

CITY COUNCIL MEETING

AGENDA ITEM XI



CITY OF FRANKLIN
COUNCIL AGENDA REPORT

City Council Meeting August 6, 2012

From: Elizabeth Dragon, City Manager

Subject: City Council to consider Legislative policy proposals as recommended by the NH Municipal Association-Municipal Administration and Finance Management committee (I chair this committee), Planning and Environmental Quality committee, and General Government, Revenue & Intergovernmental Relations committee.

Recommended motion:

1. Councilor moves:

I move that the Franklin City council authorize the City Manager to represent the city council's recommendations of the three policy committees of the Committee on Government affairs in regards to Action positions, Policy positions, and Standing Policy positions.

2. Mayor calls for a second and discussion on the vote.

Discussion:

The New Hampshire Municipal Association (NHMA) uses a member-driven process to determine legislative policy. While the details of the process change from time to time, it is always local officials from member municipalities who ultimately adopt the policy positions advocated by NHMA government affairs staff.

After NHMA was reorganized under the umbrella of the New Hampshire Local Government Center (LGC), the Municipal Advocacy Committee (MAC) was created to oversee NHMA's advocacy activities. MAC comprises the 12 municipal members of the LGC Board and an additional 17 local officials elected by NHMA member municipalities. Also established was the Committee on Government Affairs (CGA), a 75-member committee, which includes the members of MAC. Both CGA and MAC members were elected for the first time at the 2005 NHMA Annual Meeting. The CGA is responsible for recommending legislative policy positions to the NHMA membership at the Legislative Policy Conference. MAC and CGA are committees of elected and appointed local officials, and the membership of each can be found on this Web site.

The CGA divides into three policy committees: Municipal Administration and Finance Management; Planning and Environmental Quality; and General Government, Revenue and Intergovernmental Relations. Each committee discusses policy proposals submitted by members and other local officials. Their final recommendations are mailed to each member municipality for review prior to the Legislative Policy Conference.

The Legislative Policy Conference is held every two years, coinciding with the 2-year state legislative session. Each member municipality, regardless of size, has one vote and policy proposals require a 2/3 vote to become NHMA Legislative Policy Positions. The 2012 NHMA Legislative Policy Conference is scheduled for September 21, 2012 at the New Hampshire Local Government Center.

*****Note there are some policy positions attached the Mayor/Council may not support*****

During the discussion this evening (after the motion) I am seeking guidance as to the policies the Mayor/Council does NOT support.



Memorandum

TO: All NHMA Members

FROM: Judy Silva, Deputy Director for Legal Services and Government Affairs
Cordell A. Johnston, Government Affairs Counsel

DATE: June 29, 2012

RE: 2013-2014 Legislative Policy Process *Important Dates!*

FLOOR POLICIES DUE: August 17 ♦ **POLICY CONFERENCE: September 21**

The Legislative Policy Process is moving forward! Enclosed with this memo is a copy of the policy recommendations made by the three policy subcommittees of the Committee on Government Affairs. This document will also be posted on the Local Government Center (LGC) website, www.nhlgc.org. *We urge each municipality's governing body, prior to the Policy Conference, to vote a position on the recommendations and floor proposals (see below) to provide direction to your voting delegate at the Conference.* Otherwise, your delegate is free to cast your municipality's vote as he/she chooses.

Floor Proposals

Please note that the deadline for submitting floor proposals is **Friday, August 17, 2012**. A floor proposal will be accepted only if it is *approved by a majority vote of the governing body* (Board of Selectmen, Aldermen, or Council) of the town or city submitting the proposal, is submitted in writing, and is received **no later than August 17, 2012**. We will mail all floor proposals to each municipality so there will be an opportunity to take a position on them before the Policy Conference. Floor proposals should be in the same format as proposals submitted to the policy committees.

A Floor Policy Proposal form has been included for your convenience, or you may find it on the LGC website. (Go to www.nhlgc.org, click on "NH Municipal Association," then "NHMA Policy-Setting Process," then "Floor Policy Form.") Please send it to NHMA Floor Proposals, Government Affairs Department, PO Box 617, Concord, NH 03302-0617 or fax to 224-5406 or e-mail to governmentaffairs@nhlgc.org.

Legislative Policy Conference

The 2013-2014 Legislative Policy Conference is scheduled for **Friday, September 21, at 9:00 a.m. at the Local Government Center** in Concord. We will include with the floor proposal mailing a card for each town or city to return indicating who has been appointed as the municipality's voting delegate.

Please call the Government Affairs Office at 800-852-3358, ext. 3408, if you have any questions.

2013-2014 NHMA Legislative Policy Process Questions & Answers

1. What is the purpose of establishing NHMA legislative policy? The New Hampshire Municipal Association (NHMA) is the voice of New Hampshire's cities and towns before the state legislature and state agencies. Adoption of legislative policy allows your municipal voice to be heard through the actions of your organization – NHMA. By adopting legislative policy, local officials can tell elected representatives what they feel are the major concerns of cities and towns.

The NHMA Municipal Advocacy Committee (MAC) is the board that oversees NHMA's advocacy activities. Legislative policy positions direct MAC and NHMA staff in representing municipalities before the legislature and state agencies.

2. How were the recommendations to the membership prepared? The NHMA operating agreement establishes a 75-member Committee on Government Affairs (CGA), which includes the 31 members of MAC and 44 other local officials. The role of CGA is to establish legislative policy recommendations for consideration by the full NHMA membership and to join with staff in the advocacy of those legislative policies before the House and Senate.

In April 2012, CGA divided into three policy subcommittees following the same categories that have been used in the past for legislative policy setting: Municipal Administration and Finance Management, Planning and Environmental Quality, and General Government, Revenue, and Intergovernmental Relations. These three policy committees considered issues and problems derived from their own experience as local officials, issues sent in by other members or brought to them by staff, past policy positions, and issues resulting from the most recent legislative session. Each committee held several meetings during the spring and developed policy recommendations to be voted on by member municipalities at the Legislative Policy Conference.

3. Who votes on adoption, amendment, or rejection of these recommendations, and when? On Friday, September 21, 2012, at 9:00 a.m., the 2013-2014 NHMA Legislative Policy Conference will be held at the Local Government Center in Concord. ***Each member municipality will be asked to appoint a Voting Delegate to cast its vote at this conference.*** Each member municipality, regardless of size, has one vote on all policy matters.

In the absence of any other designation by the Board of Selectmen, Aldermen, or Council, a Voting Delegate card will be issued at the door (in order of priority determined by NHMA Directory) to:

Mayor/Chair of Board of Selectmen/Council Chair

OR

Mayor Pro Tem/Vice or Assistant Mayor/Council Vice Chair

OR

Selectman/Alderman/Councilor

OR

City or Town Manager/Administrative Assistant

4. Will other policy proposals be voted on at the conference? Yes, municipalities will have the opportunity to submit floor policy proposals for consideration at the conference. The deadline for

submission is August 17. Each floor policy proposal must be approved by the governing body of the municipality submitting it, but the proposals will not be reviewed or recommended by either CGA or MAC. Floor policy proposals will be voted on separately at the conference.

5. How does our Voting Delegate determine a position on these recommendations? We urge each municipality's governing body to discuss the recommendations in advance of the Legislative Policy Conference and vote to take a position on each one, in order to give direction to the Voting Delegate. Otherwise, your Voting Delegate is free to cast your municipality's vote as he or she desires.

6. How are the policy recommendations presented and voted on at the Legislative Policy Conference? The Chair of MAC, as the presiding officer of the Legislative Policy Conference, introduces the entire set of recommendations of each policy committee, one committee at a time, as a slate. The co-chairs of each committee will be available to address questions. Any Voting Delegate may ask that a recommendation be set aside to be debated and voted on separately. The remaining recommendations are voted upon as a slate. When the slate from each policy committee has been voted, the Voting Delegates will then return to those items set aside for separate debate and vote. It is at this time that individual items can be killed, amended, passed over, laid on the table, etc. Votes are by a display of special Voting Delegate Cards, and a division vote (actual count) is taken.

7. Are policies adopted by a simple majority vote? No. NHMA's operating agreement requires a two-thirds affirmative vote of all members present and voting for approval of any NHMA Legislative Policy.

8. Why is the Legislative Policy Conference separate from the November annual meeting? The Legislative Policy Conference must be held before the annual conference in order to meet the legislative deadlines for the filing of new bills. The staff needs time after adoption of policies to draft bills and secure sponsors.

9. How will I know what policies are adopted if I don't go to the Legislative Policy Conference? The final 2013-2014 NHMA Legislative Policies will be printed as a supplement in the November issue of *Town & City* magazine. We will also post them on the LCG web site at www.nhlgc.org.

10. What happens if an issue that is not covered by any of these policies comes before the legislature? The Municipal Advocacy Committee determines the position that the staff will advocate on issues not covered by specific NHMA Legislative Policy. The policy conference also endorses a set of 10 Legislative Principles, which augment the specific legislative policy positions by setting forth general principles that guide staff in their advocacy efforts.

General Government, Revenue, and Intergovernmental Relations

2013-14 Final Legislative Policy Recommendations

ACTION POLICIES

1. Right to Know Costs and Specificity Required

To see if NHMA will **SUPPORT** amendments to RSA 91-A allowing municipalities to recover the actual costs of retrieving, reviewing and reproducing documents, and clarifying the level of specificity required when requesting public records. Existing Policy.

2. Consultation with Counsel Expansion Under RSA 91-A

To see if NHMA will **SUPPORT** legislation to amend RSA 91-A so that exempt consultation with legal counsel would also include discussions about written legal correspondence provided by legal counsel, without requiring the presence of counsel at the meeting.

Explanation: This would correct a NH Supreme Court interpretation of the statute. It is very expensive for taxpayers to have an attorney present or available to communicate with the governing body every time an issue arises. In addition, it is sometimes conducive to better decision-making if the governing body can discuss the advice of counsel among themselves.

Ettinger v. Madison is adversely affecting our ability to get a clear understanding of legal options and obligations. The requirement that an attorney be present to discuss legal advice (vs. discussing a letter) will drive up costs and delay decision-making. At times, legal opinion may not be sought due to cost or delay considerations, and the decision made may not stand up to subsequent legal challenge. To the extent that this can be "fixed" with legislation, that would be very helpful. Submitted by Scott Dunn, Gilford TA and Arthur Cunningham, Bow PB.

PRIORITY POLICIES

3. Tax Rate Setting

To see if NHMA will **SUPPORT** legislation allowing the legislative body of a municipality to authorize the governing body to establish the local property tax rate, overlay, and other reserves, independent of DRA, so long as the municipality has an annual audit performed by an independent certified public accountant.

MAC adopted policy 3/18/11

4. Site Evaluation Committee and Local Input

To see if NHMA will **SUPPORT** legislation establishing a procedure similar to RSA 674:54 requiring applicants to the state's Site Evaluation Committee (SEC) to notify and appear before the local planning board prior to the issuance by the SEC of certificates for the construction of energy facilities under RSA 162-H.

Explanation: The state's Site Evaluation Committee is charged with coordinating/expediting the permitting process for energy facilities, including commercial wind farms and bio-mass plants. Local planning boards are increasingly developing ordinances permitting these sites while protecting the health and well-being of their residents. The SEC's enabling legislation needs to be amended to require compliance with these new ordinances as a component of their review process. **Submitted by John Kieley, Selectman, Temple and Tom McCue, Planning Board, Berlin.**

5. Sharing Background Information

To see if NHMA will **SUPPORT** legislation that allows background check information obtained by municipalities and other governmental entities to be shared between governmental entities if the subject of the background checks agrees.

Explanation: This would save the taxpayer money as most volunteers do so at both the school and the town, especially in the Town's Recreation Programs. This would also expedite the Rec Program event/sport getting under way quicker as there is usually a 3 week or more response time from the time the person is brought on to the position & the background check is back. In the past 10 years there have been numerous times where someone has volunteered to be a coach, assist in an event, or participate in the Town's Recreation program where that person has already had a background check done through the school & is working or volunteering at the school. The school has not been able to write a note stating that person's background check was clean and the person is cleared to work/volunteer. The Town has written notes to the school when the volunteer/employee has requested so they can either work or volunteer at the school. **Submitted by: Sue Stacy, Madison, Deputy Town Administrator.**

6. Health Insurance Coverage

To see if NHMA will **SUPPORT** legislation redefining the status quo concept to provide that the employer dollar cost for non-mandated benefits shall remain level upon the expiration of a collective bargaining agreement until a new contract is approved, except where the parties have approved an evergreen clause.

Explanation: The interest served will be considerable savings to municipalities. Many unions have lucrative contracts requiring the best, and increasingly expensive, health insurance coverage. Legislation that would allow municipalities to modify the contract language and allow each to shop for less expensive plans would be a financial benefit for municipal taxpayers. **Submitted by Roger Coutu, Hudson BOS.**

7. RSA 162-K: Authority for Inter-municipal Cooperation

To see if NHMA will **SUPPORT** legislation to provide more explicit authority for inter-municipal cooperation in economic development and revitalization districts (*see* RSA 162-K).

Explanation: The broad municipal interest served by this proposal is that towns will have more explicit authority to work together on development projects that serve the interest of multiple municipalities. This policy proposal derives from the Towns of Hanover and Lebanon and their mutual desire for inter-municipal cooperation on their proposed N.H. Route 120 Transportation Innovation Project. The two towns are actively exploring the various options for implementing their vision for the Route 120 corridor and have encountered a few legal hurdles along the way. Both towns have expressed interest in establishing an inter-municipal development district under

RSA 162-K, and this policy proposal will explicitly authorize inter-municipal action on the implementation of development districts. **Submitted by: Jessie Levine, Asst. Town Manager, Hanover.**

8. RSA 162-K: Authority to Use TIF District Revenue Beyond District.

To see if NHMA will **SUPPORT** legislation to allow municipalities to use tax increment revenue generated from designated development districts established under RSA 162-K for related development or projects outside the district.

Explanation: This proposal provides more flexibility to municipalities in designating and utilizing tax revenues generated pursuant to RSA 162-K on development projects both within and outside the development district.

This policy proposal is related to the preceding proposal on TIF district authority for economic development. This proposal reflects the mutual desire between the towns for authority to utilize tax increment revenues generated under 162-K on development projects outside the designated development districts, such as park-and-ride lots, for example. This proposal would explicitly allow TIF funds to be diverted to projects outside the established district for purposes of achieving the overall goals within the district. **Submitted by: Jessie Levine, Asst. Town Manager, Hanover.**

9. Petition Signature Requirements

To see if NHMA will **SUPPORT** legislation amending RSA 39:3 to require that in towns with an official ballot referendum town meeting (SB2/RSA 40:13), petitioned warrant articles must be signed by not less than 2% of registered voters, but in no case fewer than 10 voters or more than 150 voters.

Explanation: This increases exposure of petitioned warrant articles to more voters, thereby enhancing transparency. The increased threshold is a better indicator of voter support of an issue. In official ballot referendum towns, it is common for towns to be faced with 5-6 petitioned articles each year on the town warrant. In most instances, the current threshold of 25 signatures can be achieved through a couple of house parties or trips to the local coffee shop. Citizen petitions can be submitted on any subject and in recent years legislation has been passed making it harder for any amendments to be made at the town meeting or deliberative session. By increasing the threshold of registered voters, petitioners would have to be organized in a far more significant way, and it is likely far more voters would be made aware of a petitioned article circulating in the community prior to it being presented to the Selectmen. This would give communities an opportunity to know what is being discussed prior to the warrant being published. **Submitted by: Russ Dean, Exeter Town Manager.**

STANDING POLICIES

10. Clarifying What Information Is To Be Included In Town Reports In SB2 Towns

To see if NHMA will **SUPPORT** legislation to clarify which version of the budget and warrant articles is to be included in town reports in SB2 towns.

Explanation: There appears to be confusion relative to the requirements of RSA 40:13, II, DRA's interpretation, and the practical realities of putting original and/or amended warrants and budget forms in the Town Report. **Submitted by: Julie Glover, Lee TA.**

11. Modifying the Adoption, Revision, and Amendment of Municipal Charters

To see if NHMA will vote to **SUPPORT** legislation similar to HB 379 in 2008 that modifies the adoption, revision, and amendment of municipal charters.

Explanation: This proposal will make the process for changing the form of government easier to comprehend, especially if it allows for the election of charter commission members concurrently with the adoption of the charter commission. **Submitted by Ben Moore, Selectman, Hampton.**

12. New Hampshire Retirement System (NHRS)

To see if NHMA will **SUPPORT** the continuing existence of a retirement system for state and local government employees that is strong, secure, solvent, fiscally healthy and sustainable, that both employees and employers can rely on to provide retirement benefits for the foreseeable future. Further, to see if NHMA will **SUPPORT** continuing to work with legislators, employees, and the NHRS to accomplish these goals.

To that end, to see if NHMA will:

- a) **SUPPORT** legislation that will strengthen the health and solvency of the NHRS and ensure the long term financial sustainability of the retirement system for public employers;
 - b) **OPPOSE** any legislation that: 1) expands benefits that would result in increases to municipal employer costs; or 2) assesses additional charges beyond NHRS board approved rate changes on employers, including but not limited to spiking assessments and charges on part-time employees;
 - c) **SUPPORT** the restoration of the state's 35% share of employer costs for police, teachers, and firefighters in the current defined benefit plan and any successor plan; and
 - d) **SUPPORT** the inclusion of municipal participation on any legislative study committee or commission formed to research alternative retirement system designs (such as a defined contribution or a hybrid plan) and the performance of a complete financial analysis of any alternative plan proposal in order to determine the full impact on employers and employees.
- Modified Existing Policy.**

13. Consolidated Policy on Collective Bargaining Items

Evergreen Clause: To see if NHMA will **OPPOSE** legislation to enact a mandatory so-called "evergreen clause" for public employee collective bargaining agreements. **Existing Policy (#7).**

Binding Arbitration: To see if NHMA will **OPPOSE** mandatory binding arbitration as a mechanism to resolve impasses in municipal employee collective bargaining. **Existing Policy (#17).**

Right to Strike: To see if NHMA will **OPPOSE** a right to strike for public employees. **MAC 2007 (#53).**

Mandated Employee Benefits: To see if NHMA will **OPPOSE** any proposals to mandate employee benefits, including any proposal to enhance retirement system benefits which may increase employer costs in future years, for current or future employees. **Existing Policy (#22).**

14. Pollution Control Exemption

To see if NHMA will **SUPPORT** repeal of the so-called "pollution control exemption" (RSA 72:12-a) or, in the alternative, amending the statute to: a) exclude any devices that are required by law; b) require that the primary purpose of the device is to control pollution; and c) impose a term limitation on any exemption granted. **Existing Policy.**

15. Highway Funding: Increase in Road Toll (Gas Tax) and Registration Fees

To see if NHMA will **SUPPORT** an increase in any state revenue source dedicated to highway improvements, including the road toll (gas tax) under RSA 260:32, a motor vehicle registration surcharge, or any other source, so long as all additional revenues are used for highway purposes, and provided that the proportionate share of such additional revenues is distributed to cities and towns as required by existing law.

Explanation: This will improve roads that bring visitors to our towns. We have an unnumbered state road in our town that desperately needs repair, though there is no money in the state highway department to even do makeshift repairs. **Combination of existing policy and language submitted by David Weathers, Conway BOS.**

16. Public Notice Requirements

To see if NHMA will **SUPPORT** legislation to amend all public notice requirements to allow the choice of electronic notification and/or newspaper print, as well as posting in public places, for official public legal notification. **Existing Policy.**

17. Highway Fund

To see if NHMA will **SUPPORT** legislative and administrative proposals to limit or eliminate the diversion of highway funds for non-highway purposes, and further **SUPPORT** working with the legislature and the Department of Transportation on alternative funding sources that will assure the maintenance of existing state and local transportation infrastructure and greater focus and financial support for public transportation, including rail and bus services. **Existing Policy.**

18. Charitable Definition and Mandated Property Tax Exemptions

To see if NHMA will **SUPPORT** legislation redefining the term "charitable" in RSA 72:23-/, adopting a stricter review of property owned by religious, charitable, and educational entities for compliance with the statutes, and creating a method of reimbursement to municipalities for state-owned property, and **OPPOSE** legislation which requires the granting of additional local property tax exemptions, unless the state reimburses municipalities for the loss of revenue. **Existing Policy.**

19. Municipal Use of Structures in the Right-of-Way

To see if NHMA will **SUPPORT** legislation to authorize municipalities to use, for any municipal purpose, the space designated for municipal good upon all poles, conduit and other structures within their rights-of-way without paying unreasonable make-ready costs. This includes the right to use that space for data and voice transmission to, from, and by the municipal government, schools, library, and other governmental institutions. This includes a requirement that the owners of utility poles and conduit do the necessary work for that space to be available. **Existing Policy.**

20. Downshifting of State Costs

To see if NHMA will **OPPOSE** legislation which will downshift state costs or state program responsibilities, either directly or indirectly, to municipalities and/or counties, resulting in increased municipal and/or county expenditures, whether in violation of Article 28-a or not, and **SUPPORT** adequate state funding of Medicaid costs. **Existing Policy.**

21. Telecom Company Property Tax Exemption

To see if NHMA will **OPPOSE** any exemption from the property tax for poles, wires, and conduits owned by telecom companies. **Existing Policy.**

22. State Revenue Structure and State Education Funding

To see if NHMA will **SUPPORT** asking the state to use the following principles when addressing the state's revenue structure in response to its responsibility to fund an adequate education:

- a) That revenues are sufficient to meet the state's responsibilities as defined by constitution, statute, and common law;
- b) That revenue sources are predictable, stable and sustainable and will grow with the long term needs and financial realities of the state;
- c) That changes to the revenue structure are least disruptive to the long-term economic health of the state;
- d) That the revenue structure is efficient in its administration;
- e) That changes in the revenue structure are fair to people with lower to moderate incomes.

To see if NHMA will **SUPPORT** legislation prohibiting retroactive changes to the distribution formula for adequate education grants after the notice of grant amounts has been given.

To see if NHMA will **OPPOSE** reductions in state revenue to political subdivisions, such as revenue sharing, meals and rooms tax distribution, highway block grants, water pollution moneys, adequate education grants, or catastrophic aid. **Existing Policy.**

23. Utility Appraisal Method

To see if NHMA will **OPPOSE** mandating the exclusive use of the unit method of valuation in the appraisal of utility property, by either administrative or legislative action, and **SUPPORT** the right of municipalities to use any method of appraisal upheld by the courts. **Existing Policy.**

24. Minimum Vote Required for Bond Issues

To see if NHMA will **OPPOSE** legislation to increase the 60% bond vote requirement for official ballot communities. **Existing Policy.**

25. Underground Utilities

To see if NHMA will **SUPPORT** legislation to continue to allow municipalities to incur debt for the purpose of removing overhead utilities and replacing them with underground utilities. **Existing Policy.**

26. Collection of Statewide Education Property Tax

To see if NHMA will take **NO POSITION** on the collection of the statewide property tax *by the* state or by municipalities, but will continue to work to ensure that any system based on the property tax coordinates and synchronizes as seamlessly as possible with existing local property tax assessment and collection procedures. **Amended Existing Policy.**

27. Contracted Services and Bargaining

To see if NHMA will **SUPPORT** legislation to give public employers greater flexibility to privatize or use contracted services.

Explanation: This policy would counter a decision by the New Hampshire Supreme Court which provides that public services covered by a collective bargaining agreement cannot be privatized unless the change is negotiated. Such a policy would result in savings to property tax payers. The town is precluded from replacing full-time positions with contracted services unless such language is included in a collective bargaining agreement. **Submitted by Scott Dunn, Gilford TA.**

28. Maintenance & Policing of State-owned Property

To see if NHMA will **SUPPORT** legislation to enable municipalities to recover the expenses of policing publicly-owned land against all illegal activity (including public consumption of alcohol and littering), including the ability to receive reimbursement/compensation from individuals engaged in the illegal activity. And further, to see if NHMA will **SUPPORT** legislation to require the State of NH to provide for the management of all state-owned property, including maintenance, and to compensate any town for any financial burden created by having said state property located within its borders.

Explanation: This policy will relieve cities and towns from any financial costs associated with the maintenance and policing of any state-owned property. Within the towns of Holderness, Plymouth and Campton is a state-owned park property along the Pemigewasset River that is a constant burden to the police and fire/recue agencies in all three towns resulting from people littering, drinking and being injured from water-related activity in the summer months. **Submitted by: Walter Johnson, Administrator, Holderness**

29. Negotiated PILOTs for Water System Property

To see if NHMA will **SUPPORT** a change in current law (RSA 72:11) which would allow municipalities that are host to another municipality's land holdings for water supply or control to negotiate a payment in lieu of taxes (PILOT) if the municipalities are willing to do so; **and OPPOSE** legislation that eliminates the current obligation of the public water entity to make a

PILOT equal to what the property taxes would be for the property in the absence of a negotiated PILOT.

Explanation: For those municipalities who are the hosts of such publicly-owned properties (the Towns of Auburn, Candia, Chester, Harrisville, Hooksett, Nelson, Randolph and Roxbury at a minimum), state statute, for approximately 100 years, has required the public water entities whose land holdings are in another community to make a payment to the host community equal to what the property taxes would be for the property. This has been subject to numerous legislative and judicial actions in the past; modifying the law to allow municipalities to negotiate and reach a mutually acceptable resolution would serve the interest of all parties.

In both 1981 and 2011, the New Hampshire Legislature defeated proposals which would allow such public water entities to qualify for Current Use taxation status in an effort to reduce property value for taxation purposes. The Legislature specifically exempted them from inclusion in Current Use under RSA 79-A and 79-B. In 2004, 2007 and 2011 there has been litigation, including appeals to the Supreme Court, on this issue. If RSA 72:11 was amended to allow for the *negotiation* of a PILOT, future issues in this area may be eliminated or reduced. **Submitted by: Bill Herman, Administrator, Auburn**

30. State Budget/Tax Cap

To see if NHMA will **OPPOSE** the adoption of any variation of a state budget cap or state tax cap which will impose on the Legislature pre-established limitations on state spending.

Explanation: The municipal concern is the likelihood that a budget or tax cap will result in increased municipal costs borne by property tax payers. In recent state budget discussions, the legislature has suspended the distribution of revenue sharing funds to municipalities with an expectation that it will be reconsidered during better economic times, and has frozen the meals and rooms distribution far short of the statutorily required state-municipal split. When the state finds itself in a difficult financial position, it cuts state aid and reduces state programming, thus passing additional costs to municipalities. Decisions to control spending should be thoroughly discussed and voted upon by the legislature, and should not simply result from an artificially imposed cap.

MAC adopted policy 2/17/12

31. Emergency Generator Exemption

To see if NHMA will **SUPPORT** legislation to delete the RSA 72:8 exemption of emergency generators from the property tax.

Explanation: A large and growing number of properties have emergency generators which add value which should be subject taxation. **Submitted by: Rob Upton, Attorney for Berlin & Gorham**

Municipal Administration and Finance Management

2013-14 Final Legislative Policy Recommendations

ACTION POLICIES

1. Welfare Lien Priority

To see if NHMA will SUPPORT legislation giving welfare liens arising under RSA 165:28 higher priority, and specifically making liens for welfare payments made directly to mortgage companies subordinate only to tax liens. **Existing Policy with Amendment.**

Explanation: If welfare funds are paid directly to a mortgage holder on behalf of the mortgagor, and that mortgage holder subsequently forecloses on the property, the municipality should have a priority lien on amounts paid to the mortgage holder.

2. Counting Absentee Ballots

To see if NHMA will SUPPORT legislation to eliminate the requirement that absentee ballots cannot be counted prior to 1:00 P.M., and instead allow them to be counted throughout the time when polls are open. **Existing Policy.**

3. Revoking Permits and Licenses

To see if NHMA will SUPPORT legislation authorizing municipalities to adopt an ordinance or by-law granting authority to the municipality to suspend any permit, license or other statutory permit granted to an individual who owes money to the municipality, including property taxes, building permit fees, water or sewer fees, etc.

Explanation: In more than a few cases, individuals will be delinquent on tax payments, fees, or other moneys owed to a municipality, and selectively paying those late or not at all, while paying for other items such as a building permit. For example a person may be two years delinquent on taxes but pull a building permit and pay a fee to build a house. This does not make sense. Communities should not be put in the awkward position of issuing a building permit or a dog license while someone is delinquent for years on tax payments. It may lead to a situation where the municipality is spending legal resources pursuing payments in court, while having to issue permits or licenses, knowing the individual is a scofflaw. **Russell Dean, Exeter Town Manager**

4. Signing Manifests

To see if NHMA will SUPPORT legislation clarifying that the signing of a manifest by a majority of a governing body shall not be a public meeting.

Explanation: Current statute allows school boards to designate two or more members to authorize payments. Select boards are only able to authorize payments as a quorum during a noticed, public meeting. Some select boards conduct full business meetings only twice a month. The weeks that

there is not a full business meeting, the Board of Selectmen holds a 30 second noticed, public meeting to authorize payments. **Leslie Boswak, Deerfield Town Administrator.**

PRIORITY POLICIES

5. Swearing in Town Officers

To see if NHMA will SUPPORT legislation to reconcile RSA 669 with RSA 42:3 regarding when certain town officers may be sworn in.

Explanation: RSA 669:10, II (added in 1989) says that “no person shall assume a town office until after the time period for requesting a recount is over. If a recount is requested for a town office, no person shall assume that office until after the recount is completed.”

However, RSA 42:3 (amended in 2008, part of the chapter on “Oaths of Town Officers”) now says that “any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. If no recount of the office is requested, any person elected to an office that was contested or for which a write-in candidate received 5 percent or more of the votes cast may be sworn in upon expiration of the period for requesting a recount provided in RSA 669:30.”

It seems clear that the intent was to allow people to be sworn in earlier, and it was likely just an oversight that RSA 669:10 was not amended to conform to this or at least mentioned in the amended language of RSA 42:3. The result, unfortunately, is some confusion. **Chris Rose, Former Raymond Town Administrator**

6. Budget Year Conversion

To see if NHMA will SUPPORT legislation to simplify the process of a municipality’s converting from a calendar year budget cycle to a fiscal year budget cycle.

Explanation: The benefits to being on the same budget cycle with the state and local school district are commonly recognized, however, many communities have not made the switch because of the administrative and budgetary difficulties with the current process; it requires a municipality to appropriate revenue for an 18 month period, rather than the historical 12 month period in a single warrant article. This creates considerable confusion with the public (it appears to the casual observer that the governing body is proposing a 50 % budget increase). If approved by the voting public it creates a financial burden on the tax payer. Taxes are temporarily increased and revenue prematurely collected to cover an 18 month period, or the municipality is required to budget for the normal 12 month period plus borrow for the additional six months so that the entire 18 month appropriation is secured in advance. This process seems to be mandated only for the purpose of satisfying an accounting change. In the private sector, businesses routinely change their fiscal year with no similar administrative and financial burden; it is recognized as an accounting change, not a liability exposure. **Guy Scaife, Milford Town Administrator.**

7. Human Resources Record Retention

To see if NHMA will SUPPORT legislation that amends the record retention requirements for successful job applications and personnel records from 50 years after termination or retirement to 20 years after termination or retirement.

Explanation: Federal law does not require any personnel records to be retained for this length of time. The Society for Human Resources Management (SHRM) has an excellent grid that shows federal timelines for record retention. Seven years is the standard for personnel records. It seems as though 20 years following the retirement or termination of an employee is a compromise that we would like to advocate for and to implement. **Jennifer Johnston, Concord, Director of Human Resources.**

8. Mandatory Tax Liens

To see if NHMA will SUPPORT legislation to change RSA 80:59 to read: "The real estate of every person or corporation shall be subject to the tax lien procedure by the collector, in case all taxes against the owner shall not be paid in full on or before December 1 next after its assessment, provided that the municipality has adopted the provisions of RSA 80:58-86 in accordance with RSA 80:87. A real estate tax lien imposed in accordance with the provisions of RSA 80:58-86 shall have priority over all other liens." **Existing Policy.**

9. Bonds on Official Ballot in Non-SB 2 Towns

To see if NHMA will SUPPORT amending RSA 33:8 and/or RSA 33:8-a to permit warrant articles requesting authorization of bonds or notes in excess of \$100,000 to appear on the official ballot in non-SB2 towns for any annual or special town meeting at the discretion of the governing body; provided the legislative body gives authorization to the governing body. **Existing Policy.**

10. Solid Waste Revolving Funds

To see if NHMA will SUPPORT legislation to allow municipalities to establish, by vote of the legislative body, revolving funds for their solid waste programs, including solid waste collection, disposal, and the operation of any municipally operated transfer station, in addition to recycling. **Existing Policy.**

11. Prorating Disabled Exemption

To see if NHMA will SUPPORT legislation prorating the disabled exemption under RSA 72:37-b when a person entitled to the exemption owns a fractional interest in the residence, in the same manner as is allowed for the elderly exemption under RSA 72:41. **Existing Policy.**

12. Extend Time to Adopt Codes and Ordinances

To see if NHMA will SUPPORT legislation amending RSA 41:14-b to give the selectmen up to 21 days, rather than 14, after a second public hearing to vote on the adoption or amendment of an ordinance or code.

Explanation: If municipalities schedule their selectmen's meetings on the same day of the week twice a month, some months contain five incidents of that same day of the week, which then necessitates scheduling an additional meeting to process an amendment to a code in order to meet the requirements of the RSA (e.g., if selectmen meet the 2nd and 4th Monday of each month, and they wish to amend a code in April of 2012, an additional session would need to be scheduled because there are three weeks between the 4th Monday of April and the 2nd Monday of May). **Dawn Griska, Milford Administrative Assistant.**

STANDING POLICIES

13. Default Budget for Enterprise Funds

To see if NHMA will SUPPORT legislation to allow for a default budget for enterprise funds submitted as stand-alone warrant articles.

Explanation: For SB 2 Towns, the default budget provision of RSA 40:13 paragraphs IX, X, XI only applies to enterprise funds if they are combined with the general fund and presented to voters as a single warrant article. If the enterprise fund is presented to the voters as a stand-alone warrant article and it fails, there is no provision for a default budget. To insure that there is the backup of a default budget for each fund when presented separately, the RSA must be changed. Our desire is to allow enterprise funds to be on separate warrant article specific to that operating budget with the normal provisions of a default budget applicable to that individual fund, therefore giving the voter the maximum flexibility. **Guy Scaife, Milford Town Administrator.**

14. Income and Expense Statements on Appeal

To see if NHMA will SUPPORT legislation that prohibits the use of income and expense information by a taxpayer in any appeal of value if the taxpayer, after request by the municipality, has not submitted the requested information. **Existing Policy.**

15. Penalty for Failure to Submit Current Use Information

To see if NHMA will SUPPORT legislation imposing a penalty for failure to submit current use information as needed to update municipal records—*i.e.*, Marlow matrix. **Existing Policy with Amendment.** (The word "fine" is replaced with "penalty.")

16. Supervisor of the Checklist Sessions

To see if NHMA will SUPPORT legislation to reduce to one the number of required sessions that the supervisors of the checklist must hold prior to town elections. **Existing Policy.**

17. Municipal Recreation Programs

To see if NHMA will SUPPORT the continued exemption from state child care licensing for municipal recreation department programs and also support the exemption from state camp licensing for municipal recreation department summer programs. **Existing Policy with Amendment.** ("Continued" is inserted before "exemption.")

18. Requirement to Hold Elected Office

To see if NHMA will SUPPORT legislation clarifying that to run for and hold a local elected office, one must be a registered voter. **Existing Policy.**

19. Tax Bill Information

To see if NHMA will SUPPORT legislation to amend RSA 76:11-a to allow those municipalities which have adopted the deaf exemption to include the word “deaf” following the word “blind” in the information contained on tax bills. **Existing Policy.**

20. Appointment of Town Clerks and Town Clerks/Tax Collectors

To see if NHMA will SUPPORT legislation to allow the legislative body to authorize the governing body to appoint or elect town clerks and town clerk/tax collectors. **Existing Policy.**

21. Recording Fees for Elderly Deferrals

To see if NHMA will SUPPORT legislation to waive municipal recording fees for the establishment and release of elderly deferrals at the county Registry of Deeds. **Existing Policy.**

22. Flood Control Payments

To see if NHMA will SUPPORT legislation to fully fund flood control payments in lieu of taxes to municipalities. **Bruce Johnson, Webster Selectman.**

23. Warrant Article Language; Adoption by Reference

To see if NHMA will SUPPORT legislation to amend RSA 48-A, Housing Standards, to allow a town to adopt a proposed housing standards ordinance on the ballot by reference, as opposed to printing the entire ordinance on the warrant.

Explanation: Housing standards are not adopted in many towns because of the lengthy ordinances required. These may run to 50 pages or more. A warrant with 50 pages for one article is just prohibitive. **Fred Welch, Hampton Town Manager.**

24. Study the Official Ballot Form of Government

To see if NHMA will SUPPORT legislation to study issues and concerns under the official ballot form of government.

Explanation: The MAF committee received several policy proposals concerning the official ballot form of government. Knowing that the legislature is intending to study this matter, the committee decided to support, and have NHMA actively participate in, the study committee.

25. Clarify Establishing Highways

To see if NHMA will SUPPORT legislation clarifying that the dedication and acceptance method of highway creation is limited to acceptance by vote of the legislative body, or the board of selectmen if so delegated.

Explanation: Amend RSA 229:1 to make it clear that the dedication and acceptance method of highway creation is limited to acceptance by vote of the legislative body (or Board of Selectmen by delegation) and not by haphazard implied acceptance revived by the Court in Hersh v. Plonski. (See article in Nov/Dec Town and City) **Elizabeth Dragon, Franklin City Manager.**

Planning and Environmental Quality

2013-14 Final Legislative Policy Recommendations

ACTION POLICIES

1. Planning Board Appeals

To see if NHMA will **SUPPORT** legislation that (a) protects parties from losing their appeal rights when they appeal a planning board decision to the superior court under RSA 677:15 or to the ZBA under RSA 676:5, III, and either body determines that the appeal should have gone to the other, and (b) allows all issues to be appealed to the superior court after the conclusion of any appeal to the ZBA. Any such legislation should preserve the existing 30-day appeal period under RSA 677:15. **Existing Policy.**

2. Public Notification Responsibility Under RSA 482:13:II (Dam Owners)

To see if NHMA will **SUPPORT** legislation requiring the owner of a dam, rather than a local governing body, to publish notice of the informational meeting required under RSA 482:13 for the breaching of a dam or lowering of a water body, and allowing more time for scheduling and publishing notice of the informational meeting.

Explanation: The existing law requires a dam owner to notify all municipalities where the dam or body of water is located before breaching the dam or lowering the water body, with certain exceptions. The governing body must hold a public informational meeting with 15 days after receiving the notice, and it must publish notice of the meeting in a newspaper of general circulation at least seven days before the meeting.

The publication requirement is an unfunded mandate that appears to violate part 1, article 28-a of the New Hampshire Constitution. The municipality has no jurisdiction over the breaching of the dam or lowering of the water body, so the mandate is particularly troubling. Further, the statute gives the governing body only eight days after receipt of the notice to publish notice of the informational meeting. Given that most governing bodies meet no more often than bi-weekly, this requirement creates an undue burden. **Submitted by: Pittsburg Board of Selectman.**

3. Incidental Burning of C&D Debris at Municipal Transfer Stations

To see if NHMA will **SUPPORT** legislation seeking a permanent exception to allow the incidental combustion of untreated construction and demolition debris at municipal transfer stations.

Explanation: In 2007 the legislature enacted a prohibition on burning construction and demolition debris. The legislation included a temporary exception for “the incidental combustion, under the supervision of a solid waste facility operator, of untreated wood at a municipal transfer station

subject to regulation under RSA 149-M.” Essentially, this authorizes the continued use of “burn piles” for small amounts of untreated wood at municipal transfer stations.

This exception is scheduled to expire on January 1, 2014. If it is allowed to expire, municipalities will no longer be permitted to burn untreated wood from construction and demolition and will need to employ more expensive means to dispose of the wood. **Submitted by: Town of Wolfeboro.**

4. Restoration of Full General Revenue Funding for Municipal State Aid Grant (SAG) Programs

To see if NHMA will SUPPORT legislation to restore full general revenue funding of municipal wastewater, public drinking water and landfill closure grants administered by the NH Department of Environmental Services.

Explanation: Since November, 2008, the legislature has deferred general revenue funding of the State Aid Grant (SAG) program for municipal wastewater, public drinking water and landfill closure projects. Eligible municipal projects for state aid grants were not funded in state fiscal years 2009, 2010, 2011 and 2012. This has left a backlog of: 87 wastewater projects totaling \$36,781,137 in grant requests; 17 water supply projects totaling \$7,586,104 in grant requests; and 7 landfill closure projects totaling \$805,025 in grant requests, spread across over 40 communities whose state aid grants have been deferred.

This policy proposal seeks to support legislation that encourages the state to fulfill its existing statutory obligation to municipalities. In the long term, New Hampshire needs a sustainable funding source to support the state’s environmental infrastructure needs, especially when project costs become unaffordable to the local taxpayers. Future investments will be necessary to address both increasing infrastructure asset renewal demands to comply with new and more stringent federal water pollution control regulations and to accommodate increased growth and demand. **Submitted by: City of Concord.**

PRIORITY POLICIES

5. Conservation Investment

To See if NHMA will SUPPORT permanent funding for the Land and Community Heritage Investment Program and **OPPOSE** any diversion of such funds to other uses. **Existing Policy.**

6. Permitting Municipalities to Establish Central Business Utility Districts to Protect Water Supplies

To see if NHMA will SUPPORT legislation that would enable municipalities to establish mechanisms to finance the provision of public utility services, with oversight by the governing and legislative bodies, with costs to be borne by the users and/or property owners within the areas served.

Explanation: A bill (SB 353) was introduced in the 2012 session seeking to permit municipalities to establish central business utility districts to protect the water supply and to enable municipalities

to provide utility services in compliance with federal, state and local requirements. SB 353 was ultimately re-referred to interim study by the senate.

MAC ADOPTED POLICY VOTE, 1/20/12: Support legislation that would enable municipalities to establish mechanisms to finance the provision of public utility services in designated areas within municipalities, with oversight by the governing and legislative bodies, with costs to be borne by the property owners within those designated areas. **Submitted by: Town of Stratham.**

7. Clarifying Statutory Procedure for Resolving Highway Culvert/Drainage Disputes

To see if NHMA will **SUPPORT** legislation clarifying that RSA 231:75 provides a landowner's sole remedy for damages from a municipality's changing the grade of a highway or installation or maintenance of ditches or culverts.

Explanation: Orford was recently ordered to pay damages (and also had to go through the expense of a jury trial) on an issue involving the replacement of a failed culvert with a culvert of a larger size. The downstream landowner claimed that her property had been damaged due to the increase in water flow. The jury awarded her \$20,000 -- even though not one single expert provided any evidence of actual damage -- based solely on her own testimony (and the rule that a landowner has the right to testify about his/her own property's value). Given that she was elderly and lives alone with her dog, the verdict could easily have been simply a vote of sympathy. My argument (for the Town) that RSA 231:75 constituted the landowner's exclusive remedy (rather than a tort lawsuit) was rejected by the Court. Unfortunately that statute is worded awkwardly, has an inconsistent case-law history, and has not been amended for many decades. In my view, culvert/drainage issues should not subject a town to the possibility of a jury trial. The vast majority of older roads in New Hampshire include culverts and drainage ditches for which there are no recorded easements, and for which the drainage rights are solely by implication. The law relating to such interests is specialized and complex enough that a jury cannot truly be expected to understand it (as just one example, the attorney for the landowner attempted to portray any water coming onto his client's property from the highway right-of-way as a trespass, whereas the case law - scant and old as it may be - makes it clear that the town has not merely the right but the duty to divert water from the uphill side of a road to the downhill side). **Submitted by: Attorney Bernard Waugh on behalf of Town of Orford.**

STANDING POLICIES

8. Environmental Regulation and Preemption

To see if NHMA will **SUPPORT** legislation that (a) recognizes municipal authority over land use and environmental matters, (b) limits state preemption of local environmental regulation, and (c) recognizes that even when local environmental regulation is preempted, compliance with other local laws, such as zoning and public health ordinances and regulations, is still required. **Existing Policy.**

9. Energy, Renewable Energy and Energy Conservation

To see if NHMA will **SUPPORT** legislation encouraging state and federal programs that provide incentives and assistance to municipalities to adopt energy use and conservation techniques that will manage energy costs and environmental impacts, promote the use of renewable energy sources, and promote energy conservation, and opposes any legislation that overrides local regulation. **Existing Policy.**

10. Open Space Retention and Sprawl Prevention

To see if NHMA will **SUPPORT** legislation encouraging statewide programs that provide incentives and assistance to municipalities to adopt land use planning and regulatory techniques that will better prevent sprawl, retain existing tracts of open space, and preserve community character. **Existing Policy.**

11. Sludge/Biosolids

To see if NHMA will **SUPPORT** reliable enforcement of scientifically based health and environmental standards for the management of sludge, septage, and biosolids; **SUPPORT** the funding of the New Hampshire Department of Environmental Services and the New Hampshire Department of Agriculture, Markets and Food at a level allowing full and adequate development and enforcement of such scientifically based health and environmental standards; **SUPPORT** an increase in the amount of state aid grants or other financial assistance for wastewater treatment plant upgrades to improve the quality of biosolids produced from Class B to Class A biosolids; **OPPOSE** any state legislation that would curtail the ability of municipalities to dispose of municipally-generated biosolids through land spreading, when done in accord with such scientifically based health and environmental standards; and **OPPOSE** any preemption of local authority to regulate in this field. **Existing Policy.**

12. Current Use

To see if NHMA will **OPPOSE** any legislative attempt to undermine the basic goals of the current use program and **OPPOSE** any reduction in the 10-acre minimum size requirement for qualification for current use, beyond those exceptions now allowed by the rules of the Current Use Board. **Existing Policy.**

Legislative Principles

In addition to the established Legislative Policy positions adopted by the New Hampshire Municipal Association membership, the following principles should guide staff in setting priorities during any legislative biennium:

1. Consider unfunded mandate issues that violate Part 1, Article 28-a of the New Hampshire Constitution to be paramount. Identify them and oppose them.
2. Work to maintain existing revenue streams to municipalities, (i.e. revenue sharing, meals and rooms tax, highway, and other state aid). Be especially watchful of proposals to reduce local aid in order to meet other funding commitments.
3. Advocate to maintain existing local authority.
4. Support issues which provide greater authority to govern more effectively, efficiently and flexibly at the local level, including local option legislation. If the legislature is considering adopting a program that is particularly controversial at the local level, support a requirement that a local legislative body vote is necessary before full implementation of the measure.
5. Support bills proposed by individual municipal members, except when they conflict with these principles or other NHMA policies. Staff should prioritize time and resources when there are competing demands in order to focus on NHMA's broad agenda first.
6. Encourage exemptions from state taxes rather than local property taxes when legislative intent is to preserve statewide resources.
7. Advocate for municipal representation on all state boards, commissions, and study committees which affect municipal government and have non-legislative members.
8. Work cooperatively with other groups and associations to support efforts to improve the delivery of services at the local level.
9. Support municipal efforts toward effective regional cooperation and delivery of municipal services.
10. Support efforts to develop a statewide technology network that fosters increased communication and greater compatibility among levels of government and within and between agencies in all levels of government.

**New Hampshire Municipal Association
2013-2014 Legislative Policy Process**

Floor Policy Proposal

Submitted by (name) _____ Date _____

City or Town _____ Title of Person Submitting Policy _____

Floor Policy Proposal approved by vote of the governing body on (date) _____

To see if NHMA will SUPPORT/OPPOSE:

Municipal interest to be accomplished by proposal:

Explanation:

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to PO Box 617, Concord, NH 03302-0617; email to governmentaffairs@nhlgc.org. **Must be received by August 17, 2012.**