

AGENDA
BOARD OF SELECTMEN
April 1, 2019 AT 6:30 PM
TOWN HALL, PAULSEN MEETING ROOM

- I. CALL TO ORDER
- II. CITIZEN COMMENT
- III. SCHEDULED MEETINGS:
 - a. Chief Paulsen – New Hire
 - b. Chief Gilman – Cruiser purchase
- IV. OLD BUSINESS:
 - a. 2016 Tax Deeds
 - b. Street Light Update
 - c. Future street light pole regulations
 - d. Eversource energy costs
- V. NEW BUSINESS:
 - a. Appointments
 - b. DTC Agreement
 - c. Manifest/Abatements
 - d. Minutes 3/18/19
- VI. TOWN ADMINISTRATOR REPORT
- VII. COMMITTEE REPORTS
- VIII. OTHER/CITIZEN COMMENT
- IX. NON PUBLIC SESSION
- X. ADJOURN

<u>NAME</u>		<u>PROPERTY ADDRESS</u>	<u>MAILING ADDRESS</u>	<u>AMOUNT DUE THROUGH 5/9/2019</u>	<u>MAP/LOT</u>
<u>Tax Deed date is May 9, 2019</u>					
Eric Baron		221 Friendship Ave Pembroke, NH 03275	221 Friendship Ave Pembroke, NH 03275	774.12	870-32-U10
Linda Beaudoin		190 Main Street Pembroke, NH 03275	190 Main Street Pembroke, NH 03275	2,984.28	VE-67
Debra Carter		5 Kimball Street Pembroke, NH 03275	19 Level Street Merrimack, NH 03054	1,638.18	VE-147
George and Jillian Charlton*****		465 Sixth Range Road Pembroke NH 03275	465 Sixth Range Road Pembroke NH 03275	130.79	260-6
George and Jillian Charlton*****		465 Sixth Range Road Pembroke NH 03275	465 Sixth Range Road Pembroke NH 03275	8,496.54	260-6
George and Jillian Charlton*****		465 Sixth Range Road Pembroke NH 03275	465 Sixth Range Road Pembroke NH 03275	7,489.95	260-6
Christopher Drouin		457 Carrie Ave Pembroke, NH 03275	455 Carrie Ave Pembroke, NH 03275	1630.99	563-79
Todd Heger		2-4 Prospect Street Pembroke, NH 03275	225A Belknap Drive Pembroke, NH 03275	9894.14	VW-97
Nicholas Julian		235-3 Dearborn Road Pembroke NH 03275	235-3 Dearborn Road Pembroke NH 03275	710.77	266-76-103
Louis Marcoux		6 Howard Street Pembroke, NH 03275	17 Oaks Drive Bedford, NH 03110-6031	2,490.52	VE-34
Owners Unknown *		Pembroke Street	311 Pembroke Street Pembroke, NH 03275	274.33	266-27-2

Owners Unknown *	Main Street Pembroke, NH 03275	311 Pembroke Street Pembroke, NH 03275	136.44	VW-114-1
Owners Unknown *	Broadway Pembroke, NH 03275	311 Pembroke Street Pembroke, NH 03275	209.91	VE-15-1
Kemberley Pelkey	212 Buck Street Pembroke, NH 03275	203 Loudon Road #823 Concord, NH 03301	464.58	266-129
Heather Shepley Trustee Leonard D Shepley Living Trust	807 Route 28 Pembroke, NH 03275	18297 E Baker Place Aurora, CO 80013	9,264.53	868-16
THC Realty Trust * Elliot Konner Trustee	Main Street Pembroke, NH 03275	PO Box 10545 Bedford, NH 03110-0545	2,023.26	VE-179-2
Lance Tremblay	307-2 Dearborn Road Pembroke, NH 03275	34 Dover Street Manchester, NH 03102	2,935.28	266-73
Webster Falls Inc *	Mills Fall Off Pembroke, NH 03275	116 So River Road Bldg A Bedford, NH 03110	225.90	VE-179-1

***** Bankruptcy was just terminated
* Deed issues or contaminated land

3/28/2019



CELEBRATING OVER 30 YEARS OF SERVICE TO OUR CLIENTS

ROBERT D. CIANDELLA
LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
AMELIA G. SRETER
AUSTIN M. MIKOLAITIES
BRENDAN A. O'DONNELL

SENIOR COUNSEL
MICHAEL J. DONAHUE

RETIRED
CHARLES F. TUCKER
NICHOLAS R. AESCHLIMAN

Please respond to our Exeter office

ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL

DTC Municipal Clients
FairPoint
Unitil
Public Service Co. of New Hampshire
New Hampshire Electric Cooperative
Northern Utilities, Inc.

March 19, 2019

RECEIVED
MAR 20 2019
TOWN OF
PEMBROKE, NH

Re: Amendment to RSA 72:23-Taxation of use of public rights of way

Good Afternoon:

The purpose of this letter is to inform you of a recent and important revision to RSA 72:23, I. As is explained in greater detail below, the statutory change requires municipalities to provide their assessing official with documents which purport to allow for the assessment for the use and occupancy of the public rights-of-way on an annual basis. While this change may seem mundane in principle, the legal effect of failing to comply with this requirement remains unseen, and we are concerned that failure to comply with this new requirement may be used to invalidate municipalities' attempts at taxing the use and occupancy of the public rights of way.

At the outset, in an attempt to ensure that the greatest number of communities have been made aware of this statutory change, we have prepared this letter to act as a general circular to all municipal clients currently represented by DTC in various utility tax appeals. As such, this letter does not address the specific circumstances of your municipality. If you should have any specific questions regarding the impact of this letter as it relates to your community, please contact me or my associate, Brendan O'Donnell, at the email addresses or phone numbers provided at the end of this letter.

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Windsor Lane, P.O. Box 630, Exeter, NH 03833-4924
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

1-800-566-0506

www.dtcclawyers.com

This letter is organized into two parts, the first discusses the statutory change and the second discusses our recommended course of action regarding that statutory change.

I. Legal Background

As you will recall from prior correspondence from my office, RSA 72:23, I requires municipalities to tax private users of State- or municipally-owned property. To lawfully tax those private users of State- or municipally-owned property, there must be a “lease or other agreement” that provides for the payment of properly assessed real and personal property taxes by the private party using or occupying that property.

Effective January 1, 2019, the New Hampshire Legislature imposed an additional requirement upon municipalities in order to tax for the use of the public rights of way. That requirement, which is found at RSA 72:23, I (b)(1)(B) provides:

“Annually, on or before April 15th the lessors [in this case the owner of the State or Municipally owned property] of all leases and other agreements, the terms of which provide for the use or occupation by others of real or personal property owned by the state, county or city/town, school district or village district . . . shall provide written notice and a copy of the lease or other agreement to the assessing officials of the municipality in which the property is located”.

Upon information and belief, this amendment to RSA 72:23 was sponsored and put forth by utility companies in 2018.

The amendment to RSA 72:23 requires that the owner of the public rights of way, which in this instance will either be the municipality or the State of New Hampshire, to provide assessing officers with copies of the pole or conduit licenses issued by the State or the municipality, the cable franchise agreements between the municipality and the local cable provider, and the road opening/excavation permits issued to gas and water system operators. At present, there has been no guidance issued as to how this task is to be accomplished, particularly with regard to pole and conduit licenses, of which there may be hundreds dating back several decades.

II. Recommended Course of Action

As stated above, due to the recent nature of this statutory change, there is no guidance as to how this new statute should be implemented or the legal effect of failing to comply with the statute. That said, the extent of potential documents that would need to be replicated and transmitted to the local assessing official on a yearly basis may result in burdens being placed on municipal staff. For that reason, we recommend that municipalities take the following course of action with regard to the implementation of RSA 72:23, I (b)(1)(B).

If your municipality has undertaken an amendment procedure to update its pole and conduit licenses/road opening and excavation permits, your municipality should provide its assessor with a copy of the petition used in that amendment process, the governing bodies' meeting minutes associated with that amendment process, and a copy of the notices that went out to the various utilities at the conclusion of that amendment process. If the municipality has cable franchise agreements that have language allowing for the taxation of the use of public rights of way, those cable franchise agreements should also be provided to the local assessor. Additionally, if there are other leases of municipal property to private parties, such as for solar arrays on municipal buildings, the municipality should provide copies of those leases to the assessor.

If your municipality has not undergone an amendment procedure to update its pole and conduit licenses/road opening and excavation permits, please contact us immediately, as such an amendment is critical to ensuring the lawful ability to assess for the use and occupancy of public rights of way.

We also recommend that your municipality send the local assessing official with a notice in the form enclosed with this letter. The local assessing official will depend on your municipality, i.e. board of assessors, governing body, town-assessor, contracted assessor, or assessing consultant. The individual that executes the notice should be an individual with knowledge of the various records, which may be a city manager, town manager, town administrator, administrative assistant to a board of selectmen, or town/city clerk.

With regard to State-owned rights of way, your municipality should send a reminder to the State of New Hampshire Department of Transportation informing it of this change in the law and requesting that the State of New Hampshire provide all responsive documents in its possession. Those responsive documents will likely include the pole and conduit licenses or excavation permits issued by the New Hampshire Department of Transportation, both of which, upon information and belief, include the required RSA 72:23 taxation language in their standard forms. The notice to the State of New Hampshire should also remind it that the information is due annually by April 15th.

Because this statute went into effect this year, the legal consequences associated with non-compliance with this statute remain unclear. However, due to the fact that this amendment to RSA 72:23 was proposed by the utility companies, our conservative anticipation is that non-compliance will be used as a basis for attempting to invalidate the taxation of use of the public rights of way in subsequent abatement actions. Therefore, it is important that municipalities (and the State) provide copies of the requested documents in a timely fashion to preserve their ability to tax and assess what can be a significant component of the tax base.

If you have any questions regarding this letter, please do not hesitate to contact me at emaher@dtclawyers.com or, my associate, Brendan O'Donnell at bodonnell@dtclawyers.com, or by calling the number at the bottom of this letter. Thank you for your time and attention.

Very Truly Yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

A handwritten signature in black ink, appearing to read "Eric A. Maher". The signature is fluid and cursive, with the first name "Eric" written in a larger, more prominent script than the last name "Maher".

Eric A Maher, Esq.

Enclosures

cc: Katherine B. Miller, Esq.
Brendan A. O'Donnell

TOWN OF PEMBROKE

NOTICE IN ACCORDANCE WITH RSA 72:23, I (b) (1) (B)

WHEREAS, RSA 72:23, I requires the Town to tax the use of property owned by the state of New Hampshire or by a New Hampshire city, town, school district or village district, when such property is being used or occupied by a third party pursuant a lease or other agreements, the terms of which provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property.

WHEREAS, RSA 72:23, I (b) (1) (B) provides that: Annually, on or before April 15, the lessors of all leases and other agreements, the terms of which provide for the use or occupation by others of real or personal property owned by the state or a county, city, town, school district, or village district, including those properties identified under subparagraph (d), shall provide written notice and a copy of the lease or other agreement to the assessing officials of the municipality in which the property is located.

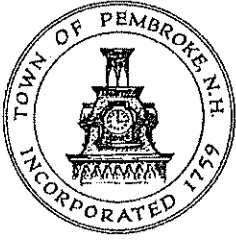
NOW THEREFORE, in accordance with the provisions of RSA 72:23 (b) (1) (B), you are hereby notified, in your capacity as the assessing official for the Town of Pembroke, that all leases and other agreements allowing for the use of property owned by the State of New Hampshire or by a New Hampshire city, town, school district or village district are presently on file at the Pembroke Clerk's Office. Said files are voluminous and may be accessed and reviewed during regular business hours. Such files, include, but are not limited to:

- (a) Pole and conduit licenses issued by the governing body allowing for the placement and maintenance of electric and telecommunications poles and conduit within public rights-of-way;
- (b) Road opening and/or excavation permits/agreements allowing for the placement of electric, telecommunications, water, or electric property within public rights of way;
- (c) Cable franchise agreements between the Town and the local cable provider; and
- (d) Any other leases or agreements allowing for the use and occupancy of property owned by the State of New Hampshire or any New Hampshire county, city, town, school, or village district.

Dated: _____

By: _____

[INSERT TITLE]



TOWN OF PEMBROKE

Town Hall ~ 311 Pembroke Street, Pembroke, New Hampshire 03275

Tel: 603-485-4747

March 20, 2019

Board of Selectmen
Town of Pembroke
311 Pembroke Street
Pembroke, NH 03275

RE: Reappointment of Alan Topliff to the Planning Board

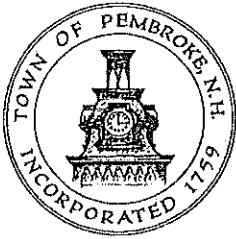
Dear Board of Selectmen:

Mr. Topliff's Planning Board term will expire on April 30, 2019. Mr. Topliff is a valuable member to the Planning Board and an experienced Chair. He has expressed interest in being reappointed for another three-year term.

We respectfully request the Board of Selectmen consider reappointing Mr. Topliff to the Planning Board.

Sincerely,

Carolyn Cronin
Town Planner



TOWN OF PEMBROKE

Town Hall ~ 311 Pembroke Street, Pembroke, New Hampshire 03275

Tel: 603-485-4747

March 20, 2019

Board of Selectmen
Town of Pembroke
311 Pembroke Street
Pembroke, NH 03275

RE: Reappointment of Kathy Cruson to the Planning Board

Dear Board of Selectmen:

Ms. Cruson's Planning Board term will expire on April 30, 2019. Ms. Cruson is a valuable member to the Planning Board and has expressed interest in being reappointed for another three-year term.

We respectfully request the Board of Selectmen consider reappointing Ms. Cruson to the Planning Board.

Sincerely,

Carolyn Cronin
Town Planner

March 21, 2019

Board of Selectmen
311 Pembroke St
Pembroke NH 03275

RECEIVED
MAR 22 2019
TOWN OF
PEMBROKE, NH

RE: Memorial Field Safety

I am writing as a very concerned grandparent who spends a lot of time at the field watching my grandkids play sports, and my son-in-law coaching as well.

I reached out to Rose Galligan, Recreation Committee Chair, and she suggested I write to you.

While there is one "Speed Limit 10 mph" sign at the intersection of Pleasant St and Exchange St, there is no additional signage within the field regarding speed limits and/or children playing.

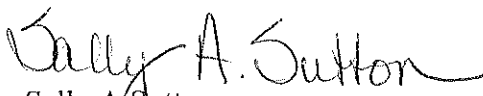
Adults who are driving in and out of the field are not going the speed limit, and the children are not always paying attention as they get out of the vehicles and run to play.

I would appreciate your consideration of additional reminders to all of us who enjoy the park.

I'd also like to add that the park is much more enjoyable since the Eagle Scout Project to make the park non-smoking.

Thank you very much.

Respectfully,


Sally A Sutton
Sallyasutton926@gmail.com

Cc: Rose Galligan

**BOARD OF SELECTMEN
TOWN OF PEMBROKE, NH
MARCH 18, 2019 at 6:30 PM**

DRAFT

Present: Chairperson Tina Courtemanche, Selectman Ann Bond, Selectmen Richard Bean, and Selectmen Michael Crockwell, Selectman Sandy Goulet

Staff: Town Administrator David Jodoin, Recording Secretary Jillian McNeil

I. Call to Order:

Chairman Tina Courtemanche called the meeting to order at 6:30pm.

II. Citizen Comment:

None

III. Scheduled Meetings:

None

IV. Old Business:

David Jodoin presented the Selectmen with the updated 2016 tax deed listings. Deeding date is May 9, 2019.

Selectman Bond stated that she is trying to get Lightech and Eversource back to complete the work but has not heard anything from them. David Jodoin stated that George from Eversource is bringing in the \$10,000 check from the rebate program for converting to LED lighting. David has discussed the work that needs to be completed with Eversource and Lightech.

David Jodoin stated that Bob Bourque is still working on gathering information for the street light pole regulations and there are no updates at this time.

David Jodoin stated that there are no updates for the Eversource energy costs.

V. New Business:

Selectman Bond made a motion to appoint Selectman Courtemanche as Chairman to the Select Board. Selectman Goulet seconded the motion. Motion passed 5-0.

Selectman Crockwell made a motion to appoint Selectman Bond as Vice-Chairman to the Select Board. Selectman Goulet seconded the motion. Motion passed 5-0.

Board Committee Assignments:

- Planning Board – Selectman Bond (Main) and Selectman Goulet (Alt.)
- Conservation Commission – Selectman Crockwell
- Roads Committee – Selectman Bean
- Recreation Committee – Selectman Bean
- Capital Improvement Plan Committee – Selectman Goulet (Main) and Selectman Courtemanche (Alt.)
- Budget Committee – Selectman Goulet (Main) and Selectman Bean (Alt.)
- Energy Committee – Selectman Bond (Main) Selectman Crockwell (Alt.)
- Facilities Committee – Selectman Crockwell

Selectman Bond made a motion to appoint Sharon Wickens to the Trustee of Trust Funds. Selectman Goulet seconded the motion. Motion passed 5-0.

Selectman Bond made a motion to appoint Andrew Githmark to the Planning Board as an alternate. Selectman Goulet seconded the motion. Motion passed 5-0.

Selectman Bond made a motion to appoint Donald Leisman to the Energy Committee as an alternate. Selectman Crockwell seconded the motion. Motion passed 5-0.

David Jodoin shared that the solid waste agreement with Casella is expiring in 3 years. The Board decided to look into reconvening a Solid Waste Committee to look at the current contract and make suggestions.

The Board signed the State of New Hampshire MS-232.

Selectman Goulet asked what the next steps are for 4 & 6 Union Street since the warrant article failed at Town Meeting. David explained that the Board will have to decide what they would like to do with the building. The \$150,000 cost to fix the entire wall was reviewed by the Building Committee and there is another alternative that would be no more than \$25,000. There is no idea how long the fix would last but it is much cheaper than replacing everything. David sent an email to Paulette at Sewer since they have first right refusal per their agreement. They are looking into if they would be able to lease the building. A realtor will need to look at the building and determine its worth before anything is done. Selectman Courtemanche asked if the Sewer Commission takes the building, will the Town be responsible for maintenance. David said it would be their responsibility and not the Town. Selectman Bond asked how much room the Sewer Department needs if they are unable to purchase the building. David stated they have a pick-up truck and some small equipment. They will also need a meeting space.

Selectman Crockwell moved to approve the Manifest/Abatements. Selectman Goulet seconded the motion. Motion passed 5-0.

Selectman Bond moved to approve the minutes of March 4, 2019 as presented. Selectman Crockwell seconded the motion. Motion passed 5-0. Selectman Bean and Selectman Goulet abstained.

VI. Town Administrator Report:

David Jodoin stated that the Eagle Scouts are looking to do a project for the Town and they selected re-doing the horseshoe pits at Memorial Field.

Vincent Greco submitted a request to appoint Dana Pendergast as the Deputy Health Officer while he is away. Selectman Crockwell made a motion to appoint Dana Pendergast as the Deputy Health Officer. Selectman Goulet seconded the motion. Motion passed 5-0.

David stated that the National Guard, in conjunction with the Wild Land Fire Program Manager, sent a letter of prescribed burns. These burns are done yearly and the Fire Department has been sent a copy.

David stated that the State sent a red list of bridges in Town.

David presented the Board with non-public minutes that are able to be released. Selectman Goulet made a motion to release the non-public minutes of 1/4/16, 1/19/16, 3/7/16, 10/24/16, 11/21/16, 7/7/17, 5/7/18, 7/16/18, 9/4/18, 11/7/18, and 12/17/18. Selectman Crockwell seconded the motion. Motion passed 5-0.

The site walk for the San-Ken Homes subdivision on Flagg Robinson and 4th Range Road will happen on May 4, 2019 at 10:00 am. Mike Vignale, Planning Board, and Roads Committee have been invited. The public is also welcome to attend.

VII. Committee Reports:

Selectman Bond – Planning Board is discussing a 25-foot corner clearance at the corner of every road at the next meeting. They are also discussing unsafe structures, commercial greenhouses versus residential greenhouses, dead end street designs, and combining the waiver of the checklist for Planning and Zoning.

Selectman Goulet – None

Selectman Courtemanche – None

Selectman Crockwell – Conservation discussed bio-hazards on the Hillman fields. The bio-hazards are class A and require a 10 year check but conservation has requested a 5 year check, which has been standard practice. Monitoring day for all conservation areas is April 6, 2019. Everyone is meeting at town hall at 10:00 am. Selectman Bond asked if conservation could remove the no trespassing signs on the

new property that was acquired on Academy Road and at the end of Whittemore Road.

Selectman Bean – None

VIII. Other/Citizen Comment:

None

IX. Non-Public Session:

None

X. Adjourn:

Motion by Selectmen Bond to adjourn at 7:14 PM seconded by Selectmen Crockwell, Motion passed 5-0

Justine M. Courtemanche, Chairman

For more detailed information, the meetings are now taped and can be seen on www.townhallstreams.com click on Pembroke NH and look for the day of the meeting under the month.