



**CITY OF DOVER**

## CITY COUNCIL - AGENDA

Meeting Type: **Workshop Session**  
Meeting Location: **McConnell Center, Room 306**  
Meeting Date: **Wednesday, September 3, 2014**  
Meeting Time: **7:00 pm**

1. **CALL TO ORDER**
2. **MOMENT OF SILENCE**
3. **PLEDGE OF ALLEGIANCE**
4. **ROLL CALL ATTENDANCE**
5. **DISCUSSIONS**
  - A. **COCHECO WATERFRONT DEVELOPMENT ADVISORY COMMITTEE UPDATE**
  - B. **LEGISLATIVE POLICY POSITIONS**
6. **CITIZEN'S FORUM**

*Citizens are invited to speak on the subject matter of the Workshop. Statements shall be limited to five minutes.*

7. **ADJOURNMENT**

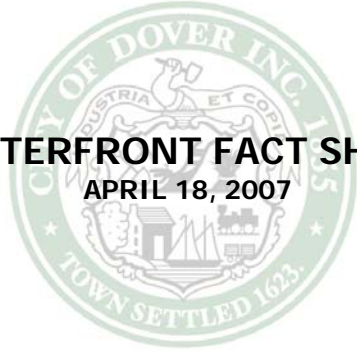
The following background documents are available online for review prior to the workshop:

2009 Land Disposition Agreement <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/SignedLDA.pdf>  
2009 LDA Exhibits [http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/LDA\\_EXHIBITS.pdf](http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/LDA_EXHIBITS.pdf)  
2008 Waterfront Design Guidelines <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/Cecil%20Group%20Dover%20Waterfront%20Design%20Guidelines.pdf>  
2008 Cecil Presentation <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/52008.02.19CecilDesignPresentation.pdf>  
2007 Term Sheet <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/G2Executed%20Term%20Sheet.pdf>  
2007 Economic Impacts <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/9economic%20impacts.pdf>  
2005 RFQ <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/G6Exhibit%202.pdf>  
2005 Charrette <http://www.dover.nh.gov/Assets/government/city-operations/2document/planning/cocheco-waterfront/2005%20Charette.pdf>

## **COCHECHO WATERFRONT DEVELOPMENT ADVISORY COMMITTEE**

### **Project Milestones**

- On February 9, 2005 the City Council established the current CWDAC and delegated the task of redevelopment of the waterfront to the Dover Housing Authority (DHA).
- The CWDAC issued a Request for Qualifications on May 16, 2005 to 375 companies and people.
- Four companies submitted responses to the RFQ on June 30, 2005.
- CWDAC interviewed the four companies and selected two companies to proceed to the RFP stage.
- Request for Proposals were issued on November 29, 2005.
- On March 17, 2006 Dickinson Development submitted a proposal. The other finalist, LNR, declined to submit a proposal.
- On August 23, 2006 the CWDAC voted to grant preliminary developer designation to Dickinson Development.
- The CWDAC engaged in an extensive series of public meetings and public hearings involving members of the public during 2006 and 2007.
- On March 31, 2007 the CWDAC and DHA received an appraisal of the waterfront parcel done by American Property Counselors of Armonk, N.Y.
- On May 9, 2007 the CWDAC voted to endorse the Dickinson Development concept plan and Term Sheet.
- On May 14, 2007 the City received an appraisal of the waterfront parcel done by White Appraisal.
- On May 15, 2007 the Commissioners of the Dover Housing Authority voted to approve the Term Sheet.
- On June 13, 2007 the City Council passed a resolution reaffirming the DHA's authority to approve the waterfront redevelopment plan and authorizing the City Manager to sign the Term Sheet and a deed to sell the land to Dickinson Development.
- The Term Sheet was signed by the DHA and Dickinson Development on May 16, 2007, and on June 13, 2007 by the City Manager.
- On December 3, 2007 the CWDAC voted to seek a 6 month extension from the DHA for the deadline to complete the Land Disposition Agreement.
- During January of 2008 the DHA hired the Cecil Group as a consultant to assist the CWDAC with the development of design standards.
- On November 10, 2008 the CWDAC voted to adopt the Dover Waterfront Design Guidelines.
- The Land Disposition Agreement was signed by Dickinson Development on May 22, 2009 and by the DHA and the City Manager on May 26, 2009.
- On May 17, 2011 the CWDAC voted to endorse a revised concept plan prepared by Dickinson Development.
- On May 1, 2012 Dickinson Development presented a revised concept plan to CWDAC, which it voted to endorse.
- Beginning in August of 2012, Dickinson Development started paying \$10,000 a month to extend the closing deadline per the LDA.
- On December 11, 2012 Dickinson Development requested that CWDAC endorse five amendments to the Land Disposition Agreement to give additional time to secure an investor for the project. CWDAC voted to endorse the amendments.
- On December 18, 2012 the DHA passed a resolution approving the LDA amendments as recommended by the CWDAC.
- All throughout the process there has been extensive public involvement, with CWDAC holding over 60 public meeting since 2004.



## **WATERFRONT FACT SHEET**

**APRIL 18, 2007**

### **PARTIES AND BACKGROUND:**

- The City of Dover has owned the waterfront parcel since 1859. The parcel is shown on the Tax Maps of the City of Dover as Map 22, Lot 1.
- Dickinson Development Corporation has a principal place of business at 1266 Furnace Brook Parkway, Quincy, Massachusetts. Mark Dickinson is the principal of the corporation.
- The Dover City Council adopted a resolution on February 5, 2005 delegating authority to the Dover Housing Authority to develop the waterfront.
- The Cochecho Waterfront Development Advisory Committee (CWDAC) was formed pursuant to the resolution of the Dover City Council. This group advises the Dover Housing Authority.
- During May 2005, the Dover Housing Authority issued a Request for Qualifications (RFQ) to potential developers.
- During November 2005, the Dover Housing Authority issued a Request for Proposals (RFP) to developers.
- Dickinson Development responded to the RFP;
- During October 2006, Dickinson Development was selected as the Preferred Developer for the Dover waterfront development project.
- During November 2006, the CWDAC found the revised plans of the Dickinson Development Corp were generally consistent with the 2005 Charette.
- During December 2006 and January 2007, public input was solicited and Dickinson Development revised the concept plan in response to the public input.
- The CWDAC has unanimously endorsed the revised Concept Plan of Dickinson Development presented to the CWDAC on January 22, 2007.
- The parties have negotiated a Term Sheet intended to be legally binding. The Term Sheet will be the basis for a Land Disposition Agreement (LDA) agreement. This

agreement will be signed by December 31, 2007. The focus of the further negotiations for Land Disposition Agreement will be on the building standards, construction requirements and protections to insure the buildings will comply with the community vision.

#### **LIMITATION ON THE DEVELOPER'S ABILITY TO ASSIGN**

- The development of the waterfront will be accomplished in phases. It is expected to involve four (4) phases.
- The build-out of the project is expected within five (5) years after the closing.
- The developer will finance all, or a portion of, the development. Other private investors or equity partners will probably join Dickinson Development.
- A special purpose entity is expected to be formed for Phase I.
- Dickinson Development will generally be the managing member and maintain fifty (50%) percent or more ownership of any special purpose entity for Phase I. If the lender requires Dickinson to relinquish a greater interest in the special purpose entity, Dickinson will be required to sign sufficient documentation to insure the performance of the special purpose entity in the nature of a co-signing obligation.
- The Dover Housing Authority will have the authority to approve or disapprove of any successors and assigns of Dickinson Development

#### **THE PROJECT**

- The development of the waterfront will involve Public Improvements and Private Improvements.
- The Public Improvements consist of items for which the City of Dover would be responsible for paying as a matter of law or if the City desired to provide these amenities to the public
- The Public Improvements will be:
  - Environmental Remediation
  - "Odor control measures" on the pump station (Note: These improvements are different from the "process" improvements expected to be performed by the City of Dover pursuant to the Master Plan report.)
  - Waterfront Park (including a walkway, pier and banking stabilization)
  - Relocation of the pedestrian bridge
- The Private Improvements will be :
  - Restaurant on the waterfront

- Commercial; retail building
  - Residential condominiums –approximately 182 units
  - Residential townhouses on the Bluffs—approximately 20-25 units if access is gained
  - Streets and utilities (Note: These improvements will be public improvements only after accepted by the City)
- The Developer will have to build the project adhering to certain standards. The standards shall be contained in the Land Disposition Agreement. These Land Use and Design Standards will be recorded at the Strafford County Registry of Deeds as restrictive covenants. These standards will address the definition, minimums, maximums, and other parameters of allowed uses, height, massing, design/construction standards, parking requirements, landscaping and other conceptual concepts.
  - All Public and Private Improvements will be subject to approval by the Dover Planning Board.
  - The Dover Housing Authority will review all Site Plans for compliance with the Term Sheet and the Land Disposition Agreement prior to submission to the Planning Board.
  - The Developer will have to acquire state and federal permits from State and Federal regulatory agencies;
  - The Developer will pay all the permitting fees for all approvals and permits from local, state and federal boards and agencies. (Note: The Developer will not receive a credit on the purchase price for these costs.

## **THE PROPERTY**

- The portion of the City owned land upon which the development will occur is approximately 21 acres.
- A professional survey will be conducted before the closing transaction to establish the precise acreage. Exact metes and bounds descriptions will be available to separate the private land from the public land prior to development starting.
- The City of Dover will convey the 21 acres +/- to a title holding entity designated and controlled by Dickinson Development Corp. and/or the special purpose entity created for the purpose of developing the Project. A closing is scheduled on or about December 31, 2009, unless extended by the terms of the agreement.
- The City of Dover will not convey the portion of the land for the Waterfront Park or the small portion of land where the pump station is located.
- Portions of land for future city streets will be conveyed back to the City when the streets are accepted.

- Temporary construction easements or licenses will be granted to the Developer to allow the Developer to construct the Waterfront Park and the relocation of the pedestrian bridge.
- Prior to the closing on the property, the Developer will have access to the property to conduct inspections and due diligence.
- After the closing, the Developer will be required to start construction within thirty (30) days.
- If the Developer does not substantially commence and /or complete Buildings 4,5,6,7 and 8 within seven (7) years, the DHA will have the option to take back the land for these buildings without payment of any consideration.
- Failure of the Developer to substantially commence development within ten (10) years of the recording of the deed transferring the Conveyed Land will allow the DHA to require conveyance of any portion of the Conveyed Land not yet developed nor substantially commenced to the satisfaction of the DHA for a buy back price based on fair market value.
- The Developer must complete Phase I before commencing subsequent phases.

**PURCHASE PRICE**

- The Purchase Price is Four Million Six Hundred Seventeen Thousand Dollars (\$4,617,000)
- The Developer will pay the purchase price as follows:
  - One million dollars (\$1,000,000) to the City of Dover at the closing;
  - Construction of a waterfront park by the Developer on behalf of the City at a cost of \$2,117,000 with funds advanced by and paid by the Developer;
  - Environmental remediation by the Developer at a cost of \$500,000 paid by the Developer solely from funds advanced by and paid by the Developer;
  - Reimbursement of third party costs incurred by the DHA and anticipated oversight costs throughout the development process in the amount of \$200,000 with funds advanced by and paid by the Developer in the form of deposits and other payments;
  - Supplemental public improvements of \$800,000 with funds advanced by and paid by the Developer including and prioritized as follows:

Excess environmental remediation costs

Odor control measures

Relocation of the pedestrian bridge

Other improvements agreed upon by the Developer and the DHA

The cost of environmental insurance, if desired, will be a Supplemental Public Improvement

## **INSPECTION PERIOD AND LAND DISPOSITION AGREEMENT**

- The Developer will have the opportunity to inspect the property from the date of the signing of the Term Sheet to December 31, 2007.
- The Land Disposition Agreement (LDA) will be signed on or before December 31, 2007.
- The Developer shall obtain and pay for a survey by a qualified professional as part of the permitting process. The survey will become the property of the DHA if the Developer withdraws from the project.
- The City Manager on behalf of the City of Dover will have the authority to approve or disapprove of the assessment, design and implementation of the remediation plan for the clean up of the waterfront contamination.
- Before the LDA is signed, the following must occur:
  - Refinements to the concept plan may be made, but only if consistent with the current concept plan and only if approved by the DHA;
  - Land use and Design Standards will be adopted in a form suitable for recording in the Strafford County Registry of Deeds;
  - Supplemental Public Improvements and costs (updates) will be approved;
  - Revisions and updates to the cost estimates and the financial pro forma will be made by the Developer;
  - Evidence of a commitment by an equity investor to the satisfaction of the DHA will be supplied by the Developer;
  - Revisions and updates, if necessary, to the development schedule will be made by the Developer;
  - All parties are reasonably satisfied the City of Dover is committed to fund and acquire a vehicular bridge crossing to provide reasonable access to the Project area;
  - All parties are reasonably satisfied the City of Dover has obtained appropriate property interests to create a landing zone for the relocated pedestrian bridge;
  - All parties are reasonably satisfied the City of Dover has committed to expend \$1.5 million currently appropriated for improvements to the River Street Pump Station plant and its processing equipment;
- The Developer will pay \$100,000 at the signing of the LDA. These funds will be held in an escrow account until the closing.
- The Permitting Period will extend to December 31, 2009.

## CLOSING

- The closing is scheduled to occur on or about December 31, 2009, unless extended by the terms of the agreement.
- There are two possibilities for delays in the closing:
  - Unavoidable delay by the City with a permissive extension by the Developer to allow the City to cure the inability to close;
  - Extension of the closing by the Developer for twelve (12) months upon the payment of \$10,000 per month.
- There are various preconditions to closing:
  - Completion of plans for the public improvements acceptable to the DHA and the approval of plans for environmental and odor control measures by city staff;
  - Agreement on an estimated program of Supplemental Public Improvements acceptable to the DHA;
  - Agreement on the environmental remediation and the odor control costs acceptable to the DHA and the City Manager on behalf of the City of Dover;
  - Agreement on the cost of the Waterfront Park improvements and the costs acceptable to the DHA;
  - Loan commitment for the Developer; satisfactory evidence provided by the Developer to the DHA;
  - Construction financing for Phase I provided by the Developer;
  - General contract for the construction of the Phase I public improvements provided by the Developer;
  - All approvals and permits for the entire project secured by the Developer;
  - Performance bonds for all public improvements paid for and supplied by the Developer;
  - Guarantees by the Developer that construction will start within thirty (30) days of the closing;
  - No defaults on the terms of the LDA.
- The closing will not occur if:
  - The cost of the environmental remediation and odor control measures exceeds \$1.3 million using up all the monies reserved for Supplemental Public Improvements (\$800,000 plus the \$500,000);

- The title to the property is deemed unmarketable;
- The City fails to expend monies for its share of the vehicular bridge;
- The City fails to acquire easements for the landing area of the pedestrian bridge;
- The City fails to commit \$1.5 million for the process improvements to the pump station;
- The Developer fails to pay the deposit of \$100,000 within seven (7) days of signing the LDA.

#### **POST CLOSING**

- The environmental liability of the City of Dover for the contamination of the waterfront parcel will survive the closing pursuant to state and federal law because the City generated the original contamination.
- The City of Dover promises to indemnify and hold the Dover Housing Authority harmless for environmental liabilities.

# **WATERFRONT FACT SHEET**

**MAY 2, 2012**

## ***PARTIES AND BACKGROUND:***

- The City of Dover has owned the waterfront parcel since 1859. The parcel is shown on the Tax Maps of the City of Dover as Map 22, Lot 1.
- Dickinson Development Corporation has a principal place of business at 1266 Furnace Brook Parkway, Quincy, Massachusetts. Mark Dickinson is the principal of the corporation.
- The Dover City Council adopted a resolution on February 5, 2005 delegating authority to the Dover Housing Authority to develop the waterfront.
- The Cochecho Waterfront Development Advisory Committee (CWDAC) was formed pursuant to the resolution of the Dover City Council. This group advises the Dover Housing Authority.

- During May 2005, the Dover Housing Authority issued a Request for Qualifications (RFQ) to potential developers.
- During November 2005, the Dover Housing Authority issued a Request for Proposals (RFP) to developers.
- Dickinson Development responded to the RFP;
- During October 2006, Dickinson Development was selected as the Preferred Developer for the Dover waterfront development project.
- During November 2006, the CWDAC found the revised plans of the Dickinson Development Corp were generally consistent with the 2005 Charette. The 2005 Charette was developed with citizen input over the course of time and forms the basis for the development of the waterfront.
- During December 2006 and January 2007, Dickinson Development submitted a concept plan which was revised in response to public input.
- On January 22, 2007, CWDAC unanimously endorsed the revised Concept Plan of Dickinson Development.
- The parties negotiated a legally binding Term Sheet in 2007 to form the basis for development of the waterfront by Dickinson Development. The Dover City Council authorized the City Manager to sign the Term Sheet on June 13, 2007. In addition, the City Council also authorized the City Manager to sign a Land Development Agreement and all amendments on behalf of the City by Council.
- In 2008, a refinement to the 2005 Charette was achieved. A consultant was hired by CWDAC to provide these refinements. CWDAC and the Dover Housing Authority Board of Commissions adopted the Dover Waterfront Design Guidelines on November 10, 2008 and December 16, 2008, respectively. The 2005 Charette provided the basis for the Design Guidelines.
- As a follow-up to the Term Sheet, the parties executed a subsequent legal document to replace and refine the Term Sheet. This legal document is the Land Disposition Agreement and it was signed on May 26, 2009. The Term Sheet was the basis for the Land Disposition Agreement.
- On May 17, 2011 the CWDAC voted to endorse a revised Concept Site Plan for Dover Landing, NH, dated May 12, 2011, as prepared by Sheskey Architects.
- On March 20, 2012, the developer presented an amended site plan concept with above ground parking and a revised building placement concept incorporating 108 apartment units in one

large L shaped building and a reduced commercial component. The CWAC expressed concerns on various issues incorporated in the changes and asked the developer to address the issues and answer various outstanding questions before they could endorse the proposal.

- On May 1, 2012, the developer presented a revised proposal addressing the concerns expressed by CWAC members at the March 20,2012 meeting. CWAC members reviewed the plans, hears comments from the public and endorsed the latest amended plans that included a two building concept for 104 apartments, better screening for the parking areas, an additional access road to enhance traffic flow, and a slightly increased commercial component. Further explanation of the possibilities for the development of the “bluff” area of 6-7 acres was done.

## ***THE PROJECT ACCORDING TO THE LAND DEVELOPMENT AGREEMENT***

The development of the waterfront, according to the LDA, involves a combination of Public Improvements and Private Improvements resulting in a mixed use of the waterfront area of the City of Dover. The waterfront area consists of approximately 21 acres of land situated along the river in downtown Dover. The Public Improvements consist of items for which the City of Dover is responsible for paying as a matter of law or if the City desired to provide these amenities to the public

- The Public Improvements include:
  - Environmental Remediation
  - “Odor control measures” on the pump station (Note: These improvements are different from the “process” improvements recently performed by the City of Dover pursuant to the Master Plan report.)
  - Waterfront Park (including a walkway, pier and banking stabilization)
- The Private Improvements include :
  - Restaurant on the waterfront
  - Commercial; retail building
  - Residential units
  - Development of the Bluffs

- Streets and utilities (Note: These improvements will be public improvements only after accepted by the City)
- The Developer is required to develop the waterfront area based on certain standards contained in the Land Disposition Agreement. These standards are the Dover Waterfront Design Guidelines adopted by CWDAC and the Dover Housing Authority in 2008. These standards will be recorded at the Strafford County Registry of Deeds as restrictive covenants. These standards address and define the minimums, maximums, and other parameters of allowed uses, height, massing, design/construction standards, parking requirements, landscaping and other conceptual concepts.
- All Public and Private Improvements are subject to approval by the Dover Planning Board.
- The Dover Housing Authority will review all Site Plans prior to submission to the Planning Board.
- The Developer will have to acquire state and federal permits from State and Federal regulatory agencies;
- The Developer will pay all the permitting fees for all approvals and permits from local, state and federal boards and agencies. (Note: The Developer will not receive a credit on the purchase price for these costs.)

## ***THE PROPERTY AND TIMING OF THE DEVELOPMENT***

- The portion of the City owned land on which the development will occur is approximately 21 acres.
- A professional survey will be conducted before the closing transaction to establish the precise acreage. Exact metes and bounds descriptions will be available to separate the private land from the public land prior to development starting.
- The City of Dover will convey the 21 acres +/- to a title holding entity designated and controlled by Dickinson Development Corp. and/or the special purpose entity created for the purpose of developing the Project. There are limits on assigning the project.
- The Closing will occur on or about August 27, 2012. The Developer, at its discretion, may extend the Closing with the payment of \$10,000 per month for a period of twelve (12) months.

- The start of construction is expected to commence in the Spring of 2013 unless the closing date is extended by the Developer. The project will be accomplished in phases.
- The waterfront park will be constructed within the first year after the closing.
- The City of Dover will not convey the portion of the land for the Waterfront Park or the small portion of land where the pump station is located. Portions of land for future city streets will be conveyed back to the City when the streets are accepted.
- Temporary construction easements or licenses will be granted to the Developer to allow the Developer to construct the Waterfront Park.
- The Developer will be responsible for the cost of public streets and infrastructure.
- There is a ten (10) year provision regarding the development schedule. Failure of the Developer to substantially commence development within ten (10) years of the recording of the deed transferring the Conveyed Land will allow the DHA to require conveyance of any portion of the Conveyed Land not yet developed nor substantially commenced to the satisfaction of the DHA for a buy back price based on fair market value.

## ***PURCHASE PRICE***

- The Purchase Price is Four Million Six Hundred Seventeen Thousand Dollars (\$4,617,000)
- The Developer will pay the purchase price as follows:
  - One million dollars (\$1,000,000) to the City of Dover at the closing;
  - Construction of a waterfront park by the Developer on behalf of the City at a cost of \$2,117,000 with funds advanced by and paid by the Developer;
  - Environmental remediation by the Developer at a cost of \$500,000 paid by the Developer solely from funds advanced by and paid by the Developer;
  - Reimbursement of third party costs incurred by the DHA and anticipated oversight costs throughout the development process in the amount of \$200,000 with funds advanced by and paid by the Developer in the form of deposits and other payments;
  - Supplemental public improvements of \$800,000 with funds advanced by and paid by the Developer including and prioritized as follows:

- Excess environmental remediation costs
- Odor control measures, if needed
- Other improvements agreed upon by the Developer and the DHA
- The cost of environmental insurance, if desired, will be a Supplemental Public Improvement

## ***CLOSING PRECONDITIONS***

- The Closing is subject to pre-conditions requiring both parties to perform obligations and the existence of certain conditions before a Closing will occur.
- The closing will not occur if:
  - The cost of the environmental remediation and odor control measures exceeds \$1.3 million using up all the monies reserved for Supplemental Public Improvements (\$800,000 plus the \$500,000);
  - The title to the property is deemed unmarketable;
  - Planning Board subdivision and site plan approvals are not acquired;
  - CWDAC/DHA disapproval;
  - Adverse geotechnical or environmental conditions;
  - Failure of equity investment or financing of Phase I Private and Public Improvements;
  - The City fails to expend monies for its share of the vehicular bridge;
  - The City fails to acquire easements for the landing area of the pedestrian bridge;
  - The City fails to commit \$1.5 million for the process improvements to the pump station;
  - The developer fails to pay the deposit of \$100,000 within seven (7) days of signing the LDA.

## ***POST CLOSING***

- The environmental liability of the City of Dover for the contamination of the waterfront parcel will survive the closing pursuant to state and federal law because the City generated the original contamination.
- The City of Dover promises to indemnify and hold the Dover Housing Authority harmless for environmental liabilities.

## Legislative Principles

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

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

# 2015-2016 Legislative Policy Recommendations

## **General Administration and Governance**

### Action Policy Recommendations

#### **1. Right to Know Costs and Specificity Required**

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

#### **2. Regulation of Weapons in the Workplace**

To see if NHMA will SUPPORT legislation to provide immunity to local and county governments against acts committed by employees with firearms (except for those employees authorized by that governmental entity to carry a firearm in the course of their official responsibilities).

**Municipal interest to be accomplished by proposal:** To limit the exposure of municipalities in circumstances where an employee brings a firearm into the workplace, which the municipality cannot prohibit, and injures a citizen or co-worker by discharging the firearm. Example: a firefighter takes a weapon to the workplace and while training on a ladder, someone below is accidentally shot by the holstered gun above. Example: a town office employee brings a weapon to the town office, as it is town property, but accidentally or intentionally shoots a co-worker or citizen.

**Explanation:** In ordinary non-municipal circumstances, employers can easily and lawfully prohibit weapons in the workplace for safety reasons and more (unless the employee has a special permit to do so). In municipal government the law provides that individuals can carry on town property; some employees translate that law into allowing them to carry guns while they are at their municipal workplace. The present wording of RSA 159:26 appears to prohibit local and county governments from prohibiting the possession of firearms in the workplace. This statute leaves local and county governments exposed to significant liability from acts committed by employees with firearms against citizens and other employees. These employees have not been authorized by the municipality to possess or use a firearm in the workplace, nor have they been trained by the municipality in the use of firearms, nor have the firearms been issued or approved by the municipality. This policy recommendation is not intended to affect workers compensation. **Submitted by: Joel Bourassa, Selectman, Woodstock**

#### **3. Welfare Lien Priority**

To see if NHMA will SUPPORT legislation to give liens for local welfare payments arising under RSA 165:28 a higher priority position, so that those liens fall immediately after the lien for the first mortgage.

## **Priority Policy Recommendations**

### **4. Cross-Border Liability.**

**To see if NHMA will SUPPORT** legislation to encourage cooperation between emergency response entities from New Hampshire and bordering states by affording municipalities from bordering states the same limitations on monetary damages in civil actions that are afforded to New Hampshire municipalities.

**Municipal interest to be accomplished by proposal:** Remove a disincentive for cooperation between emergency responders in New Hampshire and neighboring states.

**Explanation:** New Hampshire law limits the liability of “governmental units” for bodily injury, personal injury or property damage in civil actions, but the definition of “governmental unit” is limited to political subdivisions “within the state.” In one case, the New Hampshire Superior Court ruled that a town in a neighboring state, which had cooperated with a New Hampshire town in responding to an emergency, was not protected by the liability cap. A similar issue could arise in many situations in which New Hampshire municipalities work with neighboring municipalities in Maine, Massachusetts, or Vermont in responding to emergencies. For example, New Hampshire police officers were called upon to assist after the Boston Marathon bombings in 2013, and Maine police officers have responded to recent shooting incidents in New Hampshire. Municipalities are less likely to provide cross-border assistance if they do not have the benefit of liability protection under the neighboring state’s laws. Any legislation providing liability protection to municipalities in neighboring states should require reciprocity from the neighboring states. **Submitted by: NHMA staff, based on request from other state municipal leagues.**

### **5. Consultation with Counsel Expansion Under RSA 91-A**

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

### **6. Petition Signature Requirements**

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

### **7. Clarifying What Information Is to be Included in Town Reports in SB2 Towns**

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

## **8. Public Notice Requirements**

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

## **9. Amended Warrants in SB 2 Towns**

**To see if NHMA will SUPPORT** statutory changes allowing SB 2 communities to post changes to the warrant to reflect amendments to warrant articles by action of the voters at deliberative session. Further to allow the governing body and the budget committee to change their recommendation due to amendments made at deliberative session.

**Municipal interest to be accomplished by proposal:** These changes would allow the amended language and dollar amounts to be correctly warned prior to the second session of town meeting. The recommendations of the governing body and the budget committee are there to provide guidance to the voters. Changes made at deliberative session in some cases would cause the governing body and/or the budget committee to change their recommendation. The statutes presently do not allow this change. Therefore the recommendation of those boards may be erroneous. A system that relies on direct democracy is based upon an informed/educated citizenry. If the voters are relying on a warrant that is posted and is no longer correct due to changes made, then citizens cannot properly educate themselves. Additionally, those citizens who value the recommendation of the governing body and/or the budget committee may have an incorrect recommendation before them when they decide which way to vote.

**Explanation:** During the 2014 deliberative session the voters made changes to the language of several of the warrant articles. The voters present also made amendments to the town and school budgets. Money was added to the town budget and substantial cuts were made to the school budget. After consultation with DRA, NHMA legal staff, and town counsel, it was clear that we could not post an “amended” warrant after the deliberative session that would indicate the changes made. In the case of the school budget the amended budget number was significantly different than what the school board recommended. The warrant still showed the old budget and the previous recommendation. The ballot showed the new budget numbers and language changes; however, the ballot still showed that the school board recommended the budget article, which was no longer the case due to the drastic changes made. **Submitted by: Shaun Mulholland, Town Administrator, Allenstown**

## **10. Long-Term Storage of Records**

**To see if NHMA will SUPPORT** legislation modifying the requirement that municipal records retained for longer than ten years be transferred to paper, microfilm, or both.

**Municipal interest to be accomplished by proposal:** Save space and cost, and allow a more practical way to store records.

**Explanation:** RSA 33-A governs the retention of municipal records, establishing retention periods for many classes of records. Section 5-a states that electronic records must be transferred to either paper or microfilm or both if they are required to be retained longer than ten years. Permanent storage of paper records creates serious space problems. Storing records on microfilm has been a practical alternative, but microfilm is becoming harder to find and may soon be unavailable entirely. Some within the document storage business have indicated that microfilm may be impossible to obtain within a year. If microfilm is not available, paper storage becomes the only legally permitted method. **Submitted by: NHMA staff, based on inquiry from Linda Smith, Board Administrator, Northwood**

## **11. Building Plans Under 91-A**

**To see if NHMA will SUPPORT** an amendment to RSA 91-A:5, IV to specifically add “building plans/construction drawings contained within a building permit file and/or building plans/construction drawings submitted as part of a building permit application” as an exempt record under this chapter.

**Municipal interest to be accomplished by proposal:** There is uncertainty within RSA 91-A:5 as to the status of building plans and/or construction drawings in the possession of municipalities and their code enforcement officials or building inspectors. Since “...personnel practices; confidential commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental...” files are specifically exempted from the statute, one would think building plans on file with building permits would fall under the remaining exemption of “...other files whose disclosure would constitute invasion of privacy.” We were ordered by a district court to release such plans when an unrelated party requested them.

**Explanation:** The district court rationale was that the legislature had constructed the statute with specific records stated as being exempt. Conversely, building plans were not expressly exempt so their disclosure had to be subject to a balancing test of the full disclosure vs. the privacy rights of the building owner. The court sided with full disclosure due to the absence of a specific exemption. Building plans can contain a wealth of information considered private. Alarms systems, communication access points, physical access points, safe rooms, structural components like vaults, built-in safes, and secure storage areas are only some of the features that could be exploited if plans showing these features were readily available to the public. Many commercial sites like banks, medical facilities, and defense and Homeland Security contractors would be appalled to know the building plans for their facilities were open to public access. Access to building permit applications would still be available. It is only the plans that are being exempted. The additional benefit would be solving in part the problems of copy right infringement. Many designers (engineers, architects, and the like) have expressed concern about the wide distribution of their work and possible copy right infringement by having publicly accessible building plans on file with municipalities. There is no way for them to enforce their copy right without knowing what unrelated parties are accessing and copying their work product. **Submitted by: Paul Deschaine, Town Administrator, Stratham**

## **12. Municipal Departments and MV Information**

**To see if NHMA will SUPPORT** legislation to make it clear that municipalities may obtain information about motor vehicles registered to an individual for the purposes of verifying asset levels when the individual is applying for general assistance or asset-based tax relief and in order to determine the ownership of vehicles for official purposes.

**Municipal interest to be accomplished by proposal:** Allow access to motor vehicle registration and licensing information by municipal departments to verify asset levels when administering public assistance and tax relief programs and when needed for other proper governmental purposes.

**Explanation:** As RSA260:14 is administered and interpreted departments which administer public assistance programs are denied access to motor vehicle registration records and the opportunity to verify statements made by the applicant(s). It has become problematic as folks game the system and lie about the cars parked or the ownership of the cars parked in their yards.

**Submitted by: Susan Snide, Pelham Assessing, Pelham**

### **13. Blue Lights on Fire Department Vehicles**

**To see if NHMA will SUPPORT** amending RSA ch. 265 and RSA 266:78-b, “Blue Lights Restricted to Law Enforcement,” to allow for the inclusion and use of a single rear-facing blue colored light panel on emergency response vehicles owned or leased by municipal, village district or federal fire departments.

**Municipal interest to be accomplished by proposal:** To enhance the visibility and safety of public emergency responders and the public they are serving by allowing fire and emergency medical vehicles to include a single rear-facing blue colored light panel among the red or amber lights on municipally-owned emergency vehicles to provide clearer and more distinct warnings to the motoring public at various emergency response scenes in all types of lighting and weather conditions. There is significant data documenting the mix of colors utilized in various light and weather conditions (i.e. – dusk, dawn, fog, cloudy, rain, etc.) provides for enhanced safety for emergency responders and the motoring public.

**Explanation:** This proposal is the result of some experiences the Auburn Fire Department has had at some emergency & motor vehicle accident scenes, particularly on NH Route 101 (from the intersection of I-93 through to Exit 3 / Candia town line. Our firefighters have experienced that the visual of all red flashing emergency lights do not always seem to encourage the motoring public to maintain a safe distance from the emergency responders as they are driving past. The Auburn Fire Chief has indicated other states allow fire and emergency medical vehicles to include a blue light/lens in their light bars and it provides a stronger safety presence for both the emergency responders and the motoring public. This would be similar to the provisions of RSA 266:78-c, where red lights are allowed for police, fire and rescue vehicles. **Submitted by: William Herman, Town Administrator, Auburn**

## **Standing Policy Recommendations**

### **14. Counting Absentee Ballots**

**(Legislation pending—SB 271)** To see if NHMA will SUPPORT legislation to eliminate the requirement that absentee ballots cannot be counted prior to 1:00 P.M., and instead allow them to be counted throughout the time when polls are open.

#### **15. Swearing in Town Officers**

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

#### **16. Human Resources Record Retention**

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

#### **17. Modifying the Adoption, Revision, and Amendment of Municipal Charters**

**(Legislation pending—HB 422)** To see if NHMA will SUPPORT legislation similar to HB 379 in 2008 that modifies the adoption, revision, and amendment of municipal charters.

#### **18. Consolidated Policy on Collective Bargaining Items**

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

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

**Right to Strike:** To see if NHMA will OPPOSE a right to strike for public employees.

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

#### **19. Contracted Services and Bargaining**

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

#### **20. Maintenance and Policing of State-Owned Property**

To see if NHMA will SUPPORT legislation to enable municipalities to recover the expenses of policing publicly-owned land against all illegal activity (including public consumption of alcohol and littering), including the ability to receive reimbursement/compensation from individuals engaged in the illegal activity.

## **21. Supervisor of the Checklist Sessions**

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

## **22. Municipal Recreation Programs**

**To see if NHMA will SUPPORT** the continued exemption from state child care licensing for municipal recreation department programs and also supports the exemption from state camp licensing for municipal recreation department summer programs.

## **23. Requirement to Hold Elected Office**

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

## **24. Appointment of Town Clerks and Town Clerks/Tax Collectors**

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

## **25. Warrant Article Language; Adoption by Reference**

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

## **26. Perambulation**

**To see if NHMA will SUPPORT** legislation to eliminate the RSA 51:2 requirement to perambulate town boundaries every 7 years when the abutting municipalities have identified the boundaries and markers by survey quality GPS coordinates or by a certified survey and have filed a return including the survey or GPS coordinates as required by RSA 51:4.

**Municipal interest to be accomplished by proposal:** Saving of dollars (for repeated surveys) and the saving of substantial time to coordinate with others. Also to determine boundaries by easily reproducible means.

**Explanation:** Thus procedure has become increasingly archaic over time with a declining number of communities faithfully following the requirement. There is no longer a need to continue to physically walk boundaries given “modern” technology. It is time, at best, to abolish it as Maine has or, at worst, provide an opportunity to be relieved of the obligation upon the filing of a mutual report accompanied by GPS documentation. **Submitted by: Carter Terenzini, Town Administrator, Moultonborough**

# Finance and Revenue

## Action Policy Recommendations

### 1. Tax Rate Setting

**TO SEE IF NHMA WILL SUPPORT** legislation that expedites the receipt of information, including utility values as determined by the Department of Revenue Administration, necessary for the Department to set tax rates beginning October 1<sup>st</sup> and to improve the overall efficiency and timeliness of the tax rate setting process.

### 2. Use of RSA 83-F Utility Values

**TO SEE IF NHMA WILL SUPPORT** changing RSA 83-F to prevent any determination of utility value by the Department of Revenue Administration from being used in any way by either the utility taxpayer or the municipality in any application for abatement of tax under RSA 76:16 or any appeal thereof under RSA 76:16-a or RSA 76:17.

**Municipal interest to be accomplished by proposal:** To see that any opinion of value generated by the State's Department of Revenue Administration for imposition of the State's Utility Tax under RSA 83-F is not used against another subdivision of the State in a legal proceeding. By eliminating that use, the state and municipalities avoid the expense of all necessary discovery associated with the DRA's 83-F process and the trial testimony of the DRA's representatives concerning the same.

**Explanation:** The Berlin City Council passed a motion in support of the above amendment to RSA 83-F at their April 21, 2014 City Council Meeting. **Submitted by: James A. Wheeler, City Manager, City of Berlin**

### 3. Real Estate Income and Expense Statements on Appeal

**TO SEE IF NHMA WILL SUPPORT** legislation that prohibits the use of real estate income and real estate expense information by a taxpayer in any appeal of value if the taxpayer, after request by the municipality, has not submitted the requested information.

## Priority Policy Recommendations

### 4. Clarification of Elderly Exemption.

**TO SEE IF NHMA WILL SUPPORT** changes in language for RSA 72:39-a, 72:29, and 72:39-b that define and recognize a household as occupying a property and increasing tenancy requirements for elderly exemption tax relief.

**Municipal interest to be accomplished by the proposal:** Equitable distribution of property taxes, consistency between statutes offering relief from property taxes.

**Explanation:** Elderly exemptions are granted for elderly home owners who qualify per income and asset criteria established by the town. Often an extended family will move in and occupy the home and also enjoy the benefit of reduced taxes. The law as currently interpreted does not allow for income or assets from all members of the home to be considered as part of the income or asset test. **Submitted by: Susan Snide, Assessing Assistant, Pelham**

#### **5. Separate Ballot Boxes for Bond Votes.**

**TO SEE IF NHMA WILL SUPPORT** legislation clarifying that separate ballot boxes are not required for bond articles in SB 2 towns.

**Municipal interest to be accomplished by proposal:**

Avoid confusion and impracticality.

**Explanation:**

RSA 33:8-a, which governs the procedure for authorizing a bond or note in excess of \$100,000, states that articles proposing a bond or note shall appear in consecutive order on the warrant and shall be acted upon before most other business (with exceptions), that polls shall remain open for each article for at least one hour, and that “a separate ballot box shall be provided for each bond article to be voted on pursuant to this section.” This statute was enacted before the SB 2 form of town meeting existed and obviously did not contemplate such a system. It makes no sense to require separate ballot boxes when all votes are made on a single ballot. Presumably no SB 2 town actually follows this requirement. **Submitted by: NHMA staff, based on inquiry from Lynne Bonitatibus, Administrative Assistant, Kensington**

#### **6. Expanding 10% Limitation**

**TO SEE IF NHMA WILL SUPPORT** amending RSA 32:18 to expand the 10 percent limitation on increasing the budget committee’s appropriation recommendation to include both increasing and decreasing the total amount to be appropriated.

**Municipal interest to be accomplished by the proposal:** With fewer voters and taxpayers actually participating in the local deliberative forms of municipal government – both traditional town meetings and SB2 communities’ Deliberative Sessions – the 10% rule should be expanded to limit both any increase or decrease in proposed appropriations to ensure that a small minority not be able to dramatically alter what the silent majority likely supports.

**Explanation:** An Auburn resident spoke with me about some sort of protection such as this following the 2014 Allentown School District Deliberative Session, where a very small number of voters approved by a one-vote margin a near \$1 million reduction to the proposed school district budget of approximately \$9 million. The Deliberative Session action left the School Board and the Budget Committee with a budget proposal going forward to the voters that neither board supported. As I understand part of the historic logic of the 10% Rule is that voters not present at the meeting had been forewarned of proposed spending levels and their absences could be viewed as a form of support. The limitation protected them. I believe the same could be said

in reverse with respect to drastic cuts. **Submitted by: Bill Herman, Town Administrator, Town of Auburn**

### **7. All Public Real Estate Taxable if Used by Private Occupants**

**TO SEE IF NHMA WILL SUPPORT** legislation to clarify that taxation of a private occupant on public land is required by statute, even if an agreement or lease does not include a tax provision or the specific wording of RSA 72:23, I(b).

**Municipal interest to be accomplished by proposal:** The amendment would make it clear that taxation of a private occupant on public land is required by statute, even if an agreement or lease does not include a tax provision or specific working of RSA 72:23, I(b). This amendment should even the playing field for all municipalities and all tenants occupying public land, so that all are treated similarly under the same set of laws. It would also help to ensure that municipalities receive tax revenue from private tenants that would pay taxes anyway to the municipality if they owned the real estate.

**Explanation:** The proposed amendment is intended to make legislative intent clear that all public real estate is taxable if used by private occupants, unless the occupant qualifies for a tax exemption. The use of public land by a private occupant should be deemed to be its consent to the tax by operation of law. It does not make sense for a private company to be tax-free just because it occupies public real estate and does not agree to pay taxes, but the same or similar company on private land has to pay taxes, regardless whether it agrees or not. The current situation is not fair to taxpayers who do have to pay taxes. This amendment also addresses inequity between tenants, if one tenant gets a tax exemption while using public land while a similar tenant of public land must pay taxes. The proposed amendment is patterned after the policy statement made by the Supreme Court in Rochester I. Recent confusion about legislative intent makes this amendment necessary. **Submitted by: Adele Fulton, Attorney, on behalf of City of Lebanon**

### **8. Pollution Control Exemption**

**TO SEE IF NHMA WILL SUPPORT** repeal of the so-called "pollution control exemption" (RSA 72:12-a) or amendment of the statute to impose a term limitation on any exemption granted.

### **9. Prorating Disabled Exemption**

**TO SEE IF NHMA WILL SUPPORT** legislation prorating the disabled exemption under RSA 72:37-b when a person entitled to the exemption owns a fractional interest in the residence, in the same manner as is allowed for the elderly exemption under RSA 72:41.

### **10. Penalty for Failure to Submit Current Use Information**

**TO SEE IF NHMA WILL SUPPORT** legislation imposing a penalty for failure to submit current use information as needed to update municipal records—*i.e.*, Marlow matrix.

### **11. Recording Fees for Elderly Deferrals**

**TO SEE IF NHMA WILL SUPPORT** legislation to reimburse municipalities for recording fees related to the establishment and release of elderly and disabled deferrals under RSA 72:38-a.

### **12. Flood Control Payments**

**TO SEE IF NHMA WILL SUPPORT** legislation to fully fund flood control payments in lieu of taxes to municipalities, including retroactive payments from the state for Fiscal Years 2012 and 2013.

## **Standing Policy Recommendations**

### **13. Downshifting of State Costs and State Revenue Structure**

**TO SEE IF NHMA WILL OPPOSE** legislation which will downshift state costs or state program responsibilities, either directly or indirectly, to municipalities and/or counties, resulting in increased municipal and/or county expenditures, whether in violation of Article 28-a or not, and **OPPOSE** any reductions, deferrals and/or suspensions of state revenue to political subdivisions, such as revenue sharing, meals and rooms tax distribution, highway block grants, environmental state aid grant programs, adequate education grants, catastrophic aid, or any other state revenues.

### **14. State Revenue Structure and State Education Funding**

**TO SEE IF NHMA WILL SUPPORT** asking the state to use the following principles when addressing the state's revenue structure in response to its responsibility to fund an adequate education:

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

**TO SEE IF NHMA WILL SUPPORT** legislation prohibiting retroactive changes to the distribution formula for adequate education grants after the notice of grant amounts has been given.

### **15. New Hampshire Retirement System (NHRS)**

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

To that end, **TO SEE IF NHMA WILL:**

- a) **SUPPORT** legislation that will strengthen the health and solvency of the NHRS and ensure the long term financial sustainability of the retirement system for public employers;
- b) **OPPOSE** any legislation that: 1) expands benefits that would result in increases to municipal employer costs; 2) assesses additional charges beyond NHRS board approved rate changes on employers; or 3) expands the eligibility of NHRS membership to positions not currently covered.
- c) **SUPPORT** the restoration of the state's 35% share of employer costs for police, teachers, and firefighters in the current defined benefit plan and any successor plan; and
- d) **SUPPORT** the inclusion of municipal participation on any legislative study committee or commission formed to research alternative retirement system designs (such as a defined contribution or a hybrid plan) and the performance of a complete financial analysis of any alternative plan proposal in order to determine the full impact on employers and employees.

## **16. Utility Appraisal Method**

**TO SEE IF NHMA WILL OPPOSE** mandating the exclusive use of the unit method of valuation in the appraisal of utility property, by either administrative or legislative action, and **SUPPORT** the continuing right of municipalities to use any method of appraisal upheld by the courts.

## **17. Modifying Post-Municipal Appeal Deadline Date**

**TO SEE IF NHMA WILL SUPPORT** legislation to modify the post-municipal appeal deadline date as called for under RSA 72:34-a- "Appeal from Refusal to Grant Exemption, Tax Deferral, or Tax Credit".

**Municipal interest to be accomplished by proposal:** The current appeal date of a municipal denial of a property tax exemption/credit/deferral is September 1 of the following tax year. For example, municipality A denies a vet credit in March of 2014, the applicant has until September 1, 2015 to appeal that, that is 18 months of appeal window, that sort of timeframe is not found within the property tax appeal RSA's, nor current use appeal RSA's etc. There is no rational basis to have that long a window leaves the municipality at risk on such a long view that it makes it difficult to plan for with legal costs, overlay cost and the like.

**Explanation:** The appeal window under this RSA for tax exemptions/credits/deferrals should mirror the property tax window. The communities by law have until July 1<sup>st</sup> to issue a decision, taxpayers have until September 1<sup>st</sup> to perfect their appeal, the same should be true under RSA 72:34-a as it is under RSA 76:16-a & RSA 76:17. **Submitted by: Jim Michaud, Assistant Assessor, Town of Hudson**

#### **18. Charitable Definition and Mandated Property Tax Exemptions**

**TO SEE IF NHMA WILL OPPOSE** legislation that expands the definition of “charitable” in RSA 72:23-l, unless the state reimburses municipalities for the loss of revenue, and **SUPPORT** creating a method of reimbursement to municipalities for state-owned property.

#### **19. Telecom Company Property Tax Exemption**

**TO SEE IF NHMA WILL OPPOSE** any exemption from the property tax for poles, wires, and conduits owned by telecom companies.

#### **20. Collection of Statewide Education Property Tax**

**TO SEE IF NHMA WILL TAKE NO POSITION** on the collection of the statewide property tax by the state or by municipalities, but will continue to work to ensure that any system based on the property tax coordinates and synchronizes as seamlessly as possible with existing local property tax assessment and collection procedures.

#### **21. Negotiated PILOTs for Water System Property**

**TO SEE IF NHMA WILL OPPOSE** legislation that eliminates the current obligation of the public water entity to make a PILOT equal to what the property taxes would be for the property in the absence of a negotiated PILOT.

#### **22. State Budget Cap**

**TO SEE IF NHMA WILL OPPOSE** the adoption of any variation of a state budget cap which will impose on the Legislature pre-established limitations on state spending.

#### **23. Budget Year Conversion**

**TO SEE IF NHMA WILL SUPPORT** legislation to simplify the process of a municipality’s converting from a calendar year budget cycle to a fiscal year budget cycle.

#### **24. Management of Trust Funds**

**TO SEE IF NHMA WILL SUPPORT** amendments to RSA 292-B:2 to include funds held by a town or other municipality under RSA 31:19, RSA 202-A:23, or a fund created by a town or other municipality under RSA 31:19-a to be included in those institutional funds subject to the Uniform Prudent Management of Institutional Funds Act.

## **25. Minimum Vote Required for Bond Issues**

**TO SEE IF NHMA WILL OPPOSE** legislation to increase the 60% bond vote requirement for official ballot communities.

## **26. Mandatory Tax Liens**

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

## **27. Tax Bill Information**

**TO SEE IF NHMA WILL SUPPORT** legislation to amend RSA 76:11-a to allow those municipalities which have adopted the deaf exemption to include the word “deaf” following the word “blind” in the information contained on tax bills.

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# **Infrastructure, Development, and Land Use**

## **Action Policy Recommendations**

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

**TO SEE IF NHMA WILL SUPPORT** legislation to restore full general revenue funding of municipal wastewater, public drinking water and landfill closure grants administered by the NH Department of Environmental Services.

### **2. Municipal Use of Structures in the Right-of-Way**

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

### **3. Regional Water Quality**

TO SEE IF NHMA WILL SUPPORT legislation to encourage the State of New Hampshire and its political subdivisions to work cooperatively on a watershed or regional basis in addition to dealing with all water quality issues as individual communities.

**Municipal interest to be accomplished by proposal:** More efficient use of limited taxpayer resources to deal with achieving compliance under Clean Water Act requirements and state regulations.

**Explanation:** Many of the impaired water bodies in the state have numerous contributors to the impairments and no individual community can deal with all of the water quality issues within a water body. Also, limited resources should be targeted to the largest water quality improvements to provide the cleanest water resources to our citizens. Around the country various models have been established, and New Hampshire should assess these various alternatives to see if one or a combination of several models would work for the state. **Submitted by: Carl Quiram, Director of Public Works, Goffstown.**

### **Priority Policy Recommendations**

#### **4. Diversion of Highway Funds.**

TO SEE IF NHMA WILL SUPPORT legislation and administrative action to limit or eliminate the diversion of highway funds for non-highway purposes.

#### **5. Site Evaluation Committee and Local Input**

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

#### **6. RSA 162-K: Authority for Inter-municipal Cooperation**

TO SEE IF NHMA WILL SUPPORT legislation to provide more explicit authority for inter-municipal cooperation in economic development and revitalization districts (*see* RSA 162-K).

#### **7. Solid Waste Revolving Funds**

TO SEE IF NHMA WILL SUPPORT legislation to allow municipalities to establish, by vote of the legislative body, revolving funds for their solid waste programs, including solid waste collection, disposal, and the operation of any municipally operated transfer station, in addition to recycling.

#### **8. Clarify Establishing Highways**

**TO SEE IF NHMA WILL SUPPORT** legislation clarifying that the dedication and acceptance method of highway creation requires express acceptance by vote of the legislative body, or the board of selectmen if so delegated.

#### 9. Water Fund

**TO SEE IF NHMA WILL SUPPORT** legislation to implement the recommendations of the Commission on Water Infrastructure Sustainability Funding (the “SB 60 Commission”), including (1) the establishment of a water trust fund to ensure adequate annual investment in water infrastructure, and (2) a sustainable revenue source for the water trust fund.

**Municipal interest to be accomplished by proposal:** Long-term investment in the infrastructure that cleans and carries water is essential to the health and economy of New Hampshire. Water is a resource that cannot be neglected, and a water trust is essential to ensure that large and small communities can maintain the infrastructure to meet the regulatory limits, and the social and economic goals of communities.

**Explanation:** The SB 60 Commission worked for three years to develop findings and recommendations for the establishment of a sustainable trust for water infrastructure. NHMA should support this initiative as it affects all New Hampshire municipalities. **Submitted by: Shelagh Connelly, Chair, New Hampshire Water Pollution Control Association.**

### **Standing Policy Recommendations**

#### 10. Adequate Highway Funding

**TO SEE IF NHMA WILL SUPPORT** legislation to ensure adequate state revenue dedicated to highway improvements, which may include the road toll (gas tax) under RSA 260:32, increased motor vehicle registration fees, or any other source, so long as all additional revenues are used for highway purposes, and provided that the proportionate share of such additional revenues is distributed to cities and towns as required by existing law.

#### 11. Alternative Funding for Transportation

**TO SEE IF NHMA WILL SUPPORT** the establishment of alternative funding sources to ensure the maintenance and improvement of existing and future state and local transportation infrastructure and to provide greater focus and financial support for all modes of transportation.

#### 12. Conservation Investment

**TO SEE IF NHMA WILL SUPPORT** permanent funding for the Land and Community Heritage Investment Program and **OPPOSES** any diversion of such funds to other uses.

#### 13. Environmental Regulation and Preemption

TO SEE IF NHMA WILL SUPPORT legislation that (a) recognizes municipal authority over land use and environmental matters, (b) limits state preemption of local environmental regulation, and (c) recognizes that even when local environmental regulation is preempted, compliance with other local laws, such as zoning and public health ordinances and regulations, is still required.

#### **14. Underground Utilities**

TO SEE IF NHMA WILL SUPPORT legislation clarifying that municipalities may incur debt for the purpose of removing overhead utilities and replacing them with underground utilities.

#### **15. Energy, Renewable Energy and Energy Conservation**

TO SEE IF NHMA WILL SUPPORT legislation encouraging state and federal programs that provide incentives and assistance to municipalities to adopt energy use and conservation techniques that will manage energy costs and environmental impacts, promote the use of renewable energy sources, and promote energy conservation, and opposes any legislation that overrides local regulation.

#### **16. Open Space Retention and Sprawl Prevention**

TO SEE IF NHMA WILL SUPPORT legislation encouraging statewide programs that provide incentives and assistance to municipalities to adopt land use planning and regulatory techniques that will better prevent sprawl, retain existing tracts of open space, and preserve community character.

#### **17. Sludge/Biosolids**

TO SEE IF NHMA WILL SUPPORT reliable enforcement of scientifically based health and environmental standards for the management of sludge, septage, and biosolids; and **OPPOSE** any state legislation that would curtail the ability of municipalities to dispose of municipally-generated biosolids through land spreading, when done in accord with such scientifically based health and environmental standards.

#### **18. Current Use**

TO SEE IF NHMA WILL **OPPOSE** any legislative attempt to undermine the basic goals of the current use program and **OPPOSE** any reduction in the 10-acre minimum size requirement for qualification for current use, beyond those exceptions now allowed by the rules of the Current Use Board.

#### **19. Complete Streets**

TO SEE IF NHMA WILL SUPPORT legislation providing for consideration and possible implementation of a Complete Streets Policy at the state level, to include accommodating the input and needs of, and the financial impact on, political subdivisions.

**Municipal interest to be accomplished by proposal:** There is a growing awareness that conventional design, operation and maintenance of transportation facilities have been biased toward accommodating speed and capacity for motor vehicles, and that a more comprehensive approach is needed to adequately support mobility and quality of life for all members of the community. The Complete Streets concept is a response to this concern, which focuses on ensuring that streets are safe, comfortable and convenient for travel for everyone, including motorists, pedestrians, bicyclists and public transportation users, and for all ages and abilities.

In recent years, the City of Portsmouth has been designing its street improvement projects with an increased attention to pedestrian and bicycle safety and convenience, and in 2013 the City adopted a formal Complete Streets policy to formalize this approach. However, it is important that local initiatives such as Portsmouth's be supported by a statewide Complete Streets policy.

**Explanation:** A statewide Complete Streets policy would require transportation agencies to approach every transportation improvement and project phase as an opportunity to create safer, more accessible streets for all users. These phases include planning, programming, design, right-of-way acquisition, construction engineering, construction, reconstruction, operation and maintenance. Complete Streets principles can be applied on new projects, but also can be applied incrementally on existing streets through a series of improvements and activities over time.

An effective Complete Streets policy is sensitive to community context. A strong statement about context can help align transportation and land use planning goals, creating livable and resilient villages, towns and neighborhoods.

To date, 27 states have adopted statewide Complete Streets policies, including the New England states of Vermont, Massachusetts, Connecticut and Rhode Island. **Submitted by: Rick Taintor, Planning Director, Portsmouth; Christopher Parker, Director of Planning and Community Development, Dover; Thomas J. Aspell, Jr., City Manager, Concord.**



RECEIVED  
City Manager's Office

AUG 21 2014

Dover, New Hampshire

**TO:** Key Officials

**FROM:** Judy A. Silva, Executive Director  
Cordell A. Johnston, Government Affairs Counsel

**DATE:** August 20, 2014

**RE:** 2015-2016 Legislative Policy Conference ~ Friday, September 26, 2014

### Floor Proposals and Legislative Principles

Enclosed please find a copy of the nine floor policy proposals that have been submitted for discussion and vote at the NHMA Legislative Policy Conference. These floor policies supplement the policy recommendations prepared by the three legislative policy committees, which were mailed to each municipality on June 17, 2014. In addition to the policy recommendations and the floor proposals, delegates at the conference will vote on NHMA's Legislative Principles, which also were included in the June 17 mailing. If you need copies of any of these documents, you can find them on the NHMA website, [www.nhmunicipal.org](http://www.nhmunicipal.org). (Near the top of the home page, click on the "Advocacy" tab, then use the menu on the left to find "Legislative Principles," "2015-2016 Legislative Policy Recommendations," and "2015-2016 Floor Policies.")

### Voting Delegate

Each member municipality has one vote at the Policy Conference. Each governing body is asked to appoint a voting delegate to cast the municipality's vote on the policy proposals presented. **We are sending a pre-stamped voting delegate card to the chief administrative officer in each municipality (or the governing body chair if no administrative staff) to return to us indicating the governing body's appointment for voting delegate.** Please mail this card back to us no later than Wednesday, September 17. See the Legislative Policy Process Questions & Answers document, also sent with the June 17 mailing and available on the NHMA website, for a description of who will have voting privileges for a municipality in the absence of any formal designation.

### Policy Conference

The Legislative Policy Conference is scheduled for **Friday, September 26, 2014 at 9:00 a.m.** at **NHMA's offices at 25 Triangle Park Drive** in Concord.

We urge the governing body of each municipality to discuss the full slate of policy recommendations, along with these floor proposals, and to take a position on each proposal to give guidance to your voting delegate. Otherwise, your voting delegate is free to vote at the Policy Conference as he/she desires! At the conference, delegates may vote to approve, reject, amend, or table a policy proposal. They may also vote to change the order of priority of the various policies.

This is an important opportunity for each member municipality to participate in determining NHMA legislative policy for the 2015-2016 biennium—we count on your input! As always, please do not hesitate to call or e-mail ([governmentaffairs@nhlgc.org](mailto:governmentaffairs@nhlgc.org)) the Government Affairs Staff with any questions, comments, or concerns. We look forward to seeing you on September 26<sup>th</sup>!



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name) Joan Morel Date August 11, 2014

City or Town Town of Hinsdale Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) August 11, 2014

To see if NHMA will SUPPORT/~~OPPOSE~~<sup>XXXXXX</sup>: The modification of RSA 41:18 to read "Each town shall have a deputy town clerk....."

Municipal interest to be accomplished by proposal: RSA 41:18 currently reads "Each town may have a deputy town clerk....". This change will assure that Towns have a deputy town clerk to fill in town clerk absences and serve the public.

Explanation: Previously this statute left the appointment of a deputy town clerk to the elected town clerk with the approval of the selectmen. The current town clerk was absent many times and refused to appoint a deputy town clerk.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentaffairs@nbmunicipal.org](mailto:governmentaffairs@nbmunicipal.org). **Must be received by August 15, 2014.**



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name) Joan Morel Date August 11, 2014

City or Town Town of Hinsdale Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) August 11, 2014

To see if NHMA will SUPPORT/OPPOSE: The amendment of RSA 41:9-b, V to add "and officials elected to non-volunteer positions in the municipality".

Municipal interest to be accomplished by proposal: Currently elected officials such as Town Clerk, Tax Collector, and Treasurer are not subject to a background investigation and criminal history record checks. These positions handle the vast majority of funds coming to the municipality.

Explanation: As stated above, an elected Town Clerk, Tax Collector, and Treasurer are not subject to a background investigation and criminal history record checks. Candidates for employment are subject to this procedure. The elected officials stated above should be fiduciary responsible to voters, and to perform a background investigation and criminal history record check prior to being sworn into office would help with some assurance to the voters that the person is responsible for handling of monies.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmентаffairs@nhmunicipal.org](mailto:governmентаffairs@nhmunicipal.org). **Must be received by August 15, 2014.**

New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name): Steve Malizia

Date: August 12, 2014

City or Town: Hudson

Title of Person Submitting Policy: Town Administrator

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

*August 5, 2014*

To see if NHMA will SUPPORT/OPPOSE:

*To see if NHMA will support legislation to allow municipal library budgets to appear as a separate warrant article on the Town Meeting SB2 ballot.*

Municipal Interest to be accomplished by proposal:

*To give the voters greater visibility to the appropriations necessary to operate the municipal library when they vote at the Annual Town Meeting.*

Explanation:

*Currently, in SB2 communities, the operating budget for the Town appears as a separate warrant article. The article raises and appropriates a sum of money for the operation of the Town and also defines a default budget should the proposed budget not pass. In 2014, separate warrant articles were allowed on the ballot to raise and appropriate funds to run a municipal water utility and a municipal sewer utility. Each of these articles also identified a default budget should the article(s) not pass. The Hudson Board of Selectmen believe that it would be appropriate to allow SB2 communities to put municipal library budgets, separate from the Town's general fund budget, so that the voters would have greater visibility into the cost to operate the library as well as the ability to vote for a library default budget. Another strong argument in favor of allowing the library budget to be a separate warrant article is that the Library Trustees are a separately elected body, not subject to the direction of the Board of Selectmen.*

# NHMA

## New Hampshire Municipal Association 2015-2016 Legislative Policy Process

### Floor Policy Proposal

Submitted by: Barrington Board of Selectmen who voted to request and support this floor policy proposal at their meeting July 28, 2014: Town Barrington, NH

Title of Person Submitting Policy: Town Administrator John Scruton on behalf of the Board of Selectmen.

Floor Policy Proposal approved by vote of the governing body on (date) July 28, 2014

To see if NHMA will SUPPORT:

An increase in the amount of a public project before it requires mandatory obtaining of a performance bond so the local governing body could elect to waive the performance bond for any project under \$75,000 in RSA447:16. The proposal would allow the governing board on a case by case basis between \$35,000 and \$75,000 the option to waive the performance bond or to require it.

Municipal interest to be accomplished by proposal:

Inflation has caused many more projects to require a performance bond, including more building repair projects and relatively small road projects. Currently some small companies end up not bidding on these projects because of the challenges of getting a performance bond. If a small company had no subcontractors; the town had assurance the suppliers were paid, and the town did not pay until the work was complete there would be little need for the performance bond, but it is now required regardless of the type of public project.

Explanation:

The provision limits the ability of small local companies to compete for projects. It likely results in higher costs to the community since the cost of the performance bond is passed on to the taxpayers. Allowing the local option for the governing board to waive the bond in this range of project, could save towns money and award the project locally.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentaffairs@nhmunicpal.org](mailto:governmentaffairs@nhmunicpal.org) • Must be received by August 15, 2014.



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name) Joan Morel Date August 11, 2014  
City or Town Town of Hinsdale Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) August 11, 2014

To see if NHMA will SUPPORT/OPPOSE: ~~OPPOSE~~ The amendment of RSA 75:1 so that the last sentence will read "The selectmen shall receive and consider all evidence that shall be submitted to them relative to the value of property upon request, including rental income and expenses, the value of which cannot be determined by personal examination."

Municipal interest to be accomplished by proposal: Taxation of property in an equitable manner so that all taxpayers pay their fair share.

Explanation: Currently assessors ask for income and expenses information but receive very few responses. This results in an inaccurate application of income and expenses to all properties with rentals - for instance apartments, rented homes, rental spaces in businesses, etc. - because assessors use the submitted information to apply average incomes and expense to all similar properties.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governoraffairs@nhmunicipal.org](mailto:governoraffairs@nhmunicipal.org). **Must be received by August 15, 2014.**



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name) Joan Morel Date August 11, 2014

City or Town Town of Hinsdale Title of Person Submitting Policy Selectman

Floor Policy Proposal approved by vote of the governing body on (date) August 11, 2014

To see if NHMA will SUPPORT/~~OPPOSE~~: Legislation for a penalty for failure to submit requested information relative to the value of property as described in RSA 75:1. The penalty shall be 1% of the assessed value of the property.

Municipal interest to be accomplished by proposal: Collection of information relative to the value of property will be more likely to come in from all property owners, thereby allowing for more equitable taxation of property so that all property owners will pay their fair share.

Explanation: A property owner did not submit income and expenses for a property, then appealed the denial abatement to the BTLA. The case decision is pending.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentsaffairs@nhmunicipal.org](mailto:governmentsaffairs@nhmunicipal.org). **Must be received by August 15, 2014.**



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by (name) Scott Dunn Date August 14, 2014

City or Town Gilford Title of Person Submitting Policy Town Administrator

Floor Policy Proposal approved by vote of the governing body on (date) August 13, 2014

To see if NHMA will SUPPORT: Amending RSA 41:9-a to add a new paragraph VI to read: "A Town may, by vote of the governing body, impose a standard fee of no more than ten dollars (\$10.00) and/or require reimbursement for actual postage or shipping costs for any mailing that is provided as a convenience to the public except where such fees or mailings are otherwise prescribed by law. The monies collected under this paragraph shall be transferred to the custody of the treasurer for deposit into the municipality's general fund."

**Municipal interest to be accomplished by proposal:**

Reimburse municipalities for costs incurred for benefit of others.

**Explanation:**

Municipalities should have legislative authority to charge for postage when performing services as a convenience.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org). **Must be received by August 15, 2014.**



New Hampshire Municipal Association  
2015-2016 Legislative Policy Process

Floor Policy Proposal

Submitted by Barrington Board of Selectmen Date June 3, 2014

City or Town Barrington Title of Person Submitting Policy Board of Selectmen

Floor Policy Proposal approved by vote of the governing body, Barrington Board of Selectmen, on June 2, 2014

To see if NHMA will SUPPORT changes to RSA 674:41 to allow as a local option greater flexibility so a landowner who has been through the process once for a building permit for a residence or other building permit, obtained approval from the Governing Body to build, and filed the necessary indemnification for that building, the owner of that property does not then have to go through the entire procedure for additions and accessory structures, decks, etc. if the building permit is not an expansion of use that might increase the community's exposure of liability.

Municipal interest to be accomplished by proposal:

Currently property owners on Class VI roads and Private Roads have to go through the process in RSA 674:41 every time the property owner comes for a building permit, even if they have been through the process before for the main residence and filed the indemnification. This would allow the Governing Body the ability to grant the Building Inspector authority to approve the issuance of future permits without requiring the steps of RSA 674:41 each time a building permit for changes occurred on the previously approved property. This would save town boards' and official's time and money involved in a process that seems unnecessarily duplicative. Any expansion of use or change of use creating greater liability would require Governing Board approval under procedures of RSA 674:41 due to the increase in liability exposure.

Explanation:

RSA 674:41 forbids granting a building permit on Class VI and certain Private Roads (sections 1(c & d)) without following a specified procedure to ensure the Governing Body has approved of that building and that there is an indemnification filed by the owner. Currently second building permits on the same property, even for small projects, require the same process. If the Town has approved the building of a residence or other building on the lot and the owner has filed an indemnification, the Governing Body should have authority to authorize future permits for things like barns, garages, decks, etc. without requiring the entire procedure in 674:41.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentalaffairs@nhmunicipal.org](mailto:governmentalaffairs@nhmunicipal.org). Must be received by August 15, 2014.



# New Hampshire Municipal Association 2015-2016 Legislative Policy Process

## Floor Policy Proposal

Submitted by (name) Board of Selectmen

Date: August 13, 2014

City or Town: Fitzwilliam

Title of Person Submitting Policy : Susan Silverman, Chairman Board of Selectmen

Floor Policy Proposal approved by vote of the governing body on (date) August 11, 2014

To see if NHMA will SUPPORT the revision of elements of RSA 12-E as described below to better address the mandatory integration of local and state regulations.

Municipal interest to be accomplished by proposal: (Concerns and proposed changes in response to Judge Kissinger's ruling March 17, 2014 that determined RSA 12-E preempts all local ordinances with regard to mining.) TO enhance the local taxpayers and residents input in the State process of regulating mining within its boundaries. Mining is distinctly different from other activities that serve the public good such as utilities in which the state preempts local regulations. We would suggest a similar relationship between local and state regulations as described in RSA 483 B:3, II (Shoreland Protection) which states: "When the standards and practices established in this chapter conflict with other local or State laws and regulations, the more stringent standard shall control".

Explanation: In addition, the following should be considered for revision:

1. RSA 12-E:1, XIII Pre-application hearing currently allows for only one representative from the town to attend, and does not produce any official record that is covered under 91-A.
2. RSA 12-E:1 IX (a) defines an exemption for mining under 2000 cubic yards per year and less than 5 acres in area. This type of commercial operation should be regulated by local ordinances just as any other business operating in town and should fall under site plan review much as excavation does. Towns should have the ability to create mining regulations that make the operation compatible with the municipality, while not prohibiting mining.
3. RSA 12-E:4 VII: This part of the statute should address more clearly public safety caused by damage to public roads not built for mining vehicle use, and the mining plan defined here should include the filing of an engineering plan of relevant access roads that addresses the condition of the roads before, after and during the operation. This should allow for the town to be compensated for any damage to the roads.
  4. RSA 12-E:4 X (d) should be amended to add "or it lies in a residential neighborhood"
  5. RSA 12-E:5 There needs to be more time before a public hearing on the application, and it should state clearly that the hearing should be held in the affected community. Under the current regulation, the hearing could be held with as little as 5 days notice, hardly enough time to disseminate or evaluate any propose activity. We would suggest a 10 day notice as a minimum notice period.

6. RSA 12-E:6 The financial assurance plan should include monies for municipal road repair, as well as land reclamation.
7. There should be some consideration of a revenue stream as part of the process to flow from the applicant/operator to the municipality, such as a tax on stone removed (cu yds), similar to the excavation tax and timber tax.
8. The State still has not defined its own rules and regulations surrounding this type of activity and that should be required of DRED and DES, especially as they are now receiving requests for permits, holding pre-application meetings and making determinations on whether or not a proposed operation requires a permit.

A sheet like this should accompany each proposed floor policy and should record the date of the governing body vote approving the proposal. It should include a brief (one or two sentence) policy statement, a statement about the municipal interest served by the proposal, and an explanation which describes the nature of the problem or concern from a municipal perspective and discusses the proposed action which is being advocated to address the problem. Fax to 224-5406; mail to 25 Triangle Park Drive, Concord, NH 03301; email to [governmentaffairs@nhmunicipal.org](mailto:governmentaffairs@nhmunicipal.org). **Must be received by August 15, 2014.**

## 2015-2016 NHMA Legislative Policy Process Questions & Answers

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

The NHMA Board of Directors oversee NHMA's advocacy activities. Legislative policy positions direct the board and NHMA staff in representing municipalities before the legislature and state agencies.

**2. How are legislative policy recommendations prepared?** In the spring of each even-numbered year, NHMA forms legislative policy committees addressing different aspects of municipal government. The three committees this year are:

1. Finance and Revenue;
2. General Administration and Governance; and
3. Infrastructure, Development and Land Use.

These three policy committees consider issues and problems derived from their own experience as local officials, issues sent in by other members or brought to them by staff, past policy positions, and issues resulting from the most recent legislative session. Each committee holds several meetings during the spring and develops policy recommendations to be voted on by member municipalities at the Legislative Policy Conference.

**3. Who votes on adoption, amendment, or rejection of these recommendations, and when?** On Friday, September 26, 2014, at 9:00 a.m., the 2015-2016 NHMA Legislative Policy Conference will be held at NHMA offices (25 Triangle Park Drive) in Concord. ***Each member municipality will be asked to appoint a voting delegate to cast its vote at this conference.*** Each member municipality, regardless of size, has one vote on all policy matters.

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

Mayor/Chair of Board of Selectmen/Council Chair

**OR**

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

**OR**

Selectman/Alderman/Councilor

**OR**

City or Town Manager/Administrative Assistant

**4. Will other policy proposals be voted on at the conference?** Yes, municipalities will have the opportunity to submit floor policy proposals for consideration at the conference. Each floor policy proposal must be approved by the governing body of the municipality submitting it, but the

proposals will not be reviewed or recommended by NHMA's legislative policy committees. Floor policy proposals will be voted on separately at the conference.

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

**6. How are the policy recommendations presented and voted on at the Legislative Policy Conference?** The chair of the board of directors, as the presiding officer of the Legislative Policy Conference, introduces the entire set of recommendations of each policy committee, one committee at a time, as a slate. The co-chairs of each committee will be available to address questions. Any voting delegate may ask that a recommendation be set aside to be debated and voted on separately. The remaining recommendations are voted upon as a slate. When the slate from each policy committee has been voted, the voting delegates will then return to those items set aside for separate debate and vote. It is at this time that individual items can be killed, amended, passed over, laid on the table, etc. Votes are by a display of special voting delegate cards.

**7. Are policies adopted by a simple majority vote?** No. NHMA's by-laws require a two-thirds affirmative vote of all members present and voting for approval of any NHMA legislative policy.

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

**9. How will I know what policies are adopted if I don't go to the Legislative Policy Conference?** The final 2015-2016 NHMA Legislative Policies will be printed as a supplement in the November/December, 2014 issue of *Town & City* magazine. We will also post them on the NHMA's web site at [www.nhmunicipal.org](http://www.nhmunicipal.org).

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