medical costs also increase every year, and explains the term "medical trend" (which is inflation and prices or cost part as well as utilization) and how this affects the rates paid for insurance each year.

Mr. Johns tells the Board that it was not only Litchfield with excessive claims it was across the Exchange. He states Litchfield was not part of the the exchange pool, the rate would of been 2-1/2% over the 20.79%, so there was a savings by being a part of the group. He also discusses the Affordable Care Act and how the implementation of "preventative care" will hopefully save money in the long run, right now it has increased costs due to the added tests. He also mentions how insurance companies are giving incentives to its members for taking advantage of preventative care and wellness programs, in order to be healthier. He states there is nothing wrong with what has happened regarding the rates, they fluctuate with market trends and prices and hopes next year will be more favorable for all. They are doing everything they can on the Town of Litchfields behalf regarding this issue.

McKenzie MacDougall brought some other alternative plan designs of coverage for the Board to review and discuss. They included Health Maintenance Organization (HMO) and Point of Service (POS) plans with a range of deductibles and copays to choose from. Some of these plans by adding higher deductibles and copays will lower the monthly costs for the employees.

McKenzie also mentions to the Board there are plans now that split copays in order to lower costs.

Selectman B. Lemire states their explanation and justification for the increase and it is not unlike many other agencies and is understandable, 20% is just a shock.

Mr. Jones states he understands the frustration, but they are trying to do everything possible on behalf of the Town.

Board discusses the effects of increasing the deductibles and copays with McKenzie and how that affects the premiums for some of the alternative plans she has shared. They also discuss options on Health Saving Plans, and if they can be included as another option for employees. Also the employees have a chance to get rebates for participating in Wellness Programs offered by most of these insurance plans, this helps offset their monthly premiums as well.

Troy Brown states the Town is up for renewal effective January 1, 2017, and asks they have to wait for the next open enrollment to make a change to the Town's policy.

Mr. Jones states no the contract is for one year, but the first of any month you can make changes.

They agree to have AI and McKenzie along with Town Administrator Troy Brown work on some alternative plans with different deductibles and copays for them to consider and review.

Public Input - None

Prosecutor Contract

Town Administrator T. Brown mentions the Board discussed the contract for Brad Coates the new Prosecutor for the Town of Litchfield at the last meeting. He was not clear on how the Board wished to move forward with the contract. But he and Chief O'Brien changed the old contract putting in the agreed salary amount of \$60,000 which was paid weekly and is being changed to be paid bi-weekly.

Selectman F. Byron states the Board voted on approving Mr. Coates for the position, and his salary then to have Troy and the Chief along with Mr. Coates work out the small details of the contract. Then have the Board sign off on the final acceptance and approval of the contract.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve the Prosecutors Contract as written and discussed.

Selectman J. Brunelle **seconds** the motion. **Vote carries 3-0-0.**

Fairpoint Settlement Agreement

Troy mentions when the tax rate was set for this year, he knew there were some outstanding issues with Fairpoint and Pennichuck Water Works regarding some large abatements with the Town. The Town has been trying to resolve these issues with both companies without having to litigate the matter. Troy mentions due to these issues being unresolved he had set aside in the Town's 2016 overlay account \$150,000, after paying out around \$100,000 in abatements the balance remaining is currently \$48,964.00. The Board has since come to a settlement agreement with Fairpoint, which is to refund them the amount of \$63,047.00 for tax years 2011 through 2015 with no interest accrued. Fairpoint left the settlement agreement up to the Town as to how they wished to refund the company their abatement. Therefore, Troy is proposing the

Town issue a portion of the abatement refund this year in the amount of \$45,000 using the balance in the overlay account, they apply the balance of the abatement refund in the amount of \$18,047.00 as a tax credit to Fairpoint in 2017. He states the Board could also choose to issue tax credits to Fairpoint over the next 2-3 years also.

Selectman F. Byron asks if Troy is expecting any other abatements to come out of the overlay account this year. Troy states there is one other small abatement that could be issued, but the Town has control over if it would be paid this year or next, so he sees no other abatements this year. He tells the Board the Pennichuck Water Works issue will not be settled in 2016.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve issuing to Fairpoint a portion of their abatement refund this year in the amount of \$45,000 using the balance in the overlay account, then apply the balance of the abatement refund in the amount of \$18,047.00 as a tax credit to Fairpoint in 2017

Selectman F. Byron **seconds** the motion. **Vote carries 3-0-0.**

Selectman F. Byron mentions now there has been an agreement with Fairpoint and the Town of Litchfield is there any impact to a Default Budget.

Troy states no, the money portion is being issued this year and the balance of the refund is being issued as a tax credit, so there is no impact to a Default Budget.

2016 Financial Report

Chief O’Brion Earned Time Agreement

Selectman F. Byron suggested due to two members of the Board being absent this evening and Selectman S. Perry handled this matter of an earned time agreement with Chief O’Brion he would like to defer this discussion until the next Board of Selectmen’s meeting when they can be present.

Board is in agreement.

2016 Year End Projections

Troy mentions he has meet with all the Department Heads and has worked closely with the Finance Director and is very comfortable with the numbers he is sharing with the Board this evening. He tells the Board if they look at the Police Department’s budget which was a topic of discussion at the last Board meeting, they will notice they will be only over their budget by \$5,625. He states this was a little misleading due to the Warrant Article for Union monies that was raised, and the Non-Union wage increases. Troy tells the Board they had also made some assumptions regarding having a full-time Officer on duty before December 1st, and that the Captain position would be filled. As well as the Chief thought he would deplete all or most line items such as training, but he did not. So once all the information and dollar amount were recalculated the Police budget is showing a small amount over that they can be comfortable with.

Troy mentions the same holds for the Highway Department, they were not sure how snow events and the finals invoicing for the road work on Cutler were going to play into the final numbers for this budget, but hey are projecting a surplus in their budget.

Troy states he is looking at a total Unexpended Balance for the Town of approximately \$133,000. He goes on to mention there are additions he has listed that can be added to this

amount, such as the Police Union Contract (Article 7) would add back \$8,329, PFOA reimbursement from St. Gobain in the amount of \$8,542, acceptance of Unanticipated Funds for the Holiday Health Insurance Premium in the amount of \$4,732 which would bring the Unexpended Fund Balance to \$154,905.23.

Selectman J. Brunelle asks why Troy would not show the Police Union Contract money of \$8,329 in the Department's budget lines, then they would not be showing negative balance but a positive one.

Troy states is because the breakdown of those funds is not all in one line of the Department, it is broken into different areas of their budget.

Selectman J. Brunelle just mentions they were listed as being \$30,000 in the hole in some discussions by the Board, but after the final numbers are in they show a small negative balance, but really are in a positive and the budget has been managed appropriately.

Selectman F. Byron and Selectman B. Lemire state the Board analyzes the Budget by small snapshots at a time to project where they will be at during different times of the year. They were only discussing a projection or snapshot during a moment in the budget process.

Selectman J. Brunelle states the projection that was discussed at the last meeting was on figures from August, and did not show the big picture. He states all the Department Heads managed their budgets very well.

Troy mentions he has a handshake agreement with Fire Chief Fraitzl that he is projecting to spend all of his budget. But Troy discussed with him he may have some funds available, and asked him to wait closer to the end of year and use that money to purchase some of the radio equipment the Department needs. The Chief was in agreement with this request from Troy.

PretiFlaherty Legal Expense

Troy goes on to mention there are issues the Board has discussed all year, such as the legal contract that was signed with PretiFlaherty to represent the Town of Litchfield in regards to the PFOA groundwater contamination issue and the expenses that will associated with that contract.

Troy has asked for all the invoices to date for unpaid fees and they total \$21,813.61. This excludes any for November and December so he has averaged the cost as \$5,250 for each month, which would leave (minus the retainer fee) an unpaid balance for December 31st of \$32,500. He is recommending the Town pay 100% of all the unpaid fees in 2016, and not carry them over into 2017.

Earned Time Buyback

Troy mentions another issue pending is Police Chief O'Brion earned time buyout. The Board has agreed to postpone this conversation until there is a full Board present, but he mentions he would like to buy some of this liability down before year end.

He also mentions there may be a few small ones that come in, but feels he has all other requests for their earned time buyouts in at this point. So with everything all in with salaries and benefits the earned time buyout will total \$23,500. He would like to charge this to the Operating Budget this year and not the Expendable Trust Fund, in hopes of trying to get this fund established.

Selectman F. Byron asks why not both the Operating Budget and the Expendable Trust Fund, and asks what the balance is in the Trust Fund.

Troy states the balance in the Expendable Trust Fund is at the end of the year should be \$600, and then \$60,000 was raised at Town Meeting for a total of approximately \$60,600. He mentions between the Police Captain's retirement and the FireFighters retirement they have paid out a little over \$30,000 leaving a balance of about \$30,000. But he would like to leave this balance in the Trust in order to try and grow the fund.

Selectman F. Byron states the total Troy would be asking for from the Operating Budget for the buyouts would be \$23,500.

Troy tells the Board yes that would be the amount needed, and Karen would charge the necessary salary lines throughout the budget.

Board discusses the remaining positive funds in the Unexpended Fund Balance totaling approximately \$19,000 is not a lot. Troy mentions this having to be done by with the next payroll, and that he discussed with Karen in an event something happened such as an ice storm how difficult would this be to charge back all the line items. Troy states Karen felt it would not be difficult, because she could run a payroll specifically for this purpose it would not be mixed in with anything else. Board agrees with this idea, and to vote on approving just the \$23,500 this evening and will wait and vote on the rest at the next meeting when they hope to have a full Board in attendance.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve the use of \$23,500 for the Earned Time Buyout from the Town's General Fund.

Selectman J. Brunelle **seconds** the motion. **Vote carries 3-0-0.**

Highway Sand & Salt Spreader Purchase

Town Administrator T. Brown tells the Board another issue that has been discussed at a previous meeting is the topic of purchasing a sander for the Highway Department with some of their budget surplus before year end. He mentions that since the last meeting the smaller sander (sander 1) that the Department uses on the back of the one ton truck had a mechanical failure last week and needs to be repaired (it is approximately 25 yrs old). Jack took it to Donovan Springs in Londonderry and received an estimate for repair in the amount of \$2,300, which he has asked them to put on hold. Troy mention the larger sand/salt spreader (sander 2) would be on the large plow truck is the new one he would like to purchase from his 2016 Operating Budget in the amount of \$16,215.

Selectman F. Byron mentions the Purchasing Policy for the Town is that three quotes are necessary.

Troy states Jack has done this for both (1&2) sand/salt spreaders and has shared this information with Troy and the Board. Troy mentions none of the 3 quotes were State bids, Board discusses this issue, and if there are State bids on sand/salt spreaders. Troy tells the Board the Highway Department currently uses all Hiway models. Jack would prefer to stay with this make/model because he has parts that can be used if something breaks down that would be interchangeable and it is consistent out on the roadways with material. Board discusses the difference in the quotes.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve the purchasing of (2)

sand/salt spreaders in the amount of \$24,650 from the Town's Operating Budget for the Highway Department.

Selectman J. Brunell **seconds** the motion. **Vote carries 3-0-0.**

2017 Draft Warrant Article

Town Administrator T. Brown states the Planning Board will be holding a public hearing soon and they are looking at having three Warrant Articles, so he has put in place holders for these as

Article 2 - Accessory Dwelling Units, Article 3- Dimensional Requirements and Article 3 - Telecommunications Facilities. He mentions **Article 5 - 2017 Operating Budget** is still pending with the Budget Committee's review and approval. **Article 6 - Full-Time Police Officer** has been approved by the Board of Selectmen. Troy mentions at the last meeting when discussing **Article 7 - Road Improvement Projects** the Board felt \$200,000 was too much to ask for from the voters with all the other requests. They wanted to see if Jack felt he could ask for less or waive this article all together for one year. Troy tells the Board Jack thought they could make it work with asking for \$150,000. Their concern is this Article has been overwhelmingly supported by the voters, and the Town is looking at some major work to be done on Page Road ranging from \$800,000 - 1 million dollars..

Selectman F. Byron states he is understanding Troy and Jack do not wish to cut this article. Troy states no they truly do not wish to cut this out as a warrant article.

Selectman F. Byron asks the Board what their wish is then, to move forward asking for all these warrant articles.

Selectman J. Brunelle mentions he feels the voters have approved this for several years and it should be up to them to decide.

Selectman F. Byron tells the Board he understands everyone's point and has no issue with this, he is asking what the Board wishes to do. He just mentions he had a lot of people come up to him at the polls expressing they are paying too much in taxes. He feels their jobs as Board of Selectmen is to make some tough decisions on the citizens behalf, and he thinks this is a lot to ask for from the voters. So he is just asking what the Board wishes to do, move forward with all the warrants or cut something out at this time.

Selectman J. Brunelle asks if there is any way to fund the roads from the Town's General Fund. Troy mentions you can change the language of the warrant and state some from the GF and some from taxation. Board discusses this and asks Troy to work with the auditors and see where the range of the Fund Balance is and report this information back to them at the next meeting.

Selectman F. Byron tells the Board they have to make decisions and get these warrant articles to the Budget Committee by December 15th, and the next BOS meeting is December 12th so everything will have to be decided by their next meeting.

They move on to discuss **Article 15 PFOA Water Contamination Expenses** Troy tells the Board legal counsel answered the question regarding "no means no" if this article was voted down by the citizens and what position would that put the Town in. Legal Counsel highly recommends this is not placed as a Special Warrant Article, because the Town has a signed contract with PretiFlaherty and are obligated to pay. So the Town should not put themselves into

a “no means no” situation and place this amount in the legal line within the Operating Budget. Board and Troy discuss this issue and what if the Budget Committee removes it from the Budget. They mention the Board has the ability to place it back into the budget at the Deliberative Session.

Selectman F. Byron asks how much is the Budget Committee looking at having to cut in order to stay within the tax cap. Board discuss that figure being about \$70,000, then this \$60,000 legal expense would be added to that.

Selectman F. Byron states the Board needs to go the the Budget Committee and explain this situation and that the Town’s legal counsel has recommended it remain in the legal line of the Budget. Then it would be up to the BC if they cut it out of the Budget, but hopefully if they do they would see it is a need of the Town and at least support the Board with this tough decision at the Deliberative Session with the voters.

Board continues to discuss this matter, but decide to remove Article 15 from the warrant articles on the advice of legal counsel and add it back into the Operating Budget.

Selectman B. Lemire **motioned** for the Board of Selectmen to remove Article 15 - PFOA Water Contamination Expenses

Selectman J. Brunelle **seconds** the motion. **Vote carries 3-0-0.**

Selectman F. Byron mentions the Board of Selectmen should make a motion for the Budget Committee to put these funds back into the budget, because these budgets have been voted on by the Board already.

Selectman B. Lemire **motioned** the Board of Selectmen recommends the Budget Committee reincorporate the PFOA Legal Expense to PretiFlaherty back into a separate legal line within the Operating Budget.

Selectman J. Brunelle **seconds** the motion. **Vote carries 3-0-0.**

Troy mentions he has reviewed the proposal and invoices from PretiFlaherty and does not believe the costs will be that bad if the Town pursues a settlement agreement rather than a lawsuit.

Board states they do not know what will happen with this down the road, it is an unknown at this point.

Troy discusses **Article 11 - Human Services and Health Agencies** and mentions at the last meeting there was a question for legal counsel regarding when the dollar amounts were changed on all but three agencies to a zero dollar amount would it be acceptable to leave them on the warrant. Legal Counsel states there is no issue and at the Deliberative Session dollar amounts could be changed but no additional agencies can be added.

2017 Default Budget

Town Administrator T. Brown mentions at the last meeting Selectman J. Brunelle asked if the amount owed to Special Legal Counsel (PretiFlaherty) for work to date has been calculated into the Default Budget. He states it is not calculated into his figures currently showing in the Default Budget, because he did not know how the Board wished to fund this matter. But if the Board decides not to fund them under the Operating Budget this year, it would be something he would add to the Default Budget because it is a contract and the Town is obligated to pay.

Board discusses the Default Budget needs to be completed in January, so they will need to

review it and pick this discussion back up at a future meeting.

Selectman J. Brunelle asks if they know when the Town Deliberative Session will be.

Troy states it is scheduled for February 11th, and he has Legal Counsel scheduled for this date.

Troy tells the Board he has not heard from the School as of yet, and this date puts the School going first and the Town second. The Board mentions if the Town goes first which is can this year it would be held on February 4, 2017.

Selectman F. Byron wishes the Town to go first due to the dates leaving no room for error due to the State laws involved.

Troy states the attorney is already scheduled for the 11th and he does not think she will be able to change at this point in time.

Board discusses this issue, and the fact that weather can play into a delay for the Town if they wait for the 11th, and there would be no options to reschedule the 11th is the drop dead date.

Board asks Troy to reach out to the School and also to see if Legal can change to February 4th.

Administrator Report

Troy tells the Board he has received reimbursement for all the costs to the Town and School's out of pocket expenses to date from St. Gobain regarding the PFOA water contamination. It does not include the Town's legal cost/expenses.

Troy also mentions Continental Paving is on site at the Jeff Lane Baseball Park Project and they are about $\frac{3}{4}$ of the way in completing the rough grading. Troy states that Continental has donated their time and equipment to help move this project forward, and it is greatly appreciated.

Selectman F. Byron states he sent a nasty email to David Van Slyke asking him where is the information the Town has requested. He tells Troy he is getting pretty short tempered on this issue and would like a response and information. Frank states he spoke with him at the meeting held at the High School 3-4 weeks ago, as a means to bring PretiFlaherty to the table.

Troy states he has not received any word either.

Selectman F. Byron states he will send him another frank email telling him the drop dead date will be this friday period end of discussion. He wants this information in the Town's possession by friday with recommendations as to how the Town should approach St. Gobain.

Selectman Reports

Selectman B. Lemire states the Conservation Commission is meeting this Thursday.

Selectman F. Byron asks if the Conservation Commission is aware the Construction Company installing the waterline is using Moores Falls property for their equipment and dumping piles of dirt and pavement taken from the roads on this site.

Board discusses this and states some of the land is owned by the people who own Optimum, and they have given permission.

Selectman F. Byron states that may be so, but they are on that property and also on the Town's

Moore's Fall Conservation property. He is just making everyone aware of the fact. Troy mentions he will check and bring it to Joan's attention. He also tells the Board one of the contractors who is hauling some of this dirt to the staging areas, they spoke to and mentioned if they wanted to bring some to the Jeff land project it would be welcomed. So they have been bringing them free fill.

Selectman J. Brunelle states at the last Recreation Commission meeting they discussed the project at Jeff Lane and it is looking like they will not be able to have the ball fields open in the Spring. They are very appreciative to all who have volunteered, but just are running out of time due to some unanticipated delays. Also the Recreation Commission is discussing plans for WinterFest.

Selectman F. Byron tells the Board he has been contacted by NHDES and asked to sponsor a bill to try and fix some of the issues with State laws they have. He will also be trying to contact Senator D. Soucy to see if she would co-sponsor and start one on the Senate side as well. Frank also mentions he will be submitting a bill trying to require that anyone who pollutes groundwater will have to be responsible to pay the individuals affected.

Items moved from consent - None

Other Business - None

Selectman F. Byron **motioned** for the Board of Selectmen to adjourn the public portion of the meeting to go into a non-public session per RSA 91-A:3,II(a) - Promotion & Compensation. Selectman B. Lemire **seconds** the motion.

Roll call vote - Selectman J. Brunelle (yes), Selectman B. Lemire (yes) and Selectman F. Byron (yes). **Vote carries 3-0-0.**

Board of Selectmen will only come out of non-public to adjourn.

The next Board of Selectmen's meeting will be on December 12, 2016 at 6:00pm at Town Hall

Frank A. Byron, Chairman

Brent T. Lemire, Vice Chairman

John R. Brunelle

Steven D. Perry

Kevin C. Bourque