

FINAL

BOARD OF SELECTMEN'S MEETING

JANUARY 17, 2000

7:30 P.M. - MUNICIPAL OFFICE BUILDING - HANOVER, NH

The meeting of the Board of Selectmen was called to order at 7:30 p.m. by the Chairman, Brian Walsh. Present were: Brian Walsh, Chairman; Marilyn Black, Vice Chairman; Katherine S. Connolly; John Colligan; Julia Griffin, Town Manager; and members of the public.

Mr. Walsh announced that this meeting was being taped by CATV 6 and that hearing enhancement equipment was available for anyone who wished to use it.

1. PUBLIC COMMENT.

There was no public comment.

2. PUBLIC HEARING: STATUS REPORT AND CITIZEN INPUT REGARDING THE STATEWIDE PROPERTY TAX

Mr. Walsh stated that the consulting firm of Almy, Gloudemans, Jacobs & Denne from Chicago was hired by the coalition of communities to study whether or not the property tax in New Hampshire could meet the constitutional tests for equitability. The firm has worked for 23 states in the United States and 3 Canadian provinces, and in each instance except for this time they have worked for the State government and not for a group of communities.

Mr. Walsh set forth the essence of the summary of the consultant's report as follows:

"This report summarizes our evaluation of the suitability of real property assessments in New Hampshire as a base for statewide education property tax required by House Bill 999. We also evaluated the readiness of the Department of Revenue Administration to supervise local assessing officials effectively to equalize assessments and to enforce the proportionality requirement of the New Hampshire Constitution. We conclude that disparities in local assessments are so great that it is impossible to meet the constitutional proportionality standard. The Department of Revenue Administration does not supervise local assessing officials effectively nor does it have adequate resources to do so. Moreover, the Department of Revenue Administration's equalization studies are critically flawed and lack credibility. Before the proportionality standard can be met, all real property in each city and town throughout the state must be revalued as of a common date in accordance with professional standards. Also, the Department of Revenue Administration must dramatically improve its sales ratio studies in accordance with nationally accepted standards before confidence can be placed in its equalization determinations. Furthermore, after all communities are revalued as of a common date, the Department of Revenue Administration must substantially upgrade its assistance and supervise the activities to ensure that local assessments remain in line with current market values."

Mr. Walsh added that the report goes on to discuss multiple different ways where property taxation in New Hampshire does not meet the tests of equitability.

Mr. Walsh feels that what is frightening about the conclusions in the report is that it is very likely that some taxpayers in the State of New Hampshire with houses of equal value are paying 50% to 60% less in some cases, and 50% to 60% more in other cases than what they should be paying. He stressed that he believes the issue is not so much a donor community/receiver community issue as it is an issue that the State has a system which is flawed such that the base on which anyone is being taxed is inequitable. One of the things that he believes makes taxes work is when people feel that they are being treated fairly.

Mr. Walsh stated that the report also indicates what would be required to create a statewide property tax valuation system that was equitable. He pointed out that the consultants have in the past been responsible for putting in such a system or advising states on how to put in systems. Mr. Walsh recognized that as consultants the numbers represented may be a little high; he indicated that the report says that "A statewide re-evaluation program would require 5 years and cost on the order of \$25 to \$30 million. Funding for local assessment administration is just plain inadequate."

Mr. Walsh indicated that there are three individual plaintiffs in a suit which has been brought based on this information in Rockingham Superior Court. The suit challenges House Bill 999 and its constitutionality based on the facts presented or alleged in the report about the inequity of the property tax system in New Hampshire.

He added that the Town of Hanover plus the Hanover School District have funded \$10,000 to date for the coalition community study, resulting in the work which he has summarized. Hanover has been asked to contribute an additional \$10,000 to fund the remainder of Phase 3 of the consultant's study, and also to take the case forward in the event it goes to the Supreme Court. Ms. Griffin added that the third phase of the study would compile much more detailed data of the 26 individual communities.

Mr. Walsh asked for public input on whether the Town, or the Town and School Board together, should contribute an additional \$10,000 to fund the coalition of communities study.

Channing Brown asked if there was further information available on the lawsuit and its possible time frame. Mr. Walsh answered that it is hard to predict how rapidly the case would move through the courts. He recalls that when it was first introduced the soonest anyone could expect it to proceed through Rockingham Superior Court to the Supreme Court might be six months, and the longest might be years. Mr. Walsh noted that the State has not had a chance to respond yet; he added that he would guess the process would be a relatively long one unless the Supreme Court had a desire to hear the case.

Mr. Brown asked whether the Claremont community would be going forward with any suit, and whether there were any suits relative to the question of whether the \$825 million was an adequate number. Mr. Walsh answered that he does not know if there is a suit on the table in this regard. Ms. Griffin added that she is not aware of any suits, but she would imagine that Mr. Volinsky would be coming forward with something in terms of the insufficiency of money that has gone to the five plaintiff communities. She explained that Mr. Volinsky regularly confers with the attorneys who are representing members of the coalition that are actively involved in the suit, but she is not aware of their time frame.

Martha Solow wished to speak first as a citizen of Hanover rather than a State Legislator in response to the question as to whether Hanover should go forward with providing any more money to complete the study. She stated that it seems to her that the findings in the report are pretty much in line with peoples' expectations and certainly damning of the situation as it is now. She questioned what more could be bought with another \$10,000, and wondered what value Hanover would receive from spending another \$10,000.

Ms. Connolly explained that one reason for providing additional funding would be to more adequately prepare the case for court. She added that at the moment, the Legislature does not seem to have the will to change the system. She suggested that the greatest amount of research should go into the case before it goes forward.

Ms. Solow indicated that she takes issue with Ms. Connolly's statement that the Legislature does not have the will to address the problem. She stated that certainly the delegation representing the Towns of Hanover and Lyme had the courage to vote for an alternative which they believed would be a much better solution than the current solution, and that those of the delegation that voted for the current solution did so because of an urgent emergency that existed which would have been devastating to the schools. Speaking as a member of the House of Representatives, she noted that the only things she has seen on the horizon as possible solutions to the problems are the income tax, which the House did pass but which did not come out of the Senate, and a consumption tax which is also a viable option for this session. She stated that she would not support a consumption tax, but has supported the income tax and would do so again.

Peter Burling, Democratic Leader of the New Hampshire House, and a Representative for Cornish and Plainfield, explained that the issue of school funding has been going on in litigation and otherwise since early 1980. He stated that it is important not to lose track of where the State is 19 years down the road. He feels that there are a number of things about the current short-term solution which are worth remembering as they particularly bear on the decision the Selectmen are about to make. He noted that against the opposition of the leadership of the majority party, the Democratic party demanded and got a sunset provision in the current statute; this means that the statewide property tax as it is currently constituted will cease to exist at the beginning of the year 2002.

Mr. Burling went on to say that of the Democratic caucus of the House, 76% of the 155 out of 400 Democrats who represent the Democratic party voted for the income tax. Most voted for the short-term current solution because they were constitutionally bound to do so. Mr. Burlington explained that they were under a constitutional order issued by the third branch of the government, the Supreme Court of the State of New Hampshire, to fund the schools. Absent this admittedly flawed short-term solution, he feels that schools would have been closed. He pointed out that there is an election coming up in November of the year 2000 for every State office, and it is perfectly clear that one of the issues that will dominate that election is how to solve this problem in the long-term.

Mr. Burling noted that it is worth remembering that the first Claremont school funding case took four years in the Superior Court before it got to the Supreme Court and was settled. The second Claremont case was begun in the summer of 1990 and is now before the Supreme Court with nine years having elapsed since it began its way up the Superior Court chain. He reminded the Board that the report it has received, as impressive as it may be, is an opinion based on some facts. He added that with any litigation there would be another opinion based on those facts or based on facts determined by someone else. He feels that this fact is very important in evaluating what the Board wants to do because this case has to go to Superior Court first and be tried on the facts before it gets to the Supreme Court.

Peter Keane noted that he has asked himself why the State of New Hampshire is reinventing the wheel in trying to come up with a funding package for education when he assumes that there are other states in the nation that have handled the situation before. He wondered why New Hampshire cannot use the experience of other states to solve the issue without having to pour money into studies.

Margaret Bragg asked if the term consumption tax is similar to a sales tax. Ms. Solow answered that the proposal that came before the Legislature was for a consumption tax, which would be a tax not only on purchases but services as well.

In answer to Mr. Keane's question, Mr. Burling explained that there are 18 states that have been through this process. The process in each of those states was studied, and many in the Legislature were attracted to the Michigan referendum idea which he would favor. He feels that there are a number of things that the State could do, but it basically comes down to making a political decision that has been put off in the State for years and trying to find a funding solution that would replace the local property tax.

Lorraine Pfefferkorn noted that the report contains very strong statements; she feels that the consultants must have data now in order to make those statements, and she wondered if it is possible for the Town to get the information in that data base. Ms. Griffin answered that the consultants do have that data, and that the Town is supposed to have a full report of Phases 1 and 2 by the end of January. She feels that the issue for the

coalition communities at this point is how quickly the data will be made public because it is a keystone of the lawsuit.

Ms. Griffin explained that the amount of money still to be expended to complete Phase 3 would allow a more in-depth series of audits in the 26 sample communities; these are communities of varying sizes in every single county in the State. The total price for the consulting study is \$200,000. To date, the consultants have billed \$154,000 to the City of Portsmouth, and Portsmouth has collected \$126,000 from those communities who are members of the coalition. Ms. Griffin stated that it would seem to her that if the State is going to be dependent on a statewide property tax in the future, then certainly the mechanism for setting those tax rates needs to be improved. If nothing else, the suit may help raise the level of discussion on what would need to happen on a State level to make a statewide property tax as equitable as possible.

Mr. Walsh indicated that part of why this has not been an issue in the State previously is that property assessments are done on a Town basis, which is basically a self-regulating process. If a property owner feels that their assessment is out of line, they are able to go to the Assessing Board of Adjustment. He added that the only other place where the quality of assessments is really important is relative to the County taxes; the County tax rate is about \$1.60 on a total tax rate in Hanover which is about \$22.00. When the State starts looking at the property tax base as being the base for funding education across the State, and where the money is flowing from community to community based on how equitably or inequitably the properties are assessed, then he feels the issue and the money flows become big, and the questions of whether there is an equal base becomes big.

Bernie Waugh indicated that he was not speaking either in his capacity as a Zoning Board member nor as working for the Municipal Association. He urged the Board of Selectmen to not spend any more money on this report. He believes in the notion that everyone is in the world together, and the more ties of kinship to fellow people that can be indicated the better, especially in this modern world. He feels that people in Hanover are extremely generous to people in other towns, but they are occasionally not perceived that way. There are a lot of people in towns who are benefitting from the new system who perceive the donor towns as being crybabies. He urged the Board that if they do go forward with this, that it be done with a great deal of explanation to prevent this type of perception.

Secondly, Mr. Waugh stated that he believes action of this type will be perceived as court bashing. He feels that, in fact, the whole notion of donor communities is a misnomer because it seems to say that the old system, which has now been declared unconstitutional, is somehow right, proper and normal and that anything that departs from that is wrong, which goes against the court's decision. He feels that the court's decision was a correct one, but by Hanover joining the lawsuit he believes that it will not be perceived as saying that.

Mr. Waugh asked what the goal of the Town would be in involving itself in further action. He pointed out that one of the things that the Court could order would be a statewide appraisal system. He feels that the local appraisers do a good job, and that the Department of Revenue Administration probably does not have the ability to put together a worthwhile statewide appraisal system. Mr. Waugh noted that if the real goal is to say that the property tax statewide is unfair, that would make sense to him. However, he does not think that would necessarily be achieved by pursuing the lawsuit, but feels that it could be achieved politically instead.

Mr. Waugh also feels that another potential outcome of a lawsuit would be that the Supreme Court would declare the statewide property tax is unconstitutional, which would only result in the negative consequence of even more court bashing. Those that do not like the existing decisions will say that the court is forcing them into another type of tax, which he does not feel is a good thing.

Mr. Waugh pointed out that the tax is designed to be sunseting, so it will have to be addressed politically in the Legislative branch of government. If the goal really is that property tax as education funding is not a good solution, then he feels it is perfectly reasonable for the Board of Selectmen to take a position that they do not support solving the problem through property tax, and to work toward a different solution through political means. He feels that pursuit of the lawsuit would cause more polarization between communities than what the temporary solution has already caused.

Mr. Walsh stated that his understanding is that Town Meeting went on record last year as opposing the use of property taxes as a basis for funding solutions of the Claremont suit. He feels that it is not necessary for the Selectmen to take that position, but it might be necessary for the Selectmen to reiterate the Town Meeting action.

Mr. Colligan indicated that his recollection was that Town Meeting went on record as to the narrow question of the bill that had been passed, not as being generic to the property tax. Mr. Brown agreed, adding that House Bill 999 could be substituted for House Bill 117.

Mr. Waugh stressed that if the Town spends more money pursuing the so-called "donor town lawsuit", then it ought to be done extremely carefully with a lot of publicity as to exactly what the issue is, and what the ultimate goal is. He feels that it is not enough to say the current solution is a bad one; it is necessary to figure out what should be put in its place. He feels that if the Board analyzes the issue carefully, they will find that a lawsuit is not the best way to achieve what should be put in place of the current solution.

Mr. Colligan asked Mr. Waugh what he would advise the Board to do if the statewide property tax is determined to be unfair for the State of New Hampshire. Mr. Waugh explained that from his personal point of view, the current solution seems to be OK since his taxes only went up \$300. However, he feels that an income or consumption tax would be fairer because he recognizes that the property tax, in terms of its being

regressive and its terrible effect on land use throughout the State, is just not working. He is concerned that pursuing the issue as a group of donor towns is going to sound like whining and will be counterproductive as to the ultimate result which is desired.

Mr. Colligan asked if Mr. Waugh would feel the same way if the Town pursued it on its own, making a determination that the Town felt it was unfair. He asked if Mr. Waugh was saying Hanover should stay away from the issue completely and let it continue through the same political process that it has been going through for 30 years, or whether the Town should pursue it legally not with a group so that the Mr. Waugh's perceptions do not come to fruition. Mr. Waugh answered that in terms of what Mr. Volinsky, et al, have done, there are occasions when bringing a lawsuit is a means, and maybe the only means, of achieving a political result. However, in this instance, he does not feel that a lawsuit is the best way to do it, so he would encourage the Town to proceed through other means.

Mike Tischbein feels that some incentive has to be given to the Legislature to solve this issue. One solution that has not been mentioned is a Constitutional Amendment. Regarding the report, he agrees that the Town should be careful regarding whether it represents fact or opinion, but is not sure that the Board is in a position to judge this; he feels that this, in itself, would merit the matter going to the Court to determine. He believes that the Town cannot stop this legal fight based on someone saying that the report is strictly opinion. Generally, Mr. Tischbein stated that he feels the current solution is based on an overall shoddy piece of last minute legislation. He feels that it reeks of inequality, and that Hanover should not roll over and play dead. He added that the jump in his personal property taxes is severely felt, and the supposed relief plan by the State does not come anywhere near providing relief, especially since property owners pay by the full assessed value of their property and are allowed to claim relief on only a fraction of that at a capped-off assessed value. He also noted that he is strongly against giving up any kind of bureaucracy to the State. It is a known fact that government on a local level is more efficient and better controlled, and he feels that giving that up to the State would create bureaucracy and a black hole where the money is going. Based on this principle, he would urge the Board to fight this issue as much as it can.

Regarding the question of whether the Town should give another \$10,000 to funding of the study, Mr. Brown pointed out that the Town of Hanover is contributing enough extra now so that if it were to buy a 20 year bond it could build a \$24 million dollar high school with what it is costing because of the statewide property tax. He feels that if the Town does not fight this now, \$10,000 will be a very small amount compared to what it will cost.

As far as fighting the issue in the courts, Mr. Brown indicated that the perception of court bashing is the last thing he would be worried about. He continued to say that he has been in Concord long enough to become very cynical. First, he feels that New Hampshire is a state of hypocrites and a state of people living off from other states. He referred to the State's revenue selections - gambling, alcohol and cigarettes - and stated

that he feels it is about time that the State thought of something which would be fair in its revenue stream. Mr. Brown feels that the Town should be fighting this as hard as it can, and added that it would only be fair to the other donor towns for Hanover to contribute its share in funding the report in comparison to other towns.

Mr. Brown indicated that the Legislature got forced into adopting the current bill because the leadership held it long enough so that the Legislature was told that the towns were desperate, and without passage of the bill would not be able to fund their schools.

Mr. Walsh stated that Arthur Mudge had requested the following letters be read into the record. The first letter, dated January 14, 2000 is as follows:

"I hope to be able to attend the public hearing by the selectmen on whether Hanover should join in litigating the constitutionality of the state education property tax. Unfortunately I have to chair a meeting of the board of directors of the Circle Program in Plymouth that evening, which meeting may not be finished in time for me to get to the meeting of the selectmen.

If I am unable to attend, I would appreciate your putting into the record the enclosed letter along with this letter setting forth my strong views on the issues involved.

The enclosed letter to the Valley News points out the fallacies of the "donor town" concept which I sense is being used as a smoke screen by people in property rich towns who had become accustomed to a tax advantage gained at the expense of others in property poor towns who had borne a disproportionately heavy share of the state's costs of public education. Further, even if Hanover were to accept that it is appropriate for one of the state's wealthiest communities to litigate against a measure intended to equalize the tax burden pursuant to the Supreme Court mandate, I suggest that it would be a bad investment in a case which is unlikely to be won. Even if the current administration of the system for equalization of assessments were as flawed as portrayed by the complainants' experts, the Supreme Court, in deference to the co-equal Legislative and Executive branches, would be obliged to afford an opportunity for correction of such administrative weakness before declaring the system unconstitutional. As long as it appeared that the legislated system of property taxation could reasonably be made to function in a constitutionally correct manner, the Court would be reluctant to declare the legislation unconstitutional.

By its own terms the current state property tax is but a temporary measure destined for thorough reconsideration within the next two years. This Town would set a good example by holding back from litigation in the courts and giving the political process more opportunity to determine the appropriate system(s) of taxation for meeting the state responsibility for public education.

My thanks to you and the other members of the board of selectmen for the opportunity to be heard on this important issue.

Sincerely yours,
Arthur Mudge"

Mr. Walsh also read into the record Mr. Mudge's letter to the Valley News Forum dated December 9, 1999:

"The education funding debate raises difficult political issues deriving from the potential for tension between policies for quality of education, equity in taxation, and favorable climate for economic development. One irrelevant concept obstructing rational consideration of these issues is that of so-called "donor towns".

Responding to the Supreme Court's mandate for constitutionally uniform and proportional taxes to finance public education, the Legislature has chosen a statewide property tax. The tax is assessed not on towns, but on individuals according to the market value of their real property. All are assessed at the same \$6.60 per \$1000 rate, in a manner similar to the assessment of a five percent tax on income from interest and dividends.

The Legislature has created a perception problem, however, by having the education tax collected by the towns, with the amount forwarded to the State reduced by the amount the town would receive from the State according to the number of students and their levels of education. Depending on the numbers and levels of their students, for some towns the amount to be forwarded is less than the amount to be received, and for other towns it is greater, hence the concept of "donor" towns. The interest and dividends tax, on the other hand, goes direct to the State from the taxpayer, and no one would know without a lot of research whether and how much the taxpayers of a town paid more or less than the town benefitted from the tax.

The new statewide real property tax impacts the same on every taxpayer according to the value of their real property. This can result in substantial increases for taxpayers in property rich towns who had been paying relatively low property taxes in the past and now must experience tax rates more comparable to those of taxpayers in property poor towns. Unfortunately for many people, especially retired people and farmers, incomes may be relatively low compared to value of real property. The current situation is making more people sensitive to the problems of excessive reliance on the property tax to finance virtually all the costs of the major public responsibility for education. Taxpayers whose town's tax base accessions had led to lower tax rates, should now be more sympathetic to the plight of towns whose reduction in tax base consequent to loss of a major industry, often due to decisions made far away because of factors beyond any local influence, had led in turn to higher taxes and poorer climate for investment in a vicious downward spiral.

Taxes affect climate for investment and consequent economic development, but so does quality of education. Therefore the current debate would be more productive if focused on these matters, enlightened by good research

and analysis on relative impact of various types of taxes on climate for development, and looking toward rationalization of our tax system to make it as equitable and conducive to economic development as possible while affording good educational opportunity to all our children. We can do without further divisive acrimony from such spurious concepts as "donor towns".

Nancy Prosser indicated that she has read that a lot of the money coming into some of the receiver towns has not necessarily gone for education.

Marion Copenhaver, a member of the Legislature, stated that one of the prime philosophies in New Hampshire is the concept of home rule. The very minute the State Legislature tries to tell any individual town how they can spend their money or handle their own funds there will be a big problem.

Mr. Burling added that none of the bills considered or passed by the Legislature contained a provision which required a local municipality to expend State aid in some specific way. This reflects the Legislature's long-standing objection to the notion of mandating what a local community does with whatever aid it receives. He added that he has also heard some of the stories about recipient towns spending the money on things other than education, such as building an opera house or obtaining equipment, and has found them to be unfair and false accusations.

Mr. Walsh stated that it is his understand that the \$825 million which flows from the State must flow to the school boards or school districts of a town. Therefore, in that narrow technical sense it must go for education. He pointed out that, for example, funds could flow to the Town's school board, and the Town government, and because the school taxes could fall, they could then vote to build a new Town Hall, for example. He explained that the funds flow from the State Department of Revenue Administration to the school districts based on a moderately complicated formula based on numbers of students and their needs.

Mr. Colligan referred to the Bartlett study which was done in the fall. This study looked at the first 16 towns that received money, and found that only Claremont spent all of it on education. The bulk of the other towns ended up cutting taxes and sending the money back to the taxpayer. Mr. Colligan noted that this study suggested that towns pay closer attention to the next upcoming round of school district meetings to see if this pattern continued, and he is expecting an update to the study. He indicated that Mr. Burling is correct in suggesting that there has been some exaggeration of how the funds are being spent by receiving communities, but he would suggest from the facts he has seen that the onus is very much on the recipient towns to demonstrate that the money is being spent on education. He feels that this has yet to be demonstrated.

Ms. Prosser asked if the receiving towns were required to demonstrate that the funds were being spent on education. Mr. Colligan answered that he believes they are required to do so; he feels that if the purpose of the legislation is to respond to the Supreme Court's determination that it was

unconstitutional in terms of how education is funded, then it should be demonstrated how the funds are spent. He agreed strongly with Mr. Walsh that a tax system works only when people perceive it is fair.

Ms. Black asked if the State or the Legislature was tracking the way the funds were being spent. She would like to make sure that somewhere in the process someone is tracking these funds, and she feels it is the responsibility of the Legislature to do that.

Ms. Solow responded to comments made about defects in the so-called solution that the Legislature adopted. She indicated that it obviously is not a solution and is not working properly; it was a desperate measure adopted by desperate people. She stated that she shares the dismay at the outcome and frustration of not having enacted what would be a useful solution that would not have resulted in all of these deficiencies, but she strongly believes that the solution will be a legislative and political one and should not be a judicial one. She disagrees that going back to the court, looking at their decision and saying that decision should be overturned by enacting a Constitutional Amendment saying that they were wrong or did not have the power is absolutely the wrong way to go. She feels that the political process can work, but only if people who oppose the current solution because they feel it is not working will speak out with some constructive measures and suggestions, rather than either bashing the Legislature, the court or the recipient towns for spending the money in ways that they are entitled to do. She asked those who have raised the objections to give some expectation of what the Legislators are to do, and to also speak to people in other towns whose delegation did not support what she feels would have been a better solution, to elect people who can find a good solution. She added that she feels the answer definitely is in the political process.

Mr. Tischbein indicated that he cannot offer a solution to the problem; he feels a Constitutional Amendment would perhaps take the pressure off the Legislature doing something in a more charitable, well thought-out fashion. In that regard, he would support a Constitutional Amendment until the Legislature could make a good decision. Regarding the sunset clause included in the current solution, in certain situations he indicated that two years of the increase can have a significant financial impact. With regard to monitoring how the money is spent, Mr. Tischbein feels that if some towns have to sacrifice, then they have the right to make sure the money is spent in the way in which it is intended.

Bob Guest stated that he agreed with Mr. Brown that the additional \$10,000 being requested for the funding would be money well spent. He referred to Mr. Mudge's letter indicating that the Legislature should use thorough consideration. He stressed that the Legislature has given thorough consideration to the issue; he feels that there are elements in the leadership of the Legislative body that are such that he can document the deliberate delays they have made. He would suggest that there is a necessity for thorough research over and above what has already been done, and would encourage the Board to provide whatever funds are

needed. He feels that the Supreme Court, in his subjective judgment, has been right on target all the way through, and that they will continue to do so.

Winifred Stearns noted that she presumes the State is locked into the situation until the year 2002 as it stands now; she asked if that wouldn't be plenty of time for the State and Hanover to get a reading on people's feelings as far as whether they prefer a property tax or income tax for funding education. She indicated that she would be in favor of the income tax, as she feels the ones who can best afford it should pay. She stated that she would be in favor of a referendum.

Mr. Burlington explained that the Supreme Court in one of its interim judgments struck down the notion of a binding public referendum, but he feels there is a perfectly appropriate nonbinding approach which the Legislature could use. The problem, however, is whether there can be a simple majority on any one of these ideas. He commented that the uncertainty and confusion about where to go next on school funding is 100% representative of the public mind of New Hampshire. Looking at New Hampshire as a whole, he feels that people are uncertain about what they want to do next which makes it hard for those people that advocate a given solution. He believes that a referendum is a great idea which would cost almost nothing; it could be done in the general election of 2000 as a nonbinding paper ballot.

Ms. Stearns asked if it would be possible to get a warrant for this coming Town Meeting to find out what the people in Hanover think. Ms. Griffin answered that it would be possible.

Mr. Waugh continued to urge that the Board not put any faith in the notion that even winning the lawsuit will result in getting anywhere. He feels that putting pressure on the Legislature is a rational thing for the Selectmen to do, but he would still urge the Board to do so in a way that indicates the Town is not doing it to bash the court or receiver communities, but rather because the property tax, regardless of how it is distributed, is unfair.

Mr. Guest pointed out that contrary to what Mr. Waugh said about the Court's inability to do anything, he feels there is plenty the court can do. They can appoint a master that would force money to be taken away from other agencies in the State.

Mr. Waugh commented that the second Claremont case did not even result in a unanimous decision. He feels the Court is already a little reluctant, and that courts by their very nature are conservative. They will not make a huge proclamation of some large social issue unless they are absolutely backed into a corner, which is what Volinsky, et.al. did in the so-called Claremont suit. He feels that public perception of Hanover as a court basher and whiner needs to be addressed up front if the Board decides to move forward.

Duncan McIntosh stated that he believes that if Dartmouth College and the hospital were taken out of the equation, Hanover would no longer be

considered a wealthy town. He suggested that thought be given to Hanover's situation; there are schools with specific infrastructure needs, and the question is how the Town is going to pay to fix this infrastructure. He pointed out that there are some wonderful people in Hanover, many of whom do not make any more than \$30,000 a year. These people are property rich, and he wondered how long they would have to wait and how much money would actually be given back to them. He feels that taking the College and hospital out of the equation makes Hanover no different than Claremont, and he urged the Selectmen to really consider where the Town is today.

Mr. Walsh explained that the process by which the Town will decide what it will do about the high school, middle school, and Town budget is by the Selectmen or school boards putting budgets in front of the voters for bond issues. Those budgets will then be voted up or down.

Mr. McIntosh asked what the children will do for their education if those budgets are voted down. This is the issue he would like people to focus on.

Mr. Walsh asked Mr. McIntosh if he would encourage the Board to make funding available to the research of the coalition communities, or whether he would suggest that they pay no attention to this issue, focusing instead on just local issues. Mr. McIntosh answered that the real issue is that the Town plan needs to be much further out than a year. He would be in favor of not sending any money to the State until Hanover's own house is in order.

Ms. Copenhaver wished to clarify that there was a Constitutional Amendment before the House recently. This would have taken 3/5 of the 398 members in the House, and did not even get a majority of votes, let alone the constitutional requirement. Therefore, it is a dead issue as to whether to have an article on the ballot in the fall to try to do away with the Court order.

Ms. Connolly pointed out that towns and cities in New Hampshire will now have the experience of acquiring enormous sums of money as a result of the statewide property tax, and this is something that they could become very fond of and used to. She suggested that another reason to try to make every effort to put an end to this is to make sure when it sunsets that it really does sunset. She added that there will be a great deal of enthusiasm to hang onto these sums of money as they are ever increasing; the estimate is that the percentage will double in five years.

Ms. Copenhaver noted that Mr. Burling was instrumental in the committee of conference in insisting that there would be a sunset provision. Otherwise, the majority position was to have the solution be a long-term solution.

Ms. Black pointed out that the income tax might have passed this year had not the Governor taken the pledge. With 76% of the Democrats voting for an income tax, she asked if Ms. Copenhaver had any influence on the Governor, if she is re-elected, not to take the pledge again. Ms.

Copenhaver answered that she has no particular influence with the Governor. She added that she has historically been in favor of an income tax. Ms. Copenhaver feels that Governor Shaheen has been a good governor except for this one narrow, but very important, issue. She hopes that Governor Shaheen will not take the pledge again, but stated that she could not speak for her.

Ms. Pfefferkorn asked where the money is that was collected in December for the statewide property tax. Ms. Griffin answered that it is in a special account which is due to the State on March 15th.

Ms. Pfefferkorn asked if the Town could still decide not to send that money in to the State. An audience member asked if the Board had an opinion on this subject. Mr. Walsh answered that the Board is now hearing from the public; he would say that the Board has no opinion at this point in time.

In terms of trying to give guidance to the Legislature, Mr. Colligan stated that he feels that the discussion should be shifted from what the mechanism will be for collecting the funds, to what the funds will be used to pay for, and what the definition is of adequate education. It seems odd to him that there are 50 towns that are sending money to 190 towns; he would argue that the ratio is probably backwards. He stated that he has no problem with getting behind a plan that helps the schools that really need help, but his strong feeling is that the money is not being spent on education, making the whole scope of the current focus wrong. He believes that if it were a question of 190 towns helping 50 towns, there would be a very decent chance of arriving at a political solution which may or may not require an income tax. He suggested that the whole focus has been on spending money as opposed to strengthening education.

Mr. Colligan continued to say that he recognizes there are some constraints because the issue is being driven by the decree of the Court, but he feels that until this work takes place there will be gridlock. He does not think that it is just the Governor that should be blamed. The fact is that the everyone has taken a turn. The State is divided because it is not known what the money is being spent on.

Mr. Walsh asked if it was the sense of the Board to take action at this meeting. Ms. Connolly suggested that as long as there is no time constraint, the Board could wait two weeks, have another discussion, and vote at that time.

Ms. Black pointed out that the Board has asked those residents at home to send in comments by e-mail, and she feels the Board owes it to them to hear what they have to say before a decision is made.

Mr. Colligan pointed out that it is also possible that more information may be received. Ms. Griffin indicated that the effort would continue, whether or not Hanover votes to fund it. She feels the Board needs to feel comfortable in taking the time it needs to come to a decision.

Ms. Connolly commented that she had received a couple of phone calls from people asking her to deliver their opinions that the Town go forward to assist the communities in their research.

Ms. Solow stated that she thinks there is less disagreement now than there was a year ago that the property tax is the wrong measure of individual citizen's ability to pay to support education. She hopes that more and more people will come to that view, and that solutions will be looked at other than the property tax. She feels it is the wrong measure and a better and fairer way has to be found to raise the money. If a solution is found other than the property tax, it will avoid things like having the Department of Revenue Administration come and tell people within the Town how to assess their own properties, and it will avoid the situation Mrs. Stearns talked about with people who have property but do not have enough wealth to be able to pay their share of support for education in the State of New Hampshire. She feels that the bottom line is the political system. There are elections all of the time, and if people care enough they have to elect people who will support solutions that are better than the one that this Legislature has adopted.

Mr. Colligan stated that he feels in the current situation where Hanover is sending money to Amherst and Bedford that it is a question of deciding what the money will be spent on. He indicated that he recognizes that the political power is in the southern part of the State, and understands that the political power is controlled by the leadership; that is why he is suggesting that if people really understood what the money was going to be spent on, there would very quickly be broad support. He does not think it makes sense to turn the money on until it is known where it is going. He feels that local control has already been violated; as soon as the source of the money is separated from the spending, local control has gone out the window.

Ms. Prosser asked if there was a way the Town could say it will not pay the money in March, but would wait until certain things have been decided. Mr. Walsh answered that there are many things the Town could or could not do. He commented that each Selectmen took an oath to uphold the Constitution of the State when they took office, and one of those responsibilities is to obey the law. He noted that there are towns around the State who are thinking about not sending their money in, and people who have said they would be going to jail for it; Mr. Walsh stated, however, that he is not willing to go to jail. Going into February, he commented that the Board may discuss the issue of not sending in the money to the State, but he would like to see certain things unfold first.

Ms. Connolly pointed out that part of the lawsuit is to ask the judges to hold the funds in escrow until certain decisions are made.

Mr. Tischbein asked if the Board of Selectmen was saying that they would not propose a referendum at this time as to whether to send the money to the State. Mr. Walsh answered that this is not what he had said, but he pointed out that there is not an effective way to have a referendum between now and March 15th.

Mr. Waugh indicated that although he is not representing NHMA, he has seen communities split asunder over this issue. He would not want to see Hanover do anything that would exacerbate that problem. He suggested that if the Board wishes to move forward with this issue, that they do it in a way that is perceived as bringing the interests of communities together.

Mr. Brown asked if people actually believed that 80% of the towns that are getting more money will let their representatives change the system. He suggested that if the matter is not brought before the courts as to its constitutionality, the sunset clause will go down the tubes and the funds will either come out of that same real estate tax or taxes will be increased as far as business profits and other taxes that commercial and industrial ventures are hit with. If the Town does not fight this now, he feels that they will live with it for an awfully long time and the percentages will keep increasing.

Ms. Pfefferkorn indicated that in discussions about splitting towns asunder, it is necessary to keep in mind that there are poor people in the donor towns and wealthy people in the receiving towns, and there has to be an equitable way determined of funding education.

Ms. Connolly stated that she believes this tax is a fatally flawed extension of the property tax, something the Court said was not constitutionally equitable to support education in the State. She feels that the solution is not equitable, and she sees no way of getting rid of it other than having at least some opinion from the Court, even if it results in an equitable state property tax. She added that Hanover cannot just sit still and wait for something to happen.

Ms. Black pointed out that Act 60 in Vermont calls for a hardship cutoff for a single person of \$75,000 rather than the \$25,000 in New Hampshire. She feels that if 80% of the communities are getting additional money, they will not want to change that. The issue for her is that if the whole matter came up for equity in education, then someone has to take the initiative to make sure that the money in fact does go to education. It has already been stated by the Courts that this is not home rule, and that this money is to go for education. She feels that the money is not going to education, and that is her problem with the current solution. She added that she would be happy to pay whatever taxes were required under any system if the money went to the schools. Until the money is proven to be going to the schools, Ms. Black stated that she would vote in favor of pursuing the matter in the courts.

On the first question of whether or not the Town should fund an additional \$10,000 for the study, Mr. Colligan stated that he is not yet ready to vote in favor of that. He feels that the Town took a strong leadership position in conjunction with the school board; it was represented that there would be many other towns that would also be contributing. He feels that there is time to revisit this issue, but thinks that Hanover is ahead of the pack in terms of what has been contributed. On the bigger question of whether the Board should take action at this time, he feels prepared to take action but thinks out of respect to John Manchester and members of the public

that were unable to attend the meeting and want to comment that this question could be postponed to the next meeting. He added that he has also received phone calls, and it was unanimous that people wanted to have the Town fight as hard as it could. He feels that there is no time pressure until March in terms of when the money goes to the State, and that more information may be learned in the meantime that produces an alternative path other than what is being discussed at this meeting.

Mr. Walsh stated that there are two important events for him relative to using property tax as a base for education funding in the State. One was this past summer, looking at what the consequences were over several years in terms of how tax rates would rise in the State in an attempt to keep up with growth in the school age population. He believes it is an absolutely flawed system, one that will come apart because of its own economics over the next several years. He feels that there are a lot of other things wrong with it, such as the way the property tax falls on the elderly who also get the opportunity to pay the interest and dividends tax as well as their children's and grandchildren's education. Secondly, he referred to a meeting in Portsmouth which set forth how inequitable the property tax assessment practices are throughout the State. He feels that the issue is not a donor community/receiver community issue; it is the fact that there is no equitable basis for assessing property in the State of New Hampshire. He stated that he would vote to pursue the proposed litigation, although he hates to litigate against the State. This is a time, however, that he does not believe that the State Legislature will act correctly or that there will be enough pressure without the matter being in the courts, so he will support the litigation.

3. CONSIDERATION OF REQUEST BY PARKS AND RECREATION DEPARTMENT TO INSTALL A POND PARTY BANNER ON MAIN STREET

Ms. Black MADE THE MOTION that the Board of Selectmen approve the request by the Parks and Recreation Department to install a Pond Party banner on Main Street. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO APPROVE THE REQUEST BY THE PARKS AND RECREATION DEPARTMENT TO INSTALL A POND PARTY BANNER ON MAIN STREET.

4. ADMINISTRATIVE REPORTS

Ms. Griffin reported that her office has been very preoccupied with working on the budget. The first draft of the General Fund budget has now been prepared, and over the next three weeks they will be working on various drafts of the budget. She will also be focusing on what kinds of fixed cost increases there are in the budget that are outside the Town's control, but added that the Town is fortunate this year in that there was only a minimal increase in the health insurance premiums in contrast with the 25% to 31.3% increases in coverage that the school district is facing.

Ms. Griffin also reported that a final report of the coalition communities is expected to be received at the end of January, as well as an up-to-date accounting from them as to the amount of money they have received so far from all of the coalition community members.

5. SELECTMEN'S REPORTS

Ms. Connolly

Ms. Connolly reported that the Planning Board is working on Zoning Amendments, and has a scenic road hearing on its upcoming agenda. Dartmouth College also has two developments in the works, and there are two other developments in the processing stage, one out on Blueberry Hill and another which is the old Bailey subdivision, now the Simpson Development subdivision. In addition, Kendal will be coming before the Board with a proposal for more nursing home beds.

Ms. Black

Ms. Black reported that Town and Gown will be meeting on the third Thursdays; as she is unable to attend the meetings on any third Thursdays, it will be necessary for someone to attend in her place. Mr. Walsh stated that he would ask John Manchester to attend in Ms. Black's place.

Mr. Colligan

Mr. Colligan had nothing to report.

Mr. Walsh

Mr. Walsh reported that he had sent out in the Board's Friday packet a request for their comments and thoughts regarding the upcoming League of Women Voters' forum.

6. APPROVAL OF MINUTES: JANUARY 3, 2000

Ms. Connolly MADE THE MOTION to approve the minutes of January 3, 2000, as amended. Ms. Black SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO APPROVE THE MINUTES OF JANUARY 3, 2000, AS AMENDED.

7. OTHER BUSINESS

Bernie Waugh asked if the Planning Board would be having formal discussions with the Zoning Board regarding Zoning Amendments. Ms. Connolly answered that there have been members of the Zoning Board at the last two Planning Board sessions where Zoning Amendments were discussed, and she understands that there has been input from the ZBA for this year's Zoning Amendments.

Ms. Griffin indicated that she will talk with Jonathan Edwards to see if a formal meeting is proposed.

Mr. Colligan stated that the public would need some help in trying to understand the proposed Zoning Amendments, because they get to the polls

and have no idea what they are voting on. Ms. Connolly indicated that in past years there have always been explanations posted at the polls regarding the proposed Zoning Amendments.

Mr. Colligan suggested that the Valley News might do an article in an attempt to educate people about the Zoning Amendments. Ms. Griffin explained that background information is sent out with the Town Report. Mr. Colligan suggested that something in the newspaper might be more effective. Ms. Connolly also suggested that information about the Zoning Amendments be posted at the polls as has been done in the past.

Ms. Griffin noted that the Zoning Amendments were on the Town's website last year, and will be posted on the website again this year. She added that they attempt to get the information out in as many different forums as possible, but it is ultimately up to the voter to do their homework.

Mr. Walsh wondered if it would be possible to have a Planning Board meeting when the Amendment wording is done with the meeting televised on Channel 6 so that people could listen to the explanations and discussion. Ms. Griffin indicated that she would talk about this issue internally with staff, because the Town is eager to be sure people understand the Zoning Ordinance Amendments.

Mr. Colligan pointed out that it is not just the average voter who is uninformed about the Zoning Ordinance Amendments, it is also people who are very familiar with the Town's system.

8. ADJOURNMENT

Ms. Black MADE THE MOTION to adjourn the meeting of the Board of Selectmen. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO ADJOURN THE MEETING.

Ms. Connolly MADE THE MOTION to go to nonpublic session to discuss a matter which may affect the reputation of an individual. Ms. Black SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO GO TO NONPUBLIC SESSION TO DISCUSS A MATTER WHICH MAY AFFECT THE REPUTATION OF AN INDIVIDUAL.

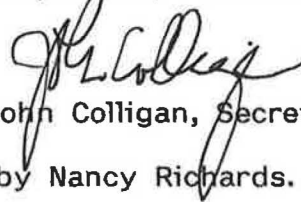
SUMMARY

- 1. Ms. Black MADE THE MOTION that the Board of Selectmen approve the request by the Parks and Recreation Department to install a Pond Party banner on Main Street. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO APPROVE THE REQUEST BY THE PARKS AND RECREATION DEPARTMENT TO INSTALL A POND PARTY BANNER ON MAIN STREET.**
- 2. Ms. Connolly MADE THE MOTION to approve the minutes of January 3, 2000, as amended. Ms. Black SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO APPROVE THE MINUTES OF JANUARY 3, 2000, AS AMENDED.**

3. Ms. Black MADE THE MOTION to adjourn the meeting of the Board of Selectmen. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO ADJOURN THE MEETING.
4. Ms. Connolly MADE THE MOTION to go to nonpublic session to discuss a matter which may affect the reputation of an individual. Ms. Black SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO GO TO NONPUBLIC SESSION TO DISCUSS A MATTER WHICH MAY AFFECT THE REPUTATION OF AN INDIVIDUAL.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,



John Colligan, Secretary

These minutes were taken and transcribed by Nancy Richards.