

TOWN OF LITCHFIELD BOARD OF SELECTMEN

September 26, 2016

Selectmen's Meeting

Members Present: Frank A. Byron, Chairman
Brent T. Lemire, Vice Chairman
John R. Brunelle
Steven D. Perry - arrived late
Kevin C. Bourque

Also Present: Troy Brown, Town Administrator

5:00 p.m. Paperwork review
6:00 p.m. Call to Order
7:38 p.m. Non-Public Session - RSA 91-A:3,II(c) - Litigation
8:24 p.m. Board of Selectmen adjourn from non-public and resume public portion of meeting

Pledge of Allegiance

Review of Items for Consent:

1. Approval of Meeting Minutes from September 12, 2016
2. Approval of Account Payable Manifest 9/20/16 (\$68,461.89) & 9/27/16 (\$1,514,009.02)
3. Approval of Payroll Manifest 9/22/16 (\$48,390.79) & 9/29/16 (\$53,241.16)
4. Treasurer Reconciliation - August 2016
5. Police Demonstration Permit - Grace Covenant Church
6. Intent to Cut (1)

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 4-0-0.**

Selectman S. Perry arrived to meeting 6:04

Request for Additional Items/Other Business - None

Business

Jason Brennen/Peter Psaledas - Community Needs Survey Results

Jason Brennen (23 Aldridge Street) and Peter Psaledas (31 Pearson Street) will present information results from a Community Survey they collected on their facebook page "What's Up Litchfield".

Jason tells the Board he Peter and their wives created a Town facebook page in January of this year just for fun. It is a place where people from Town can share ideas and communicate the page has 1,500 members. He mentions in May he posted on the facebook page his top 10 things he would like to see happen in Litchfield, some were realistic some were “pie in the sky” ideas just for fun. By doing this it created a firestorm of discussion and recommendations on the page with members expressing their ideas for things they would like to see happen in Litchfield. So Peter and he decided to start a Community Poll so they could capture these ideas and see what the results would be. They created a website application where member (Citizens of Litchfield) could go add their ideas for community improvements to a map. It also allowed members to vote or “Like” these ideas, which showed Jason/Peter the Communities responses and allowed them access to the results over approximately a six-week period of polling. When the polling was complete there were 49 ideas submitted by citizens, Jason mentions the themes were Recreation, Conservation, Integrated Trail Systems and Beautification. Approximately 1,850 votes or “Likes” were cast on those 49 ideas. Jason states the number one vote was for creating a Riverfront Park with river access for canoe/kayaks (210 likes), next was create a trail from the Bike Path to the Library.

Access the results from the survey on this website <http://arcg.is/2a4QZyW> or visit the “What’s Up Litchfield” Facebook page, or the Town of Litchfields Facebook page or website.

Jason and Peter told the Board of Selectmen there were many great ideas listed in the survey, some that could be easy implemented such as some of the Beautification recommendations (plant some trees on Albuquerque, spruce up the granite signs as you enter Litchfield making them more inviting, build a playground and better trail mapping etc.). They mention one or two ideas a year might be a reasonable goal to accomplish.

Selectman F. Byron tells Jason and Peter across the street from the Old Town Hall/Fire Station there is a trail that goes to the river, and there is also a boat launch (owned by the State) a short distance from there. Selectman J. Brunelle states the Conservation Commission also recently purchased land, they are hoping to make river accessible.

Board of Selectmen think this was a terrific idea and love the input from the Citizens, they state many of the ideas have been discussed over the years with the Recreation Commission and many of the Boards in Town. They hope the people in Town who voted for these ideas will get involved with some of the Committees or volunteer to help with some of the projects. The biggest obstacle the Town has is they need the support from the Community, people to get involved and volunteer. They mention there is an Agricultural Commission being formed that is looking for members, and the Recreation Commission is always looking for Community involvement. Jason and Peter and the Board also mention they will work together and post this survey on their websites and update information so the Citizens have a place to access updated information and be better informed about the Town of Litchfield.

Jason mentions the possibility of forming a Citizens Committee that could be the go between for the Citizens and the Boards/Committees to help coordinate ideas and information, also consider each year putting some funds in an account to be used for some of the low cost Beautification improvements.

Board also discusses the possible need for a Recreation Director to help with coordinating projects within the Town. Selectman F. Byron states when the Recreation Commission was formed it was voted by the Citizens they could hire personnel as needed. Board states if their Budget is not funded they are unable to hire additional personnel.

Selectman F. Byron also mentions a Developer years back, built a large development in the North end and the Town escrowed money to build a playground. Board states they will have to go back and study this information and see if it can still be appropriated for a playground possibly at SawMill.

Board thanks Jason and Peter for their time and information.

Police Officer Position - Second in Command

Selectman F. Byron states after the past few meetings with the Police Chief the Board has to do something to move this matter forward. He has drafted a letter to be sent to the Police Chief to address how the Board of Selectmen would like to move forward with the recruitment for the second in command police officer position. He has shared this letter with the Town Administrator and the Board, and is asking for their input on the matter. He feels the Chief should appoint who he recommends for the position for Second in Command, have the Town Administrator T. Brown discuss with this Candidate what his/her requirements (no stipulations from the Board). Then the Board will need to enter into negotiations with whoever the Chief appoints, and discuss these needs and recommendations with this individual in order to fill the position. Board agrees with Selectman F. Byron and feels this is a good step to move forward.

Selectman B. Lemire **motioned** for the Board of Selectmen to have the Town Administrator T. Brown sign and forward this letter to Police Chief O'Brion on behalf of the Board of Selectmen.

Selectman K. Bourque **seconds** the motion. **Vote carries 5-0-0**

Selectman F. Byron thanks the Board, and hopes this helps to move this forward.

Public Input - None

2017 Budget Action Items

Road Maintenance - 4312.10

DPW Salt

Selectman F. Byron states these are items leftover after reviewing certain budgets that the Board wanted more information on, or Troy was still waiting for information or rate calculations. Town Administrator T. Brown mentions last time they spoke about salt, they were still reviewing the DPW budget and how many tons of salt would be needed this season. He states the Road Agent and he reviewed past records which showed usage in

2013 - 1,743 tons

2014 - 1,765 tons average together come out to 1,781 tons

2015 - 1,837 tons

So they have agreed on purchasing 1,700 tons at \$52.47 a ton, which comes to \$89,199 Board discusses the Troy mentions Jack will have the salt shed filled by the end of the week.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve and forward to the Budget Committee a bottom line budget for **Road Maintenance-4312.10** in the amount of \$642,632.

Selectman J. Brunelle **seconds** the motion. **Vote carries 5-0-0.**

Police Cruiser

Troy mentions the Police Chief is still gathering information for the Board of Selectmen and the Budget Committee in order to justify the need to purchase of two cruisers this year instead of one. He mentions it was discussed at the last Budget Committee meeting, and they understood this year only one cruiser would be purchased as agreed upon last year. Board discusses the

usage of the cruiser fleet and that the Chief is having a hard time staying ahead on the mileage being put on the vehicles. Board is waiting on this updated information from the Chief, and will continue discussion at a later date.

Other Insurance

Town Administrator T. Brown tells the Board he is still waiting on quotes from the insurance companies, they will continue this conversation at a later meeting.

Personnel Administration

Troy states they are still waiting on Workers Compensation, Dental and Health insurance quotes as well, so this will have to be discussed at a later meeting.

Fire Department - Capital Reserve Fund (Warrant Article)

Troy states after discussions with the Board at past meetings, he has put a placeholder for this to appear as a possible Warrant Article. It would be created to fund the future purchase of a fire truck.

He discusses the use of an Expendable Trust Fund in comparison to a Capital Reserve Fund (which is used for large capital purchases such as a fire truck).

Fire Station (Warrant Article)

Troy mentions after previous discussion with the Fire Chief and the Board of Selectmen, he has put this as a placeholder for a possible Warrant Article. But is waiting to have a discussion with the Fire Chief and the Board to see if they wish to move forward on this. Board agrees to ask Chief Fraitzl to come discuss this issue at the next Board of Selectmen's meeting, because they all need to figure out exactly what is needed/wanted (new station or engineering program) and how the details should be presented to the voters.

Draft Prosecutor Contract 2016/17

Town Administrator T. Brown states he has been working with the Prosecutor by email in order to come to an agreement on his new contract. He is looking for an increase in salary over the next year from \$62,118 to \$64,534 (increase of \$2,416 or 3.8%). Troy mentions the previous contract was written for a 52 week agreement, and the Prosecutor would like only 50 weeks in the new contract. So in this draft contract Troy has shared with the Board he has honored these requests. He explains to the Board the figure he has presented is not for a one year contract. He is trying to get the contract to run on a calendar basis from January 1 to December 31, so this contract is for 15 months (remaining 3 months of 2016 and 12 months for 2017). Troy states other changes are in section 3.3, where there is language in the contract which allows the Prosecutor to work with the Police Chief to accommodate for any adjustments to his work week schedule due to sick time/earned time, but still work a 32 hour week at the agreed upon salary. Troy mentions a non-appropriation clause was added to the contract in section 7.3. Selectman F. Byron states he was asked why an non-appropriation clause was added to a contract that can be cancelled in 30 days.

Troy states there are two issues, a no-fault termination clause, which allows either party to

terminate the contract with a 30 day notice. But because the Board would be entering into a contract that exceeds 12 months, by law there has to be a non-appropriation clause in the contract. Town Counsel has reviewed the contract and states this clause has to be in the contract if over a 12 month period, it can be removed for the next 12 month only renewal if the Board wishes.

Board discusses this issue, and the fact that it is a service contract not an employment contract. And can the Board renew the contract for the remaining 3 months, and issue a new contract for the next 12 months of 2017, and eliminate the non-appropriation clause.

Selectman F. Byron asks if the Prosecutor is aware this clause is in the contract if approved by the Board. Troy tells the Board yes he is aware, and is willing to sign the contract.

Board agrees to do what Legal Counsel recommends.

Selectman B. Lemire **motioned** for the Board of Selectmen to approve the Prosecutor's contract as written.

Selectman S. Perry **seconds** the motion. **Vote carries 5-0-0.**

Chief O'Brion - Earned Time Agreement

Selectman S. Perry tells the Board he has been working with Chief O'Brion to come up with an agreement on payment for his earned time. He states some of the questions have been

- 1) How much earned time is the Chief owed
- 2) How much of this time was validated by the Chief
- 3) How can the Board of Selectmen and the Police Chief come to an agreement

The Board of Selectmen and the Chief have two different calculations for this earned time and they have been trying to come to an agreement of time earned and not paying that amount out in one year's time. He and the Chief reviewed the numbers, and through a negotiation process they have agreed to the following amounts

December 31, 2014 Vested hours of 1,288 at a pay rate of \$44.90, which totals a gross amount of \$57,831.20

December 31, 2015 Vested hours of 232 at a pay rate of \$48.13, which totals a gross amount of \$11,166.16

January 1, 2016 Vested hours of 320, at a pay rate of \$48.13, which totals a gross amount of \$15,401.60.

He will continue to earn his 320 hours of earned time moving forward once a contract is signed.

Selectman S. Perry tells the Board the agreement between the Chief and the Town after 21 years employment states the Chief would like his payments for his earned time in three installments over 3 years that would be deposited into his 457-b Retirement Plan. This would let the Town make payments on a yearly basis and not have to buyout the contract in one lump sum, and by the Town agreeing to this contract the Town would save approximately \$16,000 over the total three years of payments. It would also benefit the Chief by allowing him to put the money into his retirement plan in installments, rather than paying taxes on the one lump sum. So it would be a saving to both parties.

Selectman S. Perry states the contract spells out the three installment to the Chiefs 457 will be broken down as follows

- 1) December 2016 \$36,000

- 2) November 2017 36.000
- 3) October 2018 36.000

S. Perry reads the agreement on vacation and sick leave as well as the Chief not being eligible for his two floating holidays, this all will take on January 1, 2016. He will also be subject to the new Employee Personnel Policy and the Police Department contract, except those provisions enumerated in his employment contract, effective January 1, 2016. The contract also states the Chief will not be eligible for any future buyback after this agreement. Also is the Chief voluntarily or involuntarily terminates his employment after the date of this agreement, becomes disabled or passes away, payout for unused earned time, vacation time, or sick time shall be paid at the vested agreed hourly rate. All leave time not classified as vested shall be paid out at his current hourly rate.

Selectman S. Perry states is the Board agrees to this it would cost the Town \$147,902.56 over the course of three years. If the Board does not agree to this they will have to do a clarification of all the discrepancies between the Chief and the Town on his earned time possibly pay the amount he feels he is owed, which is \$164,807.53 a difference in amounts of \$16,904.98.

Selectman S. Perry states the money would be broken down into installments as follows

| | |
|-------------|-------------|
| First year | \$54,741.18 |
| Second year | 59,269.50 |
| Third year | 33,891.87 |

T. Brown states Chief O’Brion has reviewed these financial statements and is in agreement. But he still believes from his interpretation of his employment agreement that he is owed for 2760 hours of earned time and a buyout totalling \$183,414.83.

Selectman S. Perry states the agreement as he mentioned will clean up all these discrepancies and disagreements in the figures if the Board agrees to what they have negotiated in the terms of this contract. He understands funding the \$54,741.18 in the first year will be difficult, but he feels it needs to be a priority, and in this agreement both parties are compromising.

Selectman F. Byron states he feels this is not a good deal for the Town. He states the agreement possibly saves the Town \$17,000 over three years or roughly \$5,600 a year, and agrees with the advantages to the savings. But by signing this agreement you are committing to pay this money out over the next three years, where will the money come from and it would be added into a Default Budget. He tells the Board he is not sure that money exists in this year’s budget, and the Board will have to convince the Budget Committee to appropriate those funds each year for the next three years. Also contrary to what was said about there being an open interpretation of the existing contract held by the Chief, he believes the contract clearly spells out the Chief is under the Personnel Policy of the Town, and that any other contracts that have been generated are null and void. He believes this language is mentioned in the Chief’s contract which he signed. It is further his belief that there is already an open debate on the existing contract with the Chief, and adding an additional layer of a contract on top of this in his opinion will create a whole lot of further problems and more interpretation of what the contracts mean. He also would like to point out he believes there is a fault in the contract, and that is the contract defines vested time, but it does not include what is unvested earned time. He points out sections 1,2 and 3 of the contract which discusses what is considered vested, but then if you turn to section 7,8 and 9 it states the Chief can contribute up to \$36,000 to his 457-b plan using

available vested and unvested earned time or sick time. The term unvested is not clear to him because it is not defined in this contract. Overall his recommendation would be the Board consider maintaining flexibility in terms of the finances for the Town, by not adopting this contract. Instead at the end of the year if there are unspent funds, which happens regularly at the end of each year, those funds can then be used to buy down the Chiefs existing earned time. Or the Board Encumbers the funds, hold those funds until the Chief decides he is going to part ways with the Town of Litchfield and then apply those funds to offset any earned time costs at that time. This would give the Town maximum flexibility if something were to happen, and the ability to put this on the Budget as a one shot basis to close out any of the monies the Chief would be owed. He feels this would be more fiscally responsible, for making sure the Town does not get into trouble by having to expend \$50,000 plus every year, which is what this contract entails.

Selectman B.Lemire states this raises an issue with the tax cap which was implemented this year. The tax cap is set at \$175,000, just this Police issue would put the Town over with no other Departments being included.

Board discusses this matter and the issues raised as well as the possible funding for this contract.

Selectman S. Perry brought this forward because he was asked to, and this was the date because there was a full board present to hear this information and have input or vote on the matter. He does not feel this needs to be approved by the Board today, he states no. Does it need to be approved before the end of the year, he states yes.

Board thanks Selectman S. Perry for meeting with the Chief and having these discussions, as well as Troy and Karen for helping with all the figures and calculations.

Board continues discussing this issue.

Selectman B. Lemire **motioned** for the Board of Selectmen to table a decision on this matter until the last Board meeting in November

Selectman S. Perry **seconds** the motion. **Vote carries 5-0-0.**

2016 Budget Financial Review

Troy shared with the Board a summary of the budget as it stands now, which he wanted to review to keep them updated on how a few budgets are trending. He mentions the ones highlighted in green are positive balances, and the red are negative.

4155.10 Personnel Administration a positive balance of **\$31,852**

4194.10 General Government Buildings a positive balance of **\$5,085**

01-4196 Town Insurance a positive balance of **\$29,766**

4210.10 Police Administration a negative balance of **\$47,097**

3210.50 Police Support a negative balance of **\$1,872**

4312.10 Road Maintenance a positive balance of **\$40,054**

Troy mentions the positive balance of \$31,852 in Personnel Administration is due to the money transferred from the Police Department to help offset the overruns, and granted the Police Department their wage adjustments. The \$29,766 positive balance in the Town Insurance account is due to a six month change in the policy in order to get the Town to January. Troy states that based on the trending he is seeing right now, it may change once some of the open

positions are filled. But there is a possibility of the Department going over budget by \$47,097. Troy states he is reporting an estimated total amount for Unexpended Funds at \$69,398.02. He states there is a police contract that was approved by Warrant Article, those funds have not been transferred into the Operating Budget as of yet. The Warrant raised \$18,329, and \$10,000 was for the Police Department and the \$1,000 match. He states they should not have done this, because those funds should have come from the Special Detail Fund, so that is why he is changing the allocation of those funds. But the Board and he will have this discussion at a future meeting. Troy mentions the PFOA legal expenses are estimated till December to be \$8,728.49, he believes they will reimburse the Town by the end of the year. Also an Insurance Holiday Premium for Health Insurance of \$4,732.00. Troy mentions they will discuss these figures at the next meeting. Selectman B. Lemire expresses concern over the possibility of the Police Department going over their budget by \$47,000. The Board was told by the Chief there would be enough money to cover all his expenses. Troy states he has not had a conversation with the Chief and this is just how the numbers are trending today, once he fills the needed positions, and the salary amount are shuffled around they will be different for years end.

7:38 pm 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(e) - Pending Litigation. Selectman S. Perry **seconds** the motion.

Roll call vote - Selectman K. Bourque (yes), Selectman J. Brunelle (yes), Selectman S. Perry (yes), Selectman B. Lemire (yes) and Selectman F. Byron (yes). **Vote carries 5-0-0.**

Board of Selectmen will come out of non-public to finish this meeting.

8:24 pm Board of Selectmen adjourn non-public session and resume public portion of scheduled meeting.

Selectman F. Byron asks Gary Roberge from Avitar to update everyone on the negotiations he has been having with Pennichuck Water Works regarding the taxes imposed on the water system by the Town of Litchfield.

Gary Roberge states the Board of Selectmen asked him to meet with Pennichuck Water Works to see if they could come to a resolution to move forward and not have appeals year after year. They have met several times, and will be having their last meeting tomorrow. He states that after the meeting tomorrow he will have a detailed analysis of what they have agreed on (see if they have a consensus or not). The Board may then have one or two solutions to choose from in order to resolve this matter, or there is a possibility it may stay where it is. He hesitates to discuss this issue more with the Board, because he told Pennichuck he was meeting with them and would wait to discuss. After the final meeting Pennichuck and he will be coming to the Board of Selectmen to report on the arrangements and possible terms they have agreed on. Gary states he is traveling, so Pennichuck may be in front of the Board and he may be by phone, but they will have a detailed letter explaining the terms of their agreement beforehand.

2016 Budget Financial Review (Con't)

Selectman F. Byron asks if Troy has anything to add regarding the 2016 Budget Financial Review

Troy states the only other issue he was going to discuss expenses the Town will have for special legal representation regarding the St. Gobain PFOA water issue. He mentions they have received 3 months worth of billing and the total so far is \$19,000

Selectman B. Lemire asks if Troy sees any change in the \$47,000 deficit with the Police Department. He has a concern, they were assured there was enough money to cover expenses. Troy states as he mentioned he has not spoken with the Chief, and he will review the budget with him, he may know something they are not aware of, and will report back at a future meeting with the Board.

Town Water Ban

Selectman F. Byron states Troy informed the Board the State has issued a water ban, that they were unaware of.

Troy mentions on September 16th there was a conference call (he was not apart of it) with NHDES, State Officials and the Governor's Office. During the call they urged all Municipalities to adopt a voluntary or a mandatory water ban due to the severity of the drought. He has seen water bans in some areas, some Towns are banning all outdoor water usage, other have implemented an odd/even day watering schedule. The Board needs to decide if they wish to implement any type of water ban in Town.

Selectman F. Byron states on the NHDES website is already lists Pennichuck East Utilities in Litchfield has already implemented water restrictions, and has sent out notices.

Board discusses Pennichuck already having a water ban implemented in Litchfield, and has the right to shut your water off if it is violated. They state the Town has been on an odd/even street watering schedule since spring.

Board discusses this issue and the State law regarding water bans.

Board does not wish to take any further action at this time. But they will check into the watering being done at Darrah on the fields.

RSA 31:95b - Acceptance of Unanticipated Funds (\$400)

M. Patricia Jewett Donation for Town Hall Meeting Room Podium

Selectman F. Byron mentions that Pat Jewett donated \$400 for the purchase of a podium for the Town Office Meeting Room. The podium arrived Friday from the State Prison where it was made.

Board of Selectmen would like that Mrs. Jewett for the donation and the thoughtfulness of the gift.

Selectman B. Lemire **motioned** for the Board of Selectmen to accept this gift from P. Jewett in the amount of \$400 as Unanticipated Funds

Selectman J. Brunelle **seconds** the motion.

Selectman F. Byron would like to **amend** the motion, to have a letter of thanks sent to Mrs. Jewett from the Board of Selectmen for the donation and gift of the podium she had constructed.

Selectman J. Brunelle **seconds** the amendment. **Vote carries 5-0-0.**

Selectman F. Byron asks the Board to vote on the amended motion. **Vote carries 5-0-0.**

Administrator Report - None

Selectman Reports

Selectman J. Brunelle state there is a Recreation Commission meeting tomorrow evening

Selectman F. Byron states he received a call from the Fire Chief to discuss a concern from Nightmare New England over their sprinkler system and issues from the State Fire Marshall. They requested the Fire Chief contact their Legal Counsel. F. Byron has not received an update as of yet.

Selectman B. Lemire states the Conservation Commission meets next week

Selectman K. Bourque states the Budget Committee is starting their Budget Review process at their meeting Thursday night. Board mentions the Fire Department has an Open House on Sunday October 2, 2016, and the parade will be on Friday October 7th at 7:00 for Fire Prevention Week.

Selectman J. Brunelle states that Jason Brennan went to the boat launch across from the Fire Station/Old Town Hall and it has been closed to the public, he states there is a sign stating no public access. Board is not sure if that notice is from the State and will check into the matter and update the public at a future meeting.

Items moved from consent - None

Other Business - None

Selectman B. Lemire **motioned** for the Board of Selectmen to adjourn.
Selectman J. Brunelle **seconds** the motion. **Vote carries 5-0-0.**

The next Board of Selectmen’s meeting will be on October 17, 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