

**NOTE: 5 PM MEETING TIME FOR NONPUBLIC Personnel RSA 91-A:3ii a**

**Action items for meeting in public session (6:30 PM):**

**Earned time-overtime time & time sheet change dispute:** One of the nonunion hourly employees came to me questioning our interpretation of a number of personnel issues. I agreed to take his questions to the Board of Selectmen and invited him to the meeting. First, he has put on his time sheet that he should be paid overtime for all hours worked outside his regular schedule (i.e. any day over 8 hours). I believe it is clear that the personnel policy for highway is that it must be time worked or a holiday adding to 40 hours for the week before overtime is paid. Secondly he has stated that he cannot be forced to come in for overtime unless he is being paid on-call. I am not aware of anyone being forced to come in for overtime because most people have a strong work ethic and commitment to help, but I believe the Department Head has the right to do so as indicated in the first sentence of the Personnel Policy on overtime even for employees not on call. Thirdly, this employee is also claiming that even if he started at midnight and worked 13.5 hours on one day he can get paid 1.5 hours of earned time because he left at 1:30 PM (his usual end of shift at 3PM). I believe the policy is clear a person cannot take earned time any given day that adds up to more than the regular shift total hours (usually 8) counting time worked that day whether or not it was part of the regular shift. Fourth, he also asked if he should be paid a shift differential for working nights. I believe the policy is clear it is only for regular shifts that are completely between 6 PM and 6 AM. The fifth issue has to do with how to handle a situation in which an employee's recorded start and end time is correct, but then the employee incorrectly characterizes that time as overtime or how many hours are encompassed between the start and end time in the explanatory part of the sheet. We have handled it that the "time record" (start and end times) cannot be altered without the employee signature but the rest of the sheet is not part of the time record, only administrative in nature. On occasion the payroll staff has changed the addition of hours, characterization of hours, number of hours between start and end time, etc. This employee is claiming we must have everyone come in to initial the correction to the change in calculation of what category and number of hours are in each category, etc. One solution that would help solve the problems he raises in this last point and also would give the Board assurance that employees are accurately putting down starting and ending time is a fingerprint time clock (there are several models under \$500). This means only the person themselves can sign in and out (no cards that others could punch). It would provide a secure record to avoid the kinds of issues being raised by the employee. It would also make it easier to research the back time records. Currently we have an employee's request that involve searching over 100 large file folders for this person's time record every week for two years, which would be far easier if it were all electronic. It would not require the employee's signature on that time record because it is based off biometrics. Administration at the DPW and Human Resources would characterize the hours, not the employee, so there would be no question that we are changing a person's time. We could use DPW as the pilot group but I would plan to expand it more broadly as appropriate. I suggest the Board goes with a fingerprint time clock starting with DPW. At the end of this report is the law on overtime, relevant section of administrative rules and sections of the Personnel Plan. There are several questions for the Board to address.

1. *Is it the Board's understanding of the policy that a nonunion employee can be required to do overtime even if he/she is not getting "on-call pay"?*
2. *Is Human Resources correct in reading the rule for hourly employees that no earned time can be taken for a day such that the total hours paid that day, including earned time, will exceed the regularly scheduled shift total of hours?*
3. *Is Human Resources correctly interpreting that overtime is only paid after 40 hours actually worked in a week (holidays counting as time worked for only the Highway Department) not for all hours in a given day beyond regularly scheduled shift?*
4. *Is Human Resources correctly interpreting that shift differential is only for a person who's regularly scheduled shift falls entirely between 6 PM and 6 AM (only happens in Police), not in the case of overtime worked during those hours if the regular shift is outside those hours?*
5. *Am I authorized to implement a time-clock system, probably requiring thumb-prints, to record when a person checks in and out for work starting with the Highway Department?*

**Land on Berry River Road:** The board wanted the woman requesting permission to buy an adjacent lot to show evidence that she had the ability to build on her own lot before the town would sell the abutting lot. The person has done so and has a plan, a variance and an older septic design to allow building on her own lot, meeting the condition of the Board of Selectmen. No other abutter responded to the earlier question on wanting to buy the lot. I would suggest it be sold with the condition that it be merged with the adjacent parcel. *What does the Board wish to do?*

**Peeper 5K Run:** *Does the Board approve the request from the Chamber to allow the 22<sup>nd</sup> annual event Saturday May 14<sup>th</sup> beginning at 8 am and to close traffic on Mallego between 125 and the Post Office from about 8:45 to 10:15 am?*

**Post-Issuance Tax Compliance Policy and Procedures for Tax-exempt Obligations Policy:** The Town needs a policy in place to borrow municipal tax-exempt bonds. *Will the Board adopt the proposed policy which deals with handling municipal bonds properly?*

**Permission for Library Use of Town Owned Land:** **Conservation Commission Chair John Wallace wrote:** "At its meeting of Feb 18 Conservation Commission considered a proposal from Wendy Rowe, the Children's librarian at the public library. She would like to use a town-owned property, possibly the "Kids of the River" land, for a project known as "Story Walk," "an innovative approach to encouraging people of all ages to get out and walk while enjoying wonderful children's books" (from Anne Ferguson, Story Walk Creator and Volunteer). Since the Board of Selectmen have jurisdiction over the use of town properties, we are requesting your permission on this matter. Should you wish more information, I would suggest contacting Wendy directly. The Conservation Commission and Trails Committee both enthusiastically support the idea, as we have been actively working on projects that get people, especially children, out on Barrington's conserved properties. The displays that will be placed on the land will not be at all permanent. The Trails Committee has also expressed willingness to help with any trail preparation involved in the project. *Does the Board of Selectmen agree?*

**Tax Deeded Pond Hill Property:** Here is our attorney's suggestions based upon request last meeting from Board of Selectmen: "The town has two options to deal with this. As the P&S is currently worded, if the buyer does not clean the property, the town can go to court to force them to do so. I could also tweak this to add language that in the event the buyer does not clean the property, the buyer grants the town the authority to enter the property to do the work and to have a lien on the property to collect those costs. The advantage of this is that the town does not become the owner again and does not have to find another buyer, but the property gets cleaned up. If this option is preferable, I can also add this requirement language to the deed so that there is no argument that the P&S terms have expired.

"The other alternative is to add a reverter clause to the P&S and deed, whereby if the buyer does not clean up, the property reverts back to the town. Reverters are no longer valid as between private parties in NH, but for towns, they remain legally permissible per RSA 477:3-b. As an incentive to do the cleanup work, this option has some definite advantages to prevent losing title. However, in the event the cleanup work is not done, the town then becomes the owner again and is back where it was: it owns a piece of land it wants to sell but that requires significant clean-up work.

"As I've (Steven) mentioned, my preference is the first option because the town does not become the owner again in the event of noncompliance, but if the board would prefer the second option and the reverter situation, I am happy to revise the P&S and deed accordingly. Please let me know what the town would prefer." ***Which option does the Board wish to pursue?***

**Upcoming meetings:** Currently the posted schedule of meetings which was decided December 14 is for the following: March 14, 28, April 11, 25, May 2, 16, June 6, 27, July 11, 25, August 8, 22, September 7 (Wednesday of Labor Day week), 19, October 3, 17, 24, 31, November 7, 14, 21, 28, December 5, 12, 19. I would now propose May 9 and 23 and June 13 and 27 to stay on usual second and fourth instead of the listed May and June dates. (Memorial Day on May 30 is the fifth Monday in May). ***Is there a desire to change this schedule?***

**Young Road Matching money:** April 14, 2014 the Board voted to use the Trust Fund for Transportation Projects for matching the FEMA grant. The town has started the engineering. The Town's share will be basically covered with this Purchase Order 636 for engineering in the amount of \$52,657.24. ***Will the Board of Selectmen clarify that it is requesting the Trustees of the Trust funds pay the engineering up to \$52,657.24 out of the Transportation Trust fund?***

**Demolition:** Draft list of lessons learned:

1. Do more testing to avoid the unexpected understanding the additional testing will add to the costs up front;
2. Update quote for budget purposes closer to town meeting;
3. Have more detailed specifications including, e.g. in this case, erosion control and security;
4. Require a tighter and more detailed contract pricing out alternatives for the unexpected;
5. Notify abutters before work begins;
6. Carry a larger contingency; and

7. Consider hiring a consultant/expert in the subject to oversee the job from start to finish including the bid process.

It will be 30 days this week from our receipt of the invoice. I believe we must pay at least the undisputed amount because we entered an agreement and the work was done. ***Does the Board direct us to pay all or at least some portion of the S&R invoice not in dispute?***

#### **NONPUBLIC Reputation (hardship interest abatement)**

#### **INFORMATION**

**Equalization Ratio:** NH Department of Revenue Administration reports that our assessment equalization ratio is at 99.8%.

**Loader vote:** The minutes centered on whether to trade in the old loader or not and the motion ended up being to buy the John Deere and not trade the loader. There was no mention of the trust fund in the minutes or motion.

**Concrete foundation for tower:** The expenditure for the concrete for the foundation for the tower came out of the Executive Incident line.

**Proposed Town Hall building total square footage** is 11,551 as found in bidding documents.

**Items related to Highway Worker questions** (underlined for emphasis on issues above)::

RSA 279:21 VII Those employees covered by the first introductory paragraph (highway workers in this group)...., shall in addition to their regular compensation, be paid at the rate of time and one-half for all time worked in excess of 40 hours in any one week

#### **Personnel Policy sections**

#### **OVERTIME**

It may be necessary for you to perform overtime work. All overtime must be approved in advance by the department head. Except in the event of an emergency, Barrington NH will attempt to provide you with advance notice of the necessity for overtime work. Most non-exempt employees, with the exception of certain law enforcement and fire protection employees, are entitled to be paid one and one-half (1-1/2) times their regular rate of pay for all time worked in excess of forty (40) hours per week. Employees in fire protection or law enforcement activities ....

Overtime pay shall not be paid for any period when no work is performed such as earned time, holidays (with the exception of the Highway Department), leaves of absences, and other time off benefits. These are not counted as “time worked” for purposes of overtime. Holidays count toward time worked in a week for only the Highway Department. You will be advised when you

are hired if you are entitled to overtime pay. Overtime is only paid to non-exempt employees. “Compensatory time” instead of overtime is unavailable.

### SHIFT DIFFERENTIAL & ON CALL

If an employee’s entire regular work shift falls between the hours of 6:00 PM and 6:00 AM he or she will be paid a shift differential of \$1.00 per hour for work time scheduled and worked.

**On Call Stand by Compensation:** As on call hours are not defined as hours worked under FLSA, employees who are on call will be paid one hour at their normal hourly rate of pay for each four-hour on call period. An employee who receives on call pay must respond to timely call backs or will forfeit all on call pay for that week.

**Call Back Compensation:** As call back hours are defined as hours worked under FLSA, all employees who are called back to duty after the conclusion of the full-time regular workday shall be compensated at a minimum of two (2) hours. These hours will be paid at time and one-half provided the number of hours worked during the workweek meets or exceeds forty hours. If an employee has not met or exceeded forty hours worked during the workweek, call back compensation will be paid at the employee’s regular rate of pay.

### EARNED TIME

This policy to allow Earned Time Payment was developed to provide paid time off from work for such reasons as holidays, vacations, sickness, and personal reasons.

...(there are then sections on calculation, limits, and other issues not germane to issues above, leading to General rules in which #5,6 are relevant)

(General rules)

5. Earned time can be used in amounts of one hour or more.

6. When using Earned Time, the total pay for any one day shall not exceed an employee’s usual work hours.

### Labor Administrative rules 803.03

(f) Pursuant to RSA 279:27 and RSA 275:49, VI, relative to record keeping requirements, every employer shall:(1) Record payroll information so that time records, showing the time work began and ended including any bona fide meal periods, shall support individual pay sheets and that payroll sheets, in turn, shall support canceled checks or cash receipts; 2) Require that time records with entries that are altered shall be signed or initialed by the employee whose record was altered;