

TOWN MEETING MINUTES

MINUTES OF THE ANNUAL TOWN MEETING TOWN OF PEMBROKE, NH MARCH 11, 2014

The meeting was opened by Moderator Thomas E. Petit at 11:00 a.m.

A motion was made to read and act on Articles #1 and #2 and to read and act on the remaining articles at the deliberative session on March 15, 2014 at the Pembroke Academy Auditorium.

MOVED: Chet Martel

SECONDED: Pam Allgeyer

VOTE: YES

MOTION PASSED

ARTICLE #1: To choose all necessary officers for the ensuing year.

*Denotes elected

Town Clerk for one year:
vote for not more than one
James F. Goff

*306

Library Trustee for three years:
vote for not more than two
Patricia Y. Crafts
Susanne Whitbeck

*251

*247

Moderator for 2 years:
Vote for not more than one
Thomas E. Petit

*298

Library Trustee for two years:
vote for not more than one
Judy Mitchell

*274

Treasurer for one year:
vote for not more than one
Charles L. Connor

*283

Trust Fund Trustee for three years:
vote for not more than one
Gerard Fleury

*274

Selectman for three years:
vote for not more than two
Justine "Tina" Courtemanche
Michael Crockwell
Robert G. Samson

*181

*192

149

Trust Fund Trustee for one year:
vote for not more than one
Courtney Eschbach

*255

Sewer Commissioner for three years:
vote for not more than one
Daniel Driscoll
Paulette Malo

*157

128

Checklist Supervisor for six years:
vote for not more than one
Patricia Y. Crafts

*280

Water Commissioner for five years:
vote for not more than one
no one filed

4776 voters on the Pembroke Checklist
318 ballots cast
7% voter turnout

Andrew Boisvert *8 write-in votes
Richard Bilodeau 4 write-in votes

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ARTICLE 2 – AMEND ZONING ORDINANCE

Are you in favor of adopting the following amendments to the existing Zoning Ordinance of the Town of Pembroke?

Amendment #1

Amendment #1

Are you in favor of the adoption of Amendment #1 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-31. A. It shall be unlawful for any person to occupy a recreational vehicle on a temporary basis, who does not possess a license-permit from the Selectmen Code Enforcement Officer. A license-permit is not required for the storing or parking of a recreational vehicle during periods of nonuse on the premises of the owner, or for a period of occupancy not to exceed 60 days per year;

YES 170 NO 68 AMENDMENT #1 PASSED

Amendment #2

Are you in favor of the adoption of Amendment #2 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-63.D. Awning: A sign painted on or attached to the cover of a movable metallic frame of the hinged, rolled, or folding type of awning or the cover of a fixed metallic frame.

YES 198 NO 68 AMENDMENT #2 PASSED

Amendment #3

Are you in favor of the adoption of Amendment #3 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-39.D. Considering this application, some of the items the Planning Board might discuss with the applicant are:

1. Proposed length of stay;
2. Why an alternate location can not be used;
3. What item(s) will be stored; and
4. What is the expected removal ~~data;~~ date;

YES 186 NO 74 AMENDMENT #3 PASSED

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Amendment #4

Are you in favor of the adoption of Amendment #4 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-121. B. It shall be the duty of the Board of Selectmen or appointed Code Enforcement Officer to enforce the New Hampshire Building Code, as amended, under the authority granted pursuant to RSA 674:51. ~~Copies of~~ The New Hampshire Building Code shall be available for review in the office of Planning and Land Use.

YES 223 NO 48 AMENDMENT #4 PASSED

Amendment #5

Are you in favor of the adoption of Amendment #5 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-121. C. It shall be the duty of the Board of Selectmen or the appointed Code Enforcement Officer to enforce the New

Hampshire Building Code per RSA 155:A as amended.

~~following codes under the authority granted pursuant to RSA 674:51:~~

~~International Residential Code as published and amended by the International Code Council Inc.~~

~~International Property Maintenance Code as published and amended by the International Code Council Inc.~~

YES 219 NO 47 AMENDMENT #5 PASSED

Amendment #6

Are you in favor of the adoption of Amendment #6 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

~~Section~~ 143-122.A Buildings and structures: It shall be unlawful for any person to erect, construct, reconstruct, demolish, or alter a structure as defined by the New Hampshire Building Code, RSA 155:A, as amended, ~~and the International Residential Code, as published and amended by the International Code Council, Inc.,~~ without applying for and receiving from the Code Enforcement Officer a building permit.

YES 183 NO 88 AMENDMENT #6 PASSED

Amendment #7

Are you in favor of the adoption of Amendment #7 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

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Section 143-58 G (2) Maintenance: Any lawfully existing sign cannot be enlarged, ~~reworded (other than in the case of a cinema or theater signs);~~ redesigned or altered in any way, ~~including repainting in a different color;~~ except to conform to the requirements of this section. This does not include rewording or re-coloring of signs where such changes do not increase non-conformance relative to the existing sign. and provided f Furthermore, ~~that~~ any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost, that sign shall not be repaired or rebuilt or altered, except to conform to the requirements of this section.

YES 194 NO 79 AMENDMENT #7 PASSED

Amendment #8

Are you in favor of the adoption of Amendment #8 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-66.3 A. Except as provided in this article VIIIA, it shall be unlawful to erect, construct in place, place or re-erect, replace, or make any external-structural changes to any existing tower ~~or antenna~~ without securing a special exception therefore as hereinafter provided.

YES 204 NO 69 AMENDMENT #8 PASSED

Amendment #9

Are you in favor of the adoption of Amendment #9 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Section 143-8, Definitions, Agricultural Retail Outlets

B. FARM STAND (Roadside Stand) — A structure either temporary or permanent, or a vehicle, from which ~~locally grown and~~ seasonal agricultural, horticultural, or silvicultural products and produce are sold. ~~the majority of which are grown by the owner.~~

~~**D. TEMPORARY AGRICULTURAL RETAIL OUTLET** — Any cart or vehicle from which agricultural, horticultural or silvicultural products and produce are sold and is governed by Chapter 163 of the Code of the Town of Pembroke, "Hawkers, Peddlers and Itinerant Vendors."~~

Section 143-44 B. Farm Stand: (Roadside stand)

(1) Farm stands that operate more than ~~four~~ six months ~~[sic]~~ out of the year shall be subject to receiving a Special Use Permit by the Planning Board. ~~those operating less than the time period specified are defined as a Temporary Agricultural Retail Outlet;~~

YES 227 NO 67 AMENDMENT #9 PASSED

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Amendment #10

Are you in favor of the adoption of Amendment #10 as proposed by the Planning Board for the Town Zoning Ordinance?

Section 143-8, Definitions

LOT OF RECORD - A lot ~~or parcel of land either shown on a plan or described in a deed that is recorded laid out by plan or described by a separate description in a deed recorded at the Merrimack County Registry of Deeds, and being in separate and undivided ownership at the time of the enactment of this chapter or by any subsequent amendments.~~

YES 227 NO 56 AMENDMENT #10 PASSED

Amendment #11

Are you in favor of the adoption of Amendment #11 as proposed by the Planning Board for the Town Zoning Ordinance?

Section 143-103

Any ~~parcel or non-conforming~~ lot of record, as defined in § 143-8, may be built upon provided the following conditions are met:

- A. The lot of record ~~or parcel~~ complied with the minimum area, frontage, width, and depth requirements, if any, of the Zoning Ordinance then in effect at the time it was created; and
- B. The lot or parcel conforms to the internal setbacks and height restrictions at the time of construction; and Any lot of record that does not comply with the current setback requirements in the applicable zone may be built upon provided that at least two of the setbacks can be met; and
- C. ~~Notwithstanding NH RSA 674:41, The lot of record has the applicable frontage requirements on a Class V, or better, road. -no lot is eligible for a building permit unless it has the frontage required elsewhere in this Ordinance along a Town~~

YES 219 NO 65 AMENDMENT #11 PASSED

Amendment #12

Are you in favor of the adoption of Amendment #12 as proposed by the Planning Board for the Town Zoning Ordinance?

Current language of 143-68. E.2

143-68. E. Special use permit: Any use permitted in the underlying district, except these which are expressly prohibited in section D, above, shall be reviewed by the Planning Board, the Health Officer, Pembroke Water Works, and shall conform to the provisions of this section. Special use permits may be granted by the Planning Board subject to the following additional limitations:

[Amended 3-9-2010 Town Meeting by Amendment No. 4]

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(1) (4) (Reserved) List each chemical, provide an MSDS for each chemical, and provide a notification letter with a brief synopsis of how each chemical is intended to be used, stored and disposed of for all chemicals stored in aggregate of one gallon or more or if the yearly use is five gallons or more. This requirement shall exclude operable motor vehicles, as defined by RSA 236:111 and RSA 236:112, parked on site. This list shall be submitted to the Pembroke Water Works for review and opinion prior to site plan approval.

(a) If in the opinion of the Pembroke Water Works an environmental consultant review is required, the Town of Pembroke shall hire the consultant at the applicant's expense.

(2) Petroleum products, chemicals, road salt, and other materials which have the potential for contaminating groundwater shall be stored above ground level within a fully enclosed structure designed to contain any spill within the structure. Waste that has the potential to become classified as hazardous in Title 40 of the Code of Federal Regulations (40 CFR) Part 261 must be stored indoors in an area that is free of floor drains or other sumps or penetrations that allow contact with soil or ground water.

(a) At any time that there is a change in chemicals used at the facility or new chemicals added, that would meet the quantity threshold, the Town of Pembroke shall require written notification to the Pembroke Planning Department and the Pembroke Water Works and a copy of the MSDS to be supplied.

(b) If in the opinion of the Pembroke Water Works an environmental consultant review is required, the Town of Pembroke shall hire the consultant at the applicant's expense.

(a)(c) If there are no changes, the Town of Pembroke would require a letter stating as such every five years.

YES 207 NO 70

AMENDMENT #12 PASSED

Amendment #13

Are you in favor of the adoption of Amendment #13 as proposed by the Planning Board for the Town Zoning Ordinance?

To Remove in its entirety Section 143-35.1, Private Sales and Related Outdoor Display and replace with (Reserved).

§ 143-35.1 Private Sales and Related Outdoor Display

[Added 3-08-2011 Town Meeting by Amendment No. 6]

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- ~~A. For the purposes of this article only, the term “item(s)” will refer to all items including but not limited to: household items, motor vehicles, motorcycles, boats, recreational vehicles, trailers, and/or construction equipment.~~
- ~~B. For the purposes of this article only, the term “related outdoor display” will refer to the outdoor display of the item(s) with the intent to sell.~~
- ~~C. All items offered for private sale and related outdoor display must be outside the adjacent roadway Right of Way.~~
- ~~D. Residents wishing to display an item(s) with intent to sell must notify the Code Enforcement Officer via phone, email, or in person to state what item(s) will be displayed and what day the display will be begin.~~
- ~~E. A maximum of three (3) items per calendar year may be offered for private sale and related outdoor display per lot.~~
- ~~F. Each item may only be displayed for a maximum of 90 days from the date of notification.~~
- ~~G. Yard sales are except from the provisions of this article.~~
- ~~H. Approved commercial sales with prior site plan approval from the Pembroke Planning Board are exempt from the provisions of this article.~~

YES 189 NO 83 AMENDMENT #13 PASSED

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MINUTES OF THE ANNUAL TOWN MEETING TOWN OF PEMBROKE, NH DELIBERATIVE SESSION MARCH 15, 2014

Moderator Thomas E. Petit opens the meeting at 10:00 a.m. after the Pledge of Allegiance, an introduction of the Budget Committee members, Board of Selectmen and the Town Clerk. He then reads the results of the ballot vote taken on March 11, 2014.

There was a motion made to dispense with the reading of the full warrant and proceed with the meeting.

MOVED: Daniel Crean

SECONDED: Robert Samson

VOTE: YES

MOTION PASSED

Selectman Fred Kline gave an overview of Article #3 and the work that was planned.

Water Commissioner Chris Culberson gave an overview of Article #4 and the work that was planned.

ARTICLE 3 - To see if the Town will vote to raise and appropriate the sum of \$1,200,000 for the Roadway Improvement and reconstruction project for the following streets; Pembroke Hill, Rowe Ave, Perley Ave, Girard Ave, Chappelle Street, Elm Street and Grandview Road, and to authorize the issuance of not more than \$1,200,000 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the interest thereon; (2/3 ballot vote required)(Passage of this article is contingent upon Article 4 being approved)

Recommended by Board of Selectmen

Recommended by Budget Committee

MOVED: Charles Schmidt

SECONDED: David Sheldon

This being a ballot vote, Moderator Petit opened the polls at 10:18 a.m. and stated that they would remain open for at least one hour.

When most of the people had cast their ballots, Moderator Petit allowed action to be taken on Article #4

ARTICLE 4 – To see if the Town will vote to raise and appropriate through water fees (bond/note will be paid for by users not through property taxes) the sum of \$300,000 for the water line infrastructure improvements on Pembroke Hill and the abutting streets, and to authorize the issuance of not more than \$300,000 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Water Commissioners to issue and negotiate such bonds or notes and to determine the interest thereon; (2/3 ballot vote required)(Passage of this article is contingent upon Article 3 being approved)

Recommended by Board of Selectmen

Recommended by Budget Committee

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MOVED: Robert Samson

SECONDED: David Sheldon

This being a ballot vote, Moderator Petit opened the polls at 10:29 a.m. and stated that they would remain open for at least one hour.

When there were no more ballots being cast for Articles #3 and #4, the moderator allowed action to continue on other articles.

There was a motion made to take up action on Article #16.

MOVED: Daniel Crean

SECONDED: Robert Samson

VOTE: YES

ARTICLE 16 – To hear the report of the Sewer Study Committee that was created pursuant to Article #12 at the 2013 Town meeting, which voted to establish a Committee to study the current operations of the Sewer Department and its Commission with regards to billing, collection procedures, and overall operations, and to take such action in response to the report as the Town Meeting deems appropriate..

Daniel Crean explained the history leading up to this article. He then read the report of the Sewer Study Committee. A copy of the report is inserted at the end of these minutes.

There was a motion made to amend Article #16 to read as follows: "Motion: To accept the report and as a result of the report I moved to authorize the Board of Selectmen to work with the Sewer Commission over the next six months to establish and implement a system whereby all sewer fees will be collected by the Town Tax Collector."

MOVED: Fred Kline

SECONDED: David Sheldon

Harold Thompson speaks against the motion.

Gerard Fleury speaks in favor of the motion.

VOTE: YES

MOTION PASSED

ARTICLE 14 – (Advisory) Shall the Town explore cost saving measures with regards to utility consumption, for the street lights in the community, which may require street lights to be modified (reduced wattage) or removed in certain locations. This article is advisory only and does not appropriate funds or create a new program. It is intended to gauge the sentiment for the necessary conservation efforts to reduce electric consumption.

MOVED: Diane Schuett

SECONDED: David Sheldon

VOTE: YES

ARTICLE #14 ADOPTED

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At this point in the meeting, there being no one else in attendance wishing to vote on Article #3 and the polls for voting had been open for more than the mandatory one hour, Moderator Petit closes the polls at 11:25 a.m.

The ballots are counted and the results are as follows:

115 ballots cast

YES 108 NO 7 ARTICLE #3 ADOPTED

There being no one in attendance wishing to vote on Article #4 and the polls for voting had been open for the mandatory one hour, Moderator Petit closes the polls at 11:29 a.m.

The ballots are counted and the results are as follows:

115 ballots cast

YES 111 NO 4 ARTICLE #4 ADOPTED

ARTICLE 15 - To see if the Town of Pembroke shall state its opposition to any new overhead development of alternating current and direct current high voltage transmission lines within its borders; and in turn manifest the Town's strong preference for the burial of such lines, in a manner consistent with state and federal requirements, under rights of way and power line corridors now existing or to be established. Although burial in all instances is preferred, this statement of opposition shall not apply to distribution lines carrying electrical power and other utility lines, such as telephone and cable television, for Town residential or commercial use.

MOVED: Tina Courtemanche SECONDED: Vincent Greco

Marie Straiton spoke in support of this article stating that the project now is intending to use the existing right-of-way erecting 59 new towers of over 135 feet in height. This will affect 40 properties in the Town of Pembroke. She urged the voters to join 33 other communities and demand the burial of the electric transmission lines.

Charles Schmidt stated that there is a bill in the house that is addressing the idea of burying the lines in the states transportation corridors. He also stated that other states have in fact demanded the burial of the transmission lines, not as long as it would be in NH, but they have done it.

Wayne Burt spoke about how the wind farms have scarred the beauty of NH and this would look even worse.

VOTE: YES ARTICLE #15 ADOPTED

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ARTICLE 5 - To see if the Town will vote to approve the cost item included in the collective bargaining agreement reached between the Board of Selectmen and the International Union of Operating Engineers Local 998 regarding Public Works Employees; which calls for the following increases in salaries and benefits at the current staffing level:

<u>Fiscal Year</u>	<u>Estimated Increase</u>
2014	\$ 8,729
2015	\$11,393
2016	\$13,295

and further to raise and appropriate the sum of \$8,729 for the current fiscal year, such sum representing the additional costs attributable to the increase in salaries and benefits required by the new agreement over those that would be paid at current staffing levels in accordance with the most recent collective bargaining agreement.

Recommended by Board of Selectmen
Recommended by Budget Committee

MOVED: David Sheldon

SECONDED: Tina Courtemanche

VOTE: YES

ARTICLE #5 ADOPTED

ARTICLE 6 – To see if the Town will vote to raise and appropriate \$583,500 to be deposited into the Capital Reserve Funds previously established as indicated below.

Town Equipment Capital Reserve Fund	\$125,000
Police Cruiser Capital Reserve Fund	\$ 27,500
Police Small Equipment Capital Reserve Fund	\$ 13,500
Municipal Facilities Capital Reserve Fund	\$175,000
Fire Major Equipment Capital Reserve Fund	\$150,000
Fire Small Equipment Capital Reserve Fund	\$ 20,000
Revaluation Update Capital Reserve Fund	\$ 32,500
Recreation Capital Reserve Fund	\$ 25,000
Cemetery Capital Reserve Fund	\$ 15,000

	\$583,500

Recommended by Board of Selectmen
Recommended by Budget Committee

MOVED: Vincent Greco

SECONDED: Robert Samson

VOTE: YES

ARTICLE #6 ADOPTED

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ARTICLE 7 – To see if the Town will vote to raise and appropriate the sum not to exceed \$79,000 to purchase and equip a new 1 Ton Pickup/plow truck for Public Works and to authorize the withdrawal of a sum not to exceed \$79,000 from the Town Equipment Capital Reserve Fund.

Recommended by Board of Selectmen
Recommended by Budget Committee

MOVED: Robert Samson

SECONDED: Vincent Greco

VOTE: YES

ARTICLE #7 ADOPTED

ARTICLE 8 – To see if the Town will vote to raise and appropriate the sum not to exceed \$73,574 to purchase and equip two (2) Police Cruiser/SUV packages and to authorize the withdrawal of a sum not to exceed \$73,574 from the Police Cruiser Capital Reserve Fund.

Recommended by Board of Selectmen
Recommended by Budget Committee

MOVED: Robert Samson

SECONDED: David Sheldon

Don Girard asked how much money does the town receive in motor vehicle stops and how much money is spent on prosecution.

Chief Dwayne Gilman explained that if a ticket is written using state statutes, then the town receives none of the money, the town only receives money from tickets written on town statutes. The Chief went on to state that the town spends approximately \$11,500 for prosecution.

VOTE: YES

ARTICLE #8 ADOPTED

ARTICLE 9 – To see if the Town will vote to raise and appropriate the sum not to exceed \$10,000 for the purchase of new police vests and to authorize the withdrawal of a sum not to exceed \$10,000 from the Police Small Equipments Capital Reserve Fund.

Recommended by Board of Selectmen
Recommended by Budget Committee

MOVED: Vincent Greco

SECONDED: Robert Samson

VOTE: YES

ARTICLE #9 ADOPTED

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ARTICLE 10 - To see if the Town will vote to raise and appropriate the sum not to exceed \$12,925 for necessary repairs at the Buck Street Cemetery and to authorize the withdrawal of a sum not to exceed \$12,925 from the Cemetery Improvements Capital Reserve Fund.

Recommended by Board of Selectmen

Recommended by Budget Committee

MOVED: Robert Samson

SECONDED: Tina Courtemanche

VOTE: YES

ARTICLE #10 ADOPTED

ARTICLE 11 - To see if the Town will vote to raise and appropriate the sum not to exceed \$2,000 for the purchase and installation of safety capping to be placed on the athletic fields at Memorial Field and to authorize the withdrawal of a sum not to exceed \$2,000 from the Recreation Capital Reserve Fund.

Recommended by Board of Selectmen

Recommended by Budget Committee

MOVED: Robert Samson

SECONDED: Vincent Greco

VOTE: YES

ARTICLE #11 ADOPTED

ARTICLE 12 – To see if the Town will vote to discontinue the Library Building Capital Reserve Fund created in 2012. Said funds, with accumulated interest to date of withdrawal, to be transferred to the Town's General Fund.

Recommended by Board of Selectmen

MOVED: Vincent Greco

SECONDED: Robert Samson

Peter Mehegan asked how much is in the fund and if it could be appropriated for Library security.

Town Administrator David Jodoin stated that there is \$3,500 in the fund and it could be appropriated for library security at next year's town meeting.

VOTE: YES

ARTICLE #12 ADOPTED

ARTICLE 13 – To see if the Town will vote to raise and appropriate the sum not to exceed \$40,000 to repair the Clock Tower on Main Street and to use \$40,000 of 2013 Audited Fund Balance to offset this expense.

Recommended by Board of Selectmen

Recommended by Budget Committee

MOVED: David Sheldon

SECONDED: Vincent Greco

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Mark Lepage, Budget Committee Chair stated that at their public hearing the Budget Committee was not in favor of this article, but now that they have more information, the committee is in favor of it.

James Garvin spoke in favor of the article and gave a brief history of the town clock.

VOTE: YES

ARTICLE #13 ADOPTED

ARTICLE 17 - To see if the Town will vote to raise and appropriate the Budget Committee's recommended amount of \$ 7,662,394 for the 2014 Municipal operating budget, not including appropriations by special warrant articles and other appropriations voted separately. The Board of Selectmen recommend raising and appropriating the sum of \$7,669,894 as the 2014 municipal operating budget.

Budget Committee Recommends \$7,662,394

Board of Selectmen Recommends \$7,669,894

Mark Lepage explained the Budget Committee process and stated that the only difference between the Board of Selectmen's proposed budget and the budget committee's proposed budget is \$7,500 that the budget committee cut from library funding. He then made a motion to adopt the Budget Committee's recommended budget of \$7,662,394.

MOVED: Mark Lepage

SECONDED: Gerard Fleury

There was then a motion made to amend the proposed budget by adding \$7,500 back into the library budget bringing the total appropriation back up to the Selectmen's proposed budget of \$7,669,894.

MOVED: Tina Courtemanche

SECONDED: David Sheldon

VOTE ON AMENDMENT: YES

VOTE ON ARTICLE #17 AS AMENDED: YES

ARTICLE #17 ADOPTED AS AMENDED

ARTICLE 18 - To transact any other business that may legally come before said meeting.

Jo-Ann Dupuis stated that Old Home Day will be held on August 23rd this year and said that they are always looking for support.

Moderator Thomas Petit thanked the Board of Selectmen and the Budget Committee for all they have done leading up to this meeting.

There was a motion made to adjourn.

MOVED: Brian Lemoine

SECONDED: Don Girard

VOTE: YES

MEETING ADJOURNED AT 12:30 pm.

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After the meeting adjourned, Moderator Petit swore in all elected officials for 2014.

Respectfully submitted:

James F. Goff
Town Clerk
Pembroke, NH

TOWN SEAL

Continue for Final Report of the Pembroke Sewer Commission Study Committee

FINAL REPORT OF THE PEMBROKE SEWER COMMISSION STUDY COMMITTEE
Revised February 3, 2014

Overview. The Committee was created pursuant to Article 12 of the 2013 Annual Meeting of the Town of Pembroke. The following persons were appointed to the Committee by the Town Moderator: Nancy Kurinskas, Daniel Crean, Bruce Kudrick, John Duggan, William Pritchard, and Donald Hill. Fred Kline served *ex officio* as the Selectmen's representative on the Board.

The committee held its organizational meeting on May 7, 2013, and elected Dan Crean as chair, Bruce Kudrick as vice-chair, and Fred Kline as clerk. At that time, the Committee determined that it had two basic charges under the warrant article: 1) review billing and collection procedures and the manner in which overdue charges are handled and 2) review of organization, operations, and structure of the Sewer Commission. It decided to focus on task 1 and then address task 2. The Committee met six times over the course of May, June, July and August with the Sewer Commissioners, the Water Works Commissioners and its staff, and the Town Administrator. All meetings were held in accordance with RSA 91-A and minutes are available by contacting the Town Office. The Committee debated and adopted an Interim Report at its meeting on August 29 and held a public hearing on September 12, 2013, to provide information and receive comments and suggestions. The Committee made some changes to the interim report and finalized its report following the hearing. As a result of comments made during Budget Committee deliberations and to consider related matters, the Committee met again on February 3, 2014, to discuss possible revision of its final report.

As a first order of business, the Committee wishes to acknowledge and express appreciation for the time, effort, and participation of the two Commissions and staff and the Town Administrator, all of whom cooperated fully with the Committee and provided valuable input and comment.

This final report first summarizes the Committee's findings on billing and collection and its recommendations. The report then summarizes the findings on operation and structure along with its recommendations.

Part 1. Billing and Collection.

(A) *Findings. (1) Delinquent Accounts.* A number of years ago, the Town Administration and Sewer Commission stopped utilizing a procedure whereby accounts were sent to the Town for collection including use of the property tax lien process for delinquent accounts. Under this procedure (authorized by RSA 149-I:11) towns may use RSA 38:22 procedures to collect sewer charges. This statute (written for use for municipal gas, electric and water systems) provides several options for collecting user fees and assessments. The language is difficult to apply and differences over its meaning were finally resolved in 2013, when the Selectmen agreed that they could and would utilize the tax lien process for overdue, unpaid charges that could be timely submitted and made subject to the tax lien process. The total amount of bills that were sent to the Town prior to the Committee's meetings totaled about \$58,000 in 130 separate accounts; 80 accounts were paid prior to the Town executing the lien. Since then at least 2 more paid and it is expected that most, if not all, will be paid prior to tax deeding. The Town and Sewer Department agreed on compensation of about \$2,000 for the town's time in this process, as much of the data had to be entered manually. The Sewer Commission advised that other unpaid delinquent accounts date back to 2003 and total in the thousands of dollars, without considering interest. These delinquent accounts are not subject to the tax lien process due to the length of time they have been outstanding. Charges imposed by the Sewer Commission for late payment are minimal and do not provide much incentive for timely payment. The Sewer Commission appears to have only limited formal policies for collecting delinquent accounts, eligibility for abatement, or the manner in which payment plans may be used. Subsequent to the Committee submission of its final report, the Sewer Commission has submitted additional accounts for tax liens and has made some effort to collect other delinquent accounts. However, the accounts submitted to the Town for liening still required substantial effort on the part of the Town to make them compatible with Town tax accounts, requiring additional time and effort by Town staff. Collections on accounts not subject to the tax lien process are best described as minimal.

(2) *Billing and Collection.* Sewer charges (called rents and assessments under law) are user fees imposed based on rates established by the Sewer Commission. Fees are based primarily on water usage using meter readings made by the Water Works. A few sewer users are not connected to water and they pay a separately determined fee not based directly on actual water usage. The Sewer Commission was unable to provide definitive information on how its rates and fee structures are computed and adjusted, other than to address costs imposed by the treatment plant and its other operating

FINAL REPORT OF THE PEMBROKE SEWER COMMISSION STUDY COMMITTEE

expenses. Due to incompatibility between computer software programs used by Sewer, Waterworks, and the Town, substantial up-front costs and annual licensing fees (estimated at \$6,000 - \$9,000) would be required to move billing and/or collection to either the Waterworks or Town. Due in part to lack of automation and compatibility, little, if any, cost saving would be realized, at this time, and personnel needs and costs actually could increase in the short term.

(3) *Audit Comments.* The 2012 Town Audit (page 40 of the 2012 Annual Town Report), as in other recent years, adversely comments on the “lack of segregation of duties” at the Water and Sewer Commissions, and notes that a “single individual within each department prepares the utility billings, receives payments, posts payments against the individual billings, prepares and makes the deposits, reconciles the bank accounts, and maintains the general ledger.” The Water Works actively addressed, and apparently resolved those audit concerns with respect to its operations.

(B) Committee Recommendations.

(1) *Billing and Collection.* The current arrangement whereby the Sewer Commission is responsible for billing and initial collection should be retained for the present. The Sewer Commission should submit its accounts to the Town so that the accounts are compatible with Town tax accounts to lessen the accounting burden on the Town. However, if software and other costs can be lessened, the Town and both Commissions should periodically review all billing and collection practices. When computer system and software changes are made in the future, the Town and the two Commissions should investigate the feasibility of compatibility among all functions. Also, if such changes make costs reasonable, the possibility of transferring billing and/or collection to the Water Works should be examined with the possibility that termination of water service could be invoked for failure to pay sewer bills, in the sense that the services are related. If properly implemented, changes in billing and collection practices also could address the audit issues.

(2) *Delinquent Accounts.* The current mutually agreeable practice for delinquent accounts made subject to tax lien should be continued for the present, with costs and staff time examined on a regular basis to ensure that no taxpayer funds support the process unless the costs are fully reimbursed by the Sewer Commission. The Town, and particularly the Sewer Commission, should take action to streamline practices to eliminate the need for repetitive data entry. In addition, the Committee strongly urges the Sewer Commission to aggressively pursue delinquent accounts that cannot be made subject to the tax lien process because of the length of time they have been delinquent. Various routes exist to do so, including instituting small claims procedures at minimal up-front costs which will be recouped upon successful resolution. The Commission should not expect to have to file a large number of cases, as filing claims will demonstrate to delinquent rate-payers the need to pay. In addition, the Commission should adopt standard procedures and deadlines for action, including significantly higher fees for users who do not make timely payments. To the Committee’s knowledge, current collection practices are out-of-date, unjustified, and unfairly shift costs to those rate-payers who make timely payments, and the Commission, since issuance of the Committee’s earlier report, has made little effort to address these concerns. Practices here, as in the case of the operation and organization practices addressed below, need to be shifted to a proper business plan basis.

(3) *Audit Comments.* Audit comments such as those expressed here are not uncommon for small municipalities and, particularly, small utilities or departments handling money. Full implementation of the recommendations would increase operating costs significantly. However, the current situation leaves both departments not fully protected and, within reason, the Committee urges the Commission to move forward promptly to address these important issues.

Part 2. Operation, Organization, and Structure.

(A) *Findings.* (1) *Combining-Eliminating Commission(s).* Statutory alternatives to the present organization do exist, including: abolition of either or both Commissions, and vesting of functions in the Town; abolition of one Commission and vesting of all functions in the remaining one; or creation of a new “public works commission” that could include functions of sewer, water, stormwater management, and/or public works. At this time, any such change would pose practical problems including: required certifications for personnel, training, and particularly issues regarding cross-contamination of equipment and services. Both Commissions stated that costs and personnel needs would likely increase, at least in the short term, under any such arrangement. As noted in comments on billing, there appears to be no or little compatibility between software used by the Town and the two Commissions, and costs to institute required changes would be excessive.

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(2) *Lack of Business and Emergency Plans and Planning.* The Committee received information to the effect that the Sewer Commission is developing system information and response plans (in anticipation of meeting required deadlines for such plans in 2014) but has little planning currently in place or which can be implemented in the near future. It does have contractual arrangements to address problems that may arise, such as minor repairs, but does not appear to have long-term plans to address major needs. Infiltration/inflow is an ongoing concern, particularly in light of the increased stormwater management requirements likely to be imposed by EPA in the near future. Back-up plans for equipment failures and other issues that could interfere with operations appear *ad hoc* at best. In general, information provided to the Committee indicated a serious lack of effective and updated “business plans” in place to address personnel, maintenance, and emergency matters. The Sewer Commission appears to address problems and issues (even routine matters such as payment plans and abatements of charges) on an *ad hoc* basis without adopted policies and practice standards in place. Meters on pipes delivering sewage to the Allenstown plant apparently are owned by Allenstown and may not be calibrated as frequently as desirable or required, though the Sewer Commission did have these meters inspected some time ago. Pembroke appears to contribute substantially more flow to Allenstown than is reflected in water usage. This likely is attributable largely to infiltration/inflow and results in higher costs to Pembroke. Town properties also appear to contribute to this concern.

(3) *Internal Controls and Operations.* The audit concerns as to segregation of duties with respect to billing and collection noted above apply as well to the Sewer Commission’s financial operations. Having a full-time staff person also serving as a Commissioner presents potential difficulties and presently relies solely on personal decisions as to when and if the Commissioners become involved in decisions. Standards do not appear to be in place governing personnel, e.g., hiring relatives.

(B) *Committee Recommendations.* (1) *Combining-Eliminating Commission(s).* While information provided to the Committee indicated that short-term benefit of reorganization would not exceed difficulties and costs, the Committee notes that other communities have been able to operate without separate commissions and administrative staffs and do seem capable of operating jointly without extreme difficulty. The Selectmen and both Commissions are urged to undertake formal studies during 2014 as to possible structural and organizational changes. This will become increasingly important, as anticipated compliance issues in stormwater management mandated by the EPA will affect public works, sewer, and water operations and responsibilities. At a minimum, coordination in addressing stormwater issues should be implemented in the immediate future to avoid conflict and repetition in compliance efforts.

(2) *Planning.* The Committee recommends that the Sewer Commission set a very high priority on developing appropriate and complete business, operation and maintenance, contingency, and emergency standards and plans, and that these plans be established in writing and made available to both the Town Administration and Water Department so that coordination and efficiency can be implemented. To the extent required, the Sewer Commissioners should include in their budget submitted to the Budget Committee requests for funds needed to adopt these plans in an orderly and prompt fashion, though it appears that the budget submitted for 2014 did not include funds expressly designated for this purpose. Meters on pipes delivering sewage to the Allenstown plant should be owned or at least controlled by the Pembroke Commission and should be calibrated and maintained more regularly than in the past. Infiltration and inflow should be addressed as a high priority item by the Sewer Commission and the Town.

(3) *Operations.* The Committee recommends that the Sewer Commission implement as soon as practicable procedures and standards that will address audit findings as to lack of segregation and controls. Among these actions would be a change whereby no employee also may serve as a Commissioner. To the Committee’s knowledge, the Sewer Commission has not complied with this recommendation as its full-time employee has filed for reelection in 2014. Failing timely action by the Sewer Commission, the Town Selectmen should propose a conflict of interest ordinance for consideration by Town Meeting that would address issues such as have been found to exist here. The Sewer and Water departments perhaps could share a position to address segregation. Alternatively, use of formal manifests for payment to be approved by the full Commission for all but minimal expenses could address part of the audit issues.

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Part 3. Summary and Conclusion. Overall, the Committee found that the Town and both the Sewer and Water Departments seek to operate with minimal staff and provide high levels of service within the resources available under current appropriations. The Committee's main concerns with regard to Sewer Department operations involve:

- Potential issues that may arise through deferred maintenance and lack of comprehensive plans;
 - Lack of specific contingency and emergency plans;
 - Continued failure and lack of a plan to collect the large amount of outstanding user fees;
 - Continuation of the "status quo" in not addressing the lack of segregation and accountability expressed in repeated audit comments;
 - Apparent lack of understanding and commitment to eliminating potential for conflict of interest;
- and
- Need to standardize and document operations.

As a concluding recommendation, the Study Committee recommends that the Sewer Commission report to the 2014 Annual Meeting and annually thereafter as appropriate concerning its progress in (1) collecting past due amounts, (2) capital long range planning, and (3) this Committee's other recommendations.