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PRESENT: Larry M. Smith, Chairman; Richard P. McDermott, Vice Chairman; James E. Ziolkowski, Selectman; Lori A. Ruest, Town Administrator; Susan H. Ayer, Secretary.

PUBLIC HEARING – RATIFICATION OF MARCH 2017 ELECTION (HB329): The Chairman opened the Public Hearing at 6:30 PM by reading the posted legal notice, which stated that the public hearing is “in accordance with HB 329 (Town Meeting Ratification Bill) for the purpose of hearing public comment concerning municipal ratification of the postponed meeting and election scheduled to occur March 14, 2017.”

L. Smith then noted that in paragraph three of HB329 it is stated that the State Legislature has ratified the election of all officials and no local action is required. Paragraph four of the bill requires that the Board of Selectmen ratify all other articles, such as the budget, by holding a hearing.

The Chairman opened the hearing to comments of the Board, and hearing none, opened the hearing to public comment.

David Allen of Hillcrest Drive said that he is worried that mistakes were made that were never acknowledged by the Board. These mistakes, he said, include things that the Town Attorney alluded to, such as a possible 91A violation by the Selectmen at the meeting at the Public Safety Building (PSB) on March 13 at 2:00 PM, at which there were two selectmen present but one selectman was not notified and no minutes were taken. He said that minutes were produced after the fact, but those minutes were never made available to the public.

D. Allen also said that he has noticed that Selectman R. McDermott has resumed using personal email, and that he believes the Selectmen should use only their Town email addresses.

Brian O’Hara of River Road introduced himself as Co-Chair with Alex Dittami of a citizen’s committee called the Town Election Committee, which was formed following the Public Hearing on April 12, 2017 to evaluate “the events and actions of our town officials relative to the three days of the March 2017 election.” B. O’Hara read the Statement of Purpose of the committee in full.

B. O’Hara noted that the committee had requested a postponement of the election ratification, but were told by the Board that Town business could not be put on hold. He added that the spirit of the committee is to bring transparency to the election process and to narrow a divide in town, not to create more divisiveness. He said the findings, opinions and recommendations of the committee would be available no later than August 22, 2017.

Pam Fitzgerald, Toppan Lane, questioned what would happen to the Winnacunnet High School budget if the vote was not ratified. Margaret Allen, Hillcrest Drive, said that Winnacunnet takes care of its own process and has nothing to do with this. L. Smith said that on Election Day there are different Warrants for the schools and the Town.

P. Fitzgerald asked about the cost of holding another election, and then commended the Town government for postponing the election, stating that almost a third of the state’s towns did the same and that it took courage. She said this was in the interest of all people in town, young and old.

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J. Ziolkowski stated that he will not vote in favor of the ratification as he has maintained consistently that certain actions have resulted in disenfranchisement of voters, and that an independent review should take place. As this was not done, he will not support the ratification.

L. Smith, in response to the remarks shared by the public, went through the sequence of events leading up to the 2:00 meeting on March 13, which was a continuation of a 12:00 meeting called by Emergency Management. As such, it was not felt the Selectmen had authority over the meeting and no minutes were taken. However, since that day it was learned by consulting with the NH Municipal Association attorney that minutes should have been taken, and therefore, minutes were prepared after the fact.

L. Smith also said that a lot of discussion has taken place about the temporary Town Clerk's office at the PSB on March 14, but that the decision was made to offer that venue in case of absentee voting requests on Tuesday at the suggestion of the Governor. He added that the Town Clerk's office also opened on Wednesday March 15, when it normally would have been closed, in order to offer every opportunity for absentee balloting.

Responding to the comment about R. McDermott's use of private email, L. Smith noted that once information is in the public domain, anyone can disseminate it, and that R. McDermott's private emails are not official but personal.

With regard to the Town Election Committee, L. Smith said he felt the mission had changed from what was originally proposed, and expanded to include things such as asking for a postponement of the ratification vote. He explained that without the election being ratified, the warrants and the budget would not be in place, and gave as examples of consequences that the Town could not start road work, order a police cruiser or implement the mosquito spraying contract. As to the last item, he said that the voters approved the mosquito contract, and the Town would be vulnerable to legal action if a resident contracted West Nile virus from a mosquito bite. L. Smith also noted that delay would affect tax billing and therefore cash flow for school funding, among other things. With that being said, he said he welcomes the input of the unofficial citizen's Election Committee.

MOTION: Because the statewide legal opinion of attorneys practicing municipal law in the State of NH concurs with the opinion of the attorneys of the NHMA that RSA 40:4 II which states "In the event a weather emergency occurs on or before the date of a deliberative session or voting day of a meeting in a town, which the Moderator reasonably believes may cause the roads to be hazardous or unsafe, the Moderator may, up to 2 hours prior to the scheduled session, postpone and reschedule the deliberative session or voting day of the meeting to another reasonable date, place and time certain" does in fact give that authority to the Moderator to move an election in the event of such a weather event, and,

Because at the suggestion of the Governor of the State of NH that those municipalities moving their election, make absentee ballots available on election day and the Town Clerk, under no legal requirement to do so, did in fact provide absentee ballots at the temporary Town Clerk's office in the PSB on election Tuesday and on the

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following Wednesday at the Town Hall despite the fact that the Town Clerk's office is normally closed on Wednesdays,

Therefore, pursuant to HB 329 and on the advice of counsel, I move that:

All actions, votes, and proceedings, held at the town election that was scheduled to take place March 14, 2017, but was postponed due to weather and was held at a later date on March 16, 2017 are hereby legalized, ratified, and confirmed.

MOTION: L. Smith

SECOND: R. McDermott

In discussion, J. Ziolkowski said that the motion was slightly misleading as HB 329 does not say that RSA 40:4-II is the proper RSA to follow. L. Smith said that there were two conflicting RSAs and that statewide legal opinion concurs with the opinion of the NHMA in that RSA 40:4-II can be cited in postponing the election. J. Ziolkowski said his point is that RSA cited in the motion was not tied to the bill.

2 IN FAVOR, 1 OPPOSED, PASSES

L. Smith said that all Town Warrants are now affirmed, and the Lincoln Akerman School Board had ratified its Warrant votes last week.

Andy Brubaker, Old Stage Road, congratulated the Town officials on thinking of the welfare of the Town. He also asked if a Selectman involved in mowing and plowing contracts should have recused himself from this vote. He said the Board may want to consider this in the future.

POLICE CHIEF, ANIMAL CONTROL – MONTHLY REPORT: The Selectmen acknowledged the Police Chief's report for April, 2017.

RETIREMENT OF POLICE DEPARTMENT SECRETARY: The Chairman announced that as long-time Police Secretary Sheri Allen has retired, the Board has prepared a small presentation. He then read a letter from the Board expressing "profound thanks and appreciation" and that her "best efforts and commitment have shown through over the past 26 years."

L. Smith then read a proclamation setting aside May 4, 2017, S. Allen's last day at work, to honor the "exemplary employment of Sharada Allen." S. Allen was presented with the flag that flew over the PSB on that date in a box handmade by Wayne Barker, as well as a card and gift from Town employees. Resounding applause and a standing ovation concluded the presentation.

BUILDING INSPECTOR, CODE COMPLIANCE, HEALTH OFFICER – MONTHLY REPORT: The monthly report of the Building Inspector, covering the dates of April 19 through May 11, 2017, was acknowledged by the Board.

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ROAD AGENT – MONTHLY REPORT: The Road Agent’s monthly report was acknowledged by the Board.

SCHEDULE WORK SESSION TO IDENTIFY 2017 ROAD WORK: A work session was set for May 31 at 9:30 AM to discuss 2017 road work. At that time, information compiled to date will be reviewed to prioritize and price work to be done within available funds, as well as to identify any additional road work needs.

WINTER ROAD MAINTENANCE SERVICES

2016/2017 WINTER SEASON - COMPLETED REPAIRS, ETC.: J. Ziolkowski recused himself from the Board for this discussion in order to represent Environmental Landscape Management (E.L.M.) in addressing repairs. The 2016/2017 Report of Concerns listing as well as some newer items added were reviewed and J. Ziolkowski said that all have been taken care of aside from two mailboxes. One mailbox post located at Avery Ridge Lane needs to be epoxied, and one replacement box and post on River Road he has discussed with the owner, who is inclined to do the repair himself and be reimbursed for the cost.

R. McDermott asked about grease and oil left on the floor of the Town garage, and J. Ziolkowski said that E.L.M. will power wash it.

D. Robinson verified that all repairs were done. J. Ziolkowski said that he could wait an additional month for the return of his retained funds if necessary. L. Smith stated that was not necessary, retained funds could be released upon confirmation that all remaining issues were satisfactorily resolved.

ANNUAL REVIEW OF WINTER ROAD MAINTENANCE AGREEMENT: The Chairman invited public comment on this specific topic.

George Koch, Drinkwater Road, said he would like to know if the Board can ensure adequate, timely and proper removal of snow, saying that it is the belief of many residents that services have been substandard. He said he is asking to put together a committee to review the snow removal process, to include timeliness, complaints, and if the complaints were addressed. G. Koch said he felt there was no good way to report complaints during a weather event.

R. McDermott said that for years no one called, and that the Board was available to talk about the issues. G. Koch said that he thinks a committee is needed for the reason that some residents don’t want to put themselves in “the line of fire” at a public meeting.

L. Smith said this will be taken under advisement.

Gaylee Robinson, Brown Road, addressed the Winter Road Maintenance (WRM) Contractor with several questions and comments, including:

- The contract lists seven pieces of equipment, and she wanted to know how many operators E.L.M. employs, and how many of those operators have commercial operator licenses.
- She said that of the five contact phone numbers given for E.L.M., three were the same number, one was out of service, and the last would ring to a message mailbox that was always full.

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- The width of roads was diminished by improper plowing techniques.
- Damage was caused to roadways and property due to improper plowing techniques.
- Plow trucks had been observed sitting at the Town garage with lights on and engines running, but nobody in them.
- Question of conflict of interest, having the WRM contractor as a sitting Board member.

J. Ziolkowski, in answer, said that G. Robinson may not have current contact and equipment listings, and that any drivers required to have CDL licenses have them. He said that he had more than the required number of vehicles on hand. L. Smith said that the list should be given to J. Ziolkowski in writing so that he may address them.

Lyn Stan, Meadow Lane, said she thought a committee was a good idea, and that she had observed a plow driver going around her cul de sac for an hour after it was cleared, doing nothing. J. Ziolkowski said that during a storm if there is a lull in snowfall, he would not send his drivers home as it may resume. He added that he went through the reports of complaints during storms and 90% were for State roads that his company is not responsible for.

David Allen, Hillcrest Drive, said that this Public Comment portion should have been on the meeting agenda. He said that he is for accountability but does not think people should be encouraged to complain. He said that if there is a problem with the plowing, call and get it resolved; he said he felt this was an attack on the WRM contractor.

Amy Magnarelli, representing the Library, cited several instances when the library's emergency exit doors were not shoveled and Fire Department personnel were called to shovel them out. She also said that after one storm the snow was plowed against the front door, blocking access. She added that if the contractor couldn't be reached on the contact numbers given, the Fire Department was called to shovel out the main entryway and emergency exits.

Tim Samway, Old Stage Road, said that he felt having a Selectman have to recuse himself to talk about one of the most valuable contracts the Town awards is uncomfortable at best. He cited a recent decision by the Town of Hampton, in which newly elected people would not be allowed on a Board where they had a conflict requiring them to recuse themselves. He said it may be time for Hampton Falls to look into this.

Nancy Wilson, Avery Ridge Lane, described incidents beginning in 2015 in which hard packed snow was left at the bottom of her driveway. She described the snow plow as pushing, not plowing, the snow. She also said that she learned that a cistern on an adjoining property was blocked by snow when it should have had 30 feet of clearance to be accessible by the Fire Department. She said at the time she was not aware she should have contacted the Road Agent about the matter.

N. Wilson then went on to describe her problems in January of 2017 when her mailbox was knocked down. The WRM contractor applied epoxy to the granite post but it was knocked two more times and needed to be shored up with girders. She said she reported the problem to the Town Hall and spoke at a meeting of the Selectmen on the matter. She said the bracket needed to be replaced, and she received

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one from her own contractor, and will take care of this herself. She said her question is what will be done to minimize these problems in the future.

J. Ziolkowski said that he has talked with N. Wilson about 6 times regarding her mailbox problem and that the epoxy should work fine if the proper type bracket is used. He also recommended that if the granite post is to be replaced, it should be moved back. Both R. McDermott and J. Ziolkowski offered to go and assist in the situation.

D. Robinson said he would sum up the past year of WRM activity as unacceptable. He said he tried to address each issue as it came up but things got out of control. J. Ziolkowski objected to this assessment so late in the year. He said there is a process for addressing complaints.

Ed Beattie, Drinkwater Road, suggested that the Selectmen's meeting is not the place for grievances and complaints. He said the correct order of business is to call the Town Administrator who will refer the concern to the person in charge of the area of complaint. He said that he felt addressing these issues in an open meeting, especially so far after the fact, is inappropriate and that Town employees should not have to be treated that way.

In answer to the comments of Tim Samway, E. Beattie said that if people with conflicts of interest are to be eliminated from serving on various boards and committees, many others will be prevented from volunteering and volunteers are needed.

L. Smith said that this topic is being discussed at an open meeting as part of the annual Winter Road Maintenance contract review called for in the contract, and due to the overwhelming number of complaints that have been received this year. He said that complaints were routed through the Town Hall as suggested, and about five pages of complaints were documented. He said that there will always be mailbox problems but that overall he felt the WRM work was substandard this year and hopes that improvements can be made for next year.

B. O'Hara, River Road, said that on his road he felt the WRM service was on par with the past, and that the plow drivers took the time to stockpile snow for his children to play in.

L. Smith said that all discussion will be taken under advisement.

RELEASE OF RETAINED FUNDS:

MOTION: To release retained funds to the Winter Road Maintenance Contractor contingent upon final verification by the Road Agent that remaining items of concern have been resolved.

MOTION: R. McDermott

SECOND: L. Smith

2 IN FAVOR; 1 ABSTENTION; PASSES

J. Ziolkowski resumed his seat on the Board at this time.

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FIRE CHIEF, AMBULANCE, EMERGENCY MANAGEMENT – MONTHLY REPORT: The Board acknowledged the Fire Narrative Report for April 2017.

FEMA RULE CHANGE FOR DISASTER REIMBURSEMENTS: Fire Chief Jay Lord reported that the Town Administrator had received correspondence informing her of possible changes to FEMA payments in the event of a natural disaster. He explained that currently if all bills submitted by the town, county and state meet a certain threshold, FEMA can pay 75% of the bills for recovery. He said that in recent discussions the idea has been raised that there should be a deductible amount of one million dollars to be paid before any payments from FEMA are applied.

J. Lord said nothing has been decided to date, and he feels that the purpose of the debate is to encourage towns to be more proactive about being prepared so that damage can be mitigated. This can be done through grant sources when normal repairs are made. He said Hampton Falls is already on the right track, by doing such things as putting in larger culverts when replacements are needed.

The Fire Chief will inform the Board as this matter develops.

SEABROOK STATION NOTICE OF PROMULGATION: The Fire Chief presented this document covering the emergency plan for the nuclear plant, which has been revised to include changes made by FEMA and Homeland Security. It has been approved by the State and FEMA. He added that safety drills will be performed in the fall.

The Chairman signed the revised Notice of Promulgation.

J. Ziolkowski asked about the annual flushing of the hydrants that is done annually to check for winter damage. J. Lord said it has been done, and repairs are minimal.

TOWN TREASURER - ANNUAL REVIEW AND APPROVAL OF INVESTMENT POLICY (RSA 41:9): The Board reviewed the investment policy with Treasurer Liz Riordan. There was a brief discussion in which it was affirmed that all Town investments are covered by the policy, and also that the Treasurer is bonded.

MOTION: To reaffirm the Town Investment Policy for 2017.

MOTION: R. McDermott

SECOND: J. Ziolkowski

UNANIMOUS

FINANCIAL REPORTS - GENERAL FUND BALANCE \$1,040,857.55

**ACCOUNTS PAYABLE/PAYROLL/TREASURER/TRUSTEES OF TRUST FUNDS
WARRANT(S)**

MOTION: To approve the following warrants as presented by the Bookkeeper and Treasurer:

<u>Type</u>	<u>Number</u>	<u>Amount</u>
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Accounts Payable	577	\$800.00
Accounts Payable	578	\$511,388.28
Accounts Payable	581	\$5,601.97
Payroll	385	\$16,360.13
Treasurer's Warrant	2017-13	\$357.03
Treasurer's Warrant	2017-13-a	\$5250.00

MOTION: R. McDermott

SECOND: J. Ziolkowski

UNANIMOUS

TREASURER MONTHLY REPORT; TAX COLLECTOR REPORT – MS61; BOOKKEEPER REPORTS – EXPENDITURES & REVENUES: The Selectmen acknowledged receipt of these reports prior to the meeting.

2016 TOTAL EQUALIZED VALUATION (FINAL): The Board reviewed a letter from the State Department of Revenue Administration documenting the Town's total equalized value for 2016. Two figures were given: the Total Equalized Valuation **Including** Utility Valuation and Railroad Monies Reimbursement in the amount of \$463,545,913, which will be used to calculate the Town's portion of the county tax and cooperative school district taxes, and the Total Equalized Value **Not Including** Utility Valuation and Railroad Monies, in the amount of \$457,013,021, used to calculate the Town's portion of the state education property tax.

VOLUNTEER APPLICATIONS – HERITAGE COMMISSION ALTERNATE MEMBERS:

Two volunteer forms have been submitted for consideration of the Board. Carolyn Petit, Sanborn Road, and Ann Coombs of Exeter would like to serve on the Heritage Commission.

MOTION: To accept both applications for Heritage Commission volunteers.

MOTION: R. McDermott

SECOND: J. Ziolkowski

UNANIMOUS

SAFETY POLICY (AMENDED) – NH DEPARTMENT OF LABOR: The Town Administrator has been in contact with the NH Department of Labor to work on amendments to this policy.

MOTION: To adopt the Safety Policy as amended May 17, 2017.

MOTION: R. McDermott

SECOND: L. Smith

UNANIMOUS

HEATING FUEL PROPOSALS (TOWN HALL, PUBLIC SAFETY BUILDING, MUSEUM): L. Ruest said that as the three-year contract for heating fuel are expiring, she has prepared a draft proposal form to send out for pricing to heating fuel companies.

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MOTION: To approve the draft proposal form for propane heating fuel for mailing, as presented.

MOTION: R. McDermott

SECOND: J. Ziolkowski

UNANIMOUS

ENERGY COMM. – STREETLAMPS: In response to an email from resident Beverly Mutrie inquiring about changing streetlamps to LED bulbs, the Board decided it was time to revisit this issue. It was suggested that this topic should be turned over to the Energy Committee, which has been inactive for some time. Once back in place, they will also be asked to review the solar energy proposals that Shawn Hanson has been researching.

HAMPTONS POST 35 – MEMORIAL DAY CEREMONY, MON., MAY 29, 9:00 A.M.: The Chairman announced this event, which will also be posted on the Town website.

SEPTIC TANK REPAIR: L. Ruest informed the Board that the Town Hall's septic tank pump has failed, and as the repair exceeds \$1,000, she is asking for approval to pay for it.

MOTION: To authorize the Town Administrator to pay for repair to the Town Hall septic pump, in the amount of \$1,200.

MOTION: R. McDermott

SECOND: J. Ziolkowski

UNANIMOUS

COMCAST FRANCHISE FEES: L. Ruest informed the Board that payment has been received from Comcast for first quarter franchise fees.

MOTION: To accept payment in the amount of \$8,354.35 from Comcast for first quarter 2017, and deposit it into the Town Communications Revolving Fund pursuant to RSA Chapter 31-95-h.

MOTION: L. Smith

SECOND: J. Ziolkowski

UNANIMOUS

PUBLIC COMMENT RELATING TO THIS MEETING'S AGENDA ITEMS: J. Ziolkowski took the opportunity to thank the Police Chief for the way his department handled a recent traffic stop.

REVIEW AND APPROVAL OF PREVIOUS MINUTES: 5/3/2017 and 5/10/2017

MOTION: To approve the minutes of May 3, 2017, as written.

MOTION: R. McDermott

SECOND: J. Ziolkowski

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MOTION: To approve the minutes of May 10, 2017, as written.

MOTION: R. McDermott

SECOND: J. Ziolkowski

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MOTION: To adjourn at 8:20 PM.

MOTION: L. Smith

SECOND: R. McDermott

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