

**MINUTES OF MEETING  
MUNICIPAL BUDGET COMMITTEE  
January 22, 2014**

A meeting of the Municipal Budget Committee was called to order at 6:32 PM in the Professional Development Room at Kennett Middle School with the following members present: Chairman Joe Mosca, Danielle Santuccio, Maureen Seavey, Bill Marvel, Doug Swett, Michael Fougere (arriving at 7:05 PM), Greydon Turner, Stacy Sand, Dick Klement, Frank McCarthy, Steven Steiner, Peter Donohoe, Maury McKinney, John Edgerton and Mark Hounsell. Excused: Brian Charles. Absent: Dick Pollock. Also present: Earl Sires, Town Manager; Lucy Philbrick; John Eastman; Lily Gilligan; Rodney King, Commissioner; Chief Wagner; Lt. Chris Perley; John Eastman and David Smollen.

Peter Donohoe led those present in the Pledge of Allegiance.

Chairman Mosca stated he wanted to start out by thanking everyone for coming this evening. He knew we had to reschedule and he appreciated everybody being flexible with the schedule this year.

APPROVAL OF MINUTES

Approval of the Minutes of January 15, 2014 was tabled until the next meeting. Mark Hounsell stated he wanted to make sure that a correction on page 23 changing "\$8 Million" to "\$80 Million" was on the record.

TOWN

Chairman Mosca stated before we start, when you are recognized please state your name so Iris (Bowden) can get everyone's name; he believed she knew most of the people, but she doesn't know everybody and please try not to have discussions back and forth, one person at a time so that we can keep some type of order so that she can get the Minutes.

Earl Sires, Town Manager, asked if it was Recreation, Library and Police. Chairman Mosca stated the only one that we won't have heard from is the Conservation Committee and he didn't think we actually needed to bring anybody in because their Budget actually went down. Chairman further stated for the record he did want to have that out there.

Chairman asked that all speakers enunciate because we do not have the microphones that we usually have so if people could try to project their voice a little bit because some of us can't hear back here. Thank you. Mark Hounsell stated having sat out in the audience, can we have the same directive given to the Board to try to project their voices because it is very hard to hear in this room. Chairman agreed.

Recreation

Earl Sires stated before Recreation, he wanted to give the Committee and an over view and a reminder of how the Rec Department Budgets work because there is more than one Budget that relates to the Rec Department. Earl asked the members to go to the last page in the backup for Recreation,

there's a little spreadsheet that illustrates what he wants to give the members a heads up on. It should say "Recreation Department Funding" and it's about a quarter page spreadsheet. What this shows is that since 2007 when the Recreation Revolving Fund was created, the Recreation Department is funded by two Budgets: one is the General Fund and the other is the Rec Revolving Fund. A Revolving Fund is something municipalities are allowed to create by law. Basically what that does is it handles fees for recreation activities, recreation services and those fees are introduced into the Revolving Fund rather than the General Fund and then expenses of the Recreation Department can be funded out of that Revolving Fund.

Earl Sires stated through discussions with the Budget Committee and Selectmen several years ago, it was decided this made sense because what remained in the General Fund then was what was an impact to the taxpayers. It was felt that if they took out the things that were funded by fees and just left in the General Fund the portion of the Rec activities that needed taxpayer support, people could track better the increasing impact of the Rec Department on the taxpayer. That is the primary reason they do that.

Earl Sires stated what he wanted to show the members is that in the "Total" column, that is the total Budget for the Rec Department each of the last 7 or 8 years, \$316,000.00 in 2007, \$397,000.00 in 2014. Each of those rows in the "Total" column shows the increasing total each year. The middle column, or second from the right, "RRF" - Rec Revolving Fund - shows how much has been used from the Rec Revolving Fund from fees collected to support recreation activities during these years. Moving to the "GF" column - General Fund taxpayer impact column - \$271,000.00 in 2007 and \$340,000.00 in 2014. He just wanted to remind everybody that's how it works. What John (Eastman) is going to talk about tonight is the total Rec Budget and all of the things that he is going to talk about tonight is going to add up to \$397,000.00. Earl further stated if there any questions on that, he can discuss it a little more and, if not, he will let John (Eastman) go through the Budget.

John Eastman stated in the very front of the packet for Recreation is the Budget Narrative and he would just run through it real quick and then go into the categories. First of all, in the Rec Department they have Parks and they have Rec Department and they are broken down into two different groups. That way members can see the expenditures on the Recreation side which is anything from any kind of kids programs, adult programming and so forth, what has to actually do with recreation. Then the Parks side which is Parks maintenance, trash, things that they do within the Town.

John Eastman stated he has four categories in the actual Recreation line items: Personnel, Facilities, Office Expense and Programs. The first part of the Budget Narrative, in the Personnel, he says that the Personnel line item is up \$6,611.00 due to the merit increase of a full-time/part-time staff. Facilities is level funded, the same as last year which Facilities is anything which they purchase for Whitaker Home Site, possibly Conway Rec, things they have to fix on the maintenance side that's not included in the Government Buildings. Office Expense is anything from phone/DSL, printing - they put out a lot of publications in printing newsletters to the schools and they level funded the Office Expense. On the Programs side, he decreased the Program side of it by \$1,115.00. That was in two

parts; one was a reduction in fuel costs, they were able to save on the fuel costs for their bus which operates throughout the school year to transport kids from Conway Elementary and Pine Tree to the facility in Center Conway as well as their Summer Camp where they go on trips. In the Adult Softball League they were able to save because they didn't have to buy as much equipment. That decreased by \$1,115.00.

John Eastman asked the members to move down under programs to "Parks", again even though they are in the same department, he broke them up. The Parks Budget as far as payroll increased by \$428.00 due to merit increase. The Skating Rink which, if you look at the Parks side, is up to about \$12,000.00, the majority of the increase on the Parks side minus the personnel is the expense to the Skating Rink. The Skating Rink was a new endeavor last year, the funds were raised in two parts: the North Conway Water Precinct voters allocated \$6,750.00 and they've done so for a number of years, he was not sure how many years, but it has been a number and the additional funds were raised through businesses and donations through the North Conway Preservation. This past year in 2013 an independent group put a Warrant Article together, it got on the ballot and it was passed for \$5,000.00 and that's where they have put that in for this year. The operations of the Skating Rink are a little over \$11,000.00 and that's primarily due to just operations of having it open. It's lights, fuel, electricity, gasoline and propane to heat the building and to supervise it. In year's past, the Skating Rink would be open, but it wouldn't be supervised and they supervise it. Every time the doors are open, they have a person there that is to assist and keep an eye on it and make sure that people are abiding by the rules and not being on the ice without skates and so on and so forth.

John Eastman stated on the Revenue, he spelled out the Revenue and as he gets further into it, members will see where he projects every year based on the previous year's numbers as far as the money that they have taken in which then goes into the Revolving Fund. He is projecting an increase in Revenue of about \$3,334.00. That's not the total, but that's an increase over this past year. In the Swim Program, they partnered with Fryeburg Rec Department and they were able to increase their Revenue through them. They charge for the Swim Program, they take money in for that and they also pay Swim Instructors and, in their partnership with Fryeburg Rec, they charged Fryeburg Rec \$800.00 plus their participants also had to pay the fee. That was a win-win for them. Summer Camp fees as far as what they took in for 2013, they are projecting they will take in at least an additional \$2,434.00, give or take, in 2014 based on their numbers of enrollment which continue to go up each year and knowing what their Summer Camp fees are and that's provided that they stay the same at \$150.00 for the summer right now, but that is determined by the Selectmen and whether or not they raise fees, decrease fees or keep them the same. As he said earlier about the Skating Rink, he put out the entire cost, but he also made a note that the additional \$5,000.00 was voted at Town Meeting and the North Conway Water Precinct has contributed \$6,750.00 and they have committed to that every year and he sees no reason as to why they won't do that again in 2014. Although he has to list all of the expenses, the expense to the Town of Conway side is \$5,000.00.

John Eastman asked Chairman Mosca if he would like John to go through each of the four line items of Personnel, etc. Chairman stated he didn't think that was necessary.

John Eastman stated as members are going through the packet, there's a place that says "Conway Rec Department Dues and Seminars - 2014" for \$1,045.00. That is level funded from last year and he believed it has been at least 4 years that they have been able to stay within that for any kind of training.

John Edgerton asked how much is in the Revolving Fund right now. Earl Sires stated he thought around \$30,000.00 and Lucy Philbrick stated she didn't know because she didn't bring that information with her. Earl Sires stated he would get that information to the Committee. John Eastman stated on page 3 he has projected Revenue of what they anticipate.

Dick Klement stated on the first page is he to understand that the Selectmen reduction in the Personnel line and the Programs line equals \$58,000.00 which is the \$58,000.00 you're assuming is coming in as revenue. Earl Sires stated that is correct.

Dick Klement stated he asked this question when Earl (Sires) was sitting in that seat and he doesn't know if anybody knows the answer. There is a lady that sits at the Town Beach and gets a nice sun tan and she monitors boats. Who pays her? John Edgerton stated he could answer that one: Conway Lake Association pays the total bill. There are two people and this year there may be three. Dick stated this is not a Town employee. John Edgerton stated this is one of the few towns in the State where the Lake Association pays for milfoil monitoring. All of the rest of the towns who monitor lakes, the town pays the bill. Dick stated that was good news.

Dick Klement stated you have 12 councilors that you've listed in the summer time at \$9.75 per hour, and he wasn't saying they weren't worth \$9.75 per hour, don't get him wrong, but the Selectmen in their meeting said that the Police Cadets shouldn't be getting \$10.00 an hour, they should be getting some where around minimum wage. He is asking the wrong person and he knows it, but why are we differentiating between summer hires of one type versus summer hires of another type and he guessed that question needed to go back to the Selectmen. Earl Sires stated he would carry it back to them and added that those discussions were in part the opinions of individual Selectmen, not necessarily the Board. He did not know if they voted on that or not, but he would get them to clarify that. Stacy Sand stated the Police are Interns, they are in a training position and they're being paid to train. The Councilors have responsibilities and are working, and she was not saying the Interns weren't doing any work but their principal purpose is a Cadet Training Program. That's the difference. She for one, and she thought other Selectmen, felt that somebody in a training position, most internships that they know of people actually pay to get trained. In this particular case they thought at least they should get something because otherwise they may not be able to participate because most kids around here need to work in the summer time. Stacy asked John Eastman how many kids are the Councilors responsible for. John stated between 125 and 135 per day. Stacy stated they have a lot of responsibility and should be paid more so. Dick asked Stacy if this was her opinion or had the Board actually sat and discussed this. Stacy stated

they actually voted to decrease the Cadet Program to minimum wage; that was a vote by the Selectmen.

Mark Hounsell stated he watched that episode on Channel 3 and was intrigued by it. He thought the rationale that was presented and how each Selectman acted, responded and asked the questions that Dick's (Klement) asking, he was very satisfied with the results.

Peter Donohoe stated on the 2014 Budget Recreation Department under projected Revenue, there are 3 items that are asterisked: Swim Program, Summer Program Fee and North Conway Water Precinct. John Eastman stated he put a star next to them so that if members were looking at the Revenue, it would take members back to the Narrative and he wanted to give an explanation to the Board of Selectmen and the Budget Committee. Those numbers are different than last year's numbers and they based them on what they did in 2013 and the trend. Mike, his assistant, runs the numbers. They have participation numbers, Revenue numbers and all of that throughout the year and that's the conclusion they came to. That's the only reason there was relevance so members could go back and get a written explanation.

Peter Donohoe asked how often are the Revenue items, each of the line items, reviewed for potential increases. John Eastman stated the Summer Program when it comes to the actual children's programs, they are reviewed each year. As an example, early in the Spring he will do a Spring Quarterly Report with the Selectmen and he will meet with the Town Manager and kind of give them his feedback and at that meeting, that's when they talk about the upcoming season, their projected numbers. In September they talked about staffing and they have kept the staffing at 12 because the numbers can support that. He wouldn't say less, but they are kind of right at the peak, but the State gives them credit for insurance reasons by having himself, Mike and other people on property. They review it and talk about the pros and cons if they go up what are the chances that more families will apply for a scholarship, for assistance. They currently have the Friends of Conway Rec Scholarships and they partially helped over 50 families last year based on their non-profit fundraising that they do. That's what they do.

John Eastman stated when it comes to sports programs during the season, they charge \$10.00 for things like Soccer, T-Ball, Girls Basketball, Boys Basketball and really what that \$10.00 does is helps pay for the T-Shirts that they give the kids. They don't really evaluate that. It has been the philosophy of the Selectmen over the years not to really charge above the T-Shirt fee for the actual programs. The Swim Program they look at every single year. They did this past year and they will review it again on whether the fee should go up or whether it should go down. It's usually going up. As far as the adult programs, not to take a lot of time, but their adult programs are charged exactly what it costs them plus 10%. In other words, if it costs \$1,000.00 a team for Adult Softball, they factor in everything from the lights to the Umpires to the grooming that they do on the field to everything. They pay 100% of the cost plus 10%. Members might ask what that 10% is, it takes his, Mike's and some of the staff's time. They update the web site, they put out Rules, he has meetings and so therefore that portion they are not passing any adult costs on to the

taxpayers which he didn't think they should. He thought they have jobs, they enjoy it and they do a lot of adult programs.

Peter Donohoe stated on the Skating Rink, since it's staffed so often, is there any collection of participation at the Skating Rink. John Eastman stated there is; they keep a daily log that the staff will actually write in every day. They do everything from weather, it's an estimate but everybody has a Smart Phone so you can tell what the weather is, the temperature, what kind of conditions and the numbers of people that were there. They do that so at the end of the year he will compile the numbers and put that in a report form, pass it along to the Town Manager and Board of Selectmen. For this year they designed it and set it up for that as a way to say is it worth the money, should we be spending the money. The numbers on the weekends he could tell the members when it's not warm like it was this past weekend before, they had 200 people on Saturday and about 180 on Sunday and they were able to open a day before New Year's which is the first time in 10 years because of the weather. So far it's been very well attended. Night time they've started to close a little bit earlier in the night for a couple of reasons: save on payroll, save on lights. On a school night you get past 6:30 PM/7:00 PM, it dies off, there isn't any one there. They used to stay open until 8:00 PM and obviously if there are people there they will, but they are budgeted for that. They are not going crazy by staying open extra long hours.

Chairman Mosca asked if there had been given any thought to charging people to use the Rink. Earl Sires stated not yet; it hasn't been discussed. Chairman stated if you're getting 1,000 people a year and if you charged \$1.00 a visit. Stacy Sand stated it was discussed at the Selectmen's meeting recently and it was voted down. The Selectmen, the majority are not in favor of putting a fee on the Skating Rink. Chairman asked why should the taxpayers pay for it if there's no income from it. Stacy stated she was not the person who voted against a fee. Chairman asked Stacy to ask that question to the Board of Selectmen. Stacy stated she thought we should charge a nominal fee.

Bill Marvel stated he was just noticing that both the General Fund expense and the Revolving Fund contribution as it were have risen since 2007 at approximately 25%. Chairman Mosca stated 25.2%. Bill stated they are sort of parallel, but over the last 4 years the General Fund contribution has gone up 17.3% and the Revolving Fund has not increased at all. Have you considered that when you are setting your prices, the ratio of basically revenue to tax contribution. John Eastman stated he would have to refer that probably to the Selectmen because they're the ones that set the rate. Lucy Philbrick stated the amount could be changed if there was money in the account. Bill stated if there were more revenue, there would be money in the account.

Maureen Seavey stated she lived in the Precinct and she lives in the Town of Conway. For her to have to pay \$1.00 to use that Skating Rink, she pays both and she feels that it is an advantage. We bring people to this Town, a lot of people make money, a lot of money comes in as revenue to the Town from the stores and everything that tourists use. She can not see even paying \$1.00 for that, especially for someone that lives here and pays taxes.

John Edgerton stated the North Conway Water Precinct is donating the money to keep it going. Chairman Mosca stated right, but that comes out of people's water bills.

Mark Hounsell stated in 2013 at the Town Meeting the voters said we will have a Skating Rink in North Conway. He opposed the idea then and he opposes it now, but that's the rules. We are going to have a Skating Rink. As far as charging fees, he thought if there hasn't been a corresponding increase to fees, it might want to be looked at as something that could be done to offset the impact on the property taxes. He saw nothing wrong with the expenditure side. He thought we have a revenue problem.

Chairman Mosca stated that was his point; he didn't have a problem with the expenditures, but there are a lot of people who use the Rink that don't live in Town, there are a lot of tourists who use it and he didn't think any one of them would mind paying \$1.00 to use the ice. It's a nominal fee, but at least it's something.

Frank McCarthy stated on the front page of the Budget Worksheet Expenditures, the 4 columns, he was just curious, the actual usage for 2013, what date is that figure relative to. Lucy Philbrick stated December 18<sup>th</sup>; there was 2 weeks left.

Frank McCarthy stated relative to the same page between line items 3 and 4, you've budgeted \$1,508.00, you might have already covered this and he just didn't hear it, but you've actually used \$8,937.00. This is sort of a line item Budget, but not the same; what procedure do you have to go through to increase what has already been budgeted and approved. To spend an additional \$9,000.00 on something, what do you have to do to get that number. Earl Sires stated State law provides that it's a bottom line regulation with the State. They can not exceed the bottom line budgeted, raised and appropriated at Town Meeting. If it's \$10 Million, they have to be at or below \$10 Million. There is no regulation pertaining to lines within the Budget or within the General Fund. They do, of course, try to manage that. Members will see as we talk about 2013, there are lines that are significantly over and some are under and the important thing is that it all balances out at the end and they are under the raised and appropriated amount.

Frank McCarthy stated he might be wrong, but they told him the same thing at the County level and it turns out that wasn't true. There are certain procedures that have to be followed to expend more money than what was appropriated and budgeted for. He knows the RSA's are different from a County to a municipality, town, etc., but they're not that different. In fact the word "appropriation" under the RSA's relative to municipalities are even more specific than what it is under a County. He will do some research.

Chairman Mosca stated the voters approve a dollar figure. The Town Manager through the Selectmen basically divvies up the pie so some departments may get more than their Budget, some may get less than their Budget, but as long as the bottom line is met and not exceeded that's the way it's done. Frank McCarthy stated he understood. Chairman stated he thought that was what Earl (Sires) was saying even though Rec asked for \$324,000.00 last year, they could spend \$350,000.00 as long as somebody else was under by

that amount. As long as the total bottom line doesn't go over what was approved, they can move money between departments, between line items and it's perfectly legal as far as he could tell.

Mark Hounsell stated you said it all.

John Edgerton stated line 7 should be \$397,622.00 at the bottom. What they are saying is that the Selectmen approved it except for what they are going to add back in and it should be total expenses. The last page goes \$339,622.00 plus \$58,000.00 comes up with a figure of the request on line 5 and that's exactly what they are asking for. Shouldn't it be the same? Earl Sires stated he believed that was the point he was making at the beginning of the meeting. John asked shouldn't line 7 also read the total. Earl stated no, this is just the General Fund; all of the expenditures out of the General Fund are in the Operating Budget Report. There's the additional \$58,000.00 that's carried in a separate accounting fund apart from the General Fund. That's what he was trying to make sure everyone understood because it is confusing. They are going to work this year to try to make it a little more straight forward.

Frank McCarthy stated then all of these past Budgets and if you look at the draft page, in 2011 there was \$58,000.00 in the Revolving Fund so you could add \$58,000.00 to all of these, is that correct. Earl Sires stated if you wanted to get the total expenditures for Rec you would do that. Imagine two different checking accounts paying for Recreation, they have to be separate accounts. That's why he wanted to make it clear right off the bat that the total we are talking about is the \$397,000.00. John Edgerton stated but you are raising the money.

Chairman Mosca stated concerning the Skating Rink, in the Budget Narrative, the total projected expenses are \$11,004.00. Is that for this year? John Eastman stated yes because January, February and then December. Chairman stated when he flipped the page and adds up all of the numbers for the Skating Rink, it comes to \$11,600.00 rounded. He was wondering why there was a difference, but that answers that question.

Chairman Mosca stated his other question was on all of the asterisks because he couldn't figure it out, there were 12 of them all together and he couldn't figure out how they all tied back to the Narrative, but if you tell him they do, they do.

Chairman Mosca asked on the Whitaker Home Site Utilities, why is that one higher, more than double, than Schouler Park. John Eastman stated because of the Adult Softball Leagues that play there. They use the lights 4 nights a week from the first week in June until the end of October, but they charge for that too. He put that in the expenses so that the members could see that.

Chairman Mosca stated he knew this was going to sound trivial, but we have 8 Port-a-potties from July to September in Schouler Park. John Eastman stated yes. Chairman asked where are they located. John stated right behind where the bleachers are from the 4<sup>th</sup> of July because they contract and get close to 18. They don't want to keep 18 there, but if they get a Port-a-potty for one day or 30 days, it costs the same amount of money. From the 4<sup>th</sup> of July he keeps more there because they just get more use.

They kind of fluctuate a little bit; sometimes they get complaints that's there are too many, it might smell and so on and so forth. They try to balance the aesthetics of it with the necessity to have something there for the public. Chairman stated when he was looking at the numbers, he just couldn't believe that there were 8 there.

Chairman Mosca stated he had a question on how people were paid, but that was already talked about. The Rec Department 2014 Budget - Personnel page, says the Assistant Director salary 80 hours for 20 weeks. Is there one Assistant Director or two? Is it one person that works 80 hours. John Eastman stated it's actually 80 hours, it's not 26 weeks, it's 26 pay periods. They get paid bi-weekly. He could have put it as 40 hours for 52 weeks, but it's 80 hours for 26 weeks because that's how they get paid.

Chairman Mosca stated for the Rec Center, if he adds up all of the numbers for the Teen Center, it's about \$65,000.00 is what it costs us. It's open just the school year, right, September to June. John Eastman stated it's open September to June. Chairman stated and it costs us \$65,000.00 to run it. John stated it was accurate. Chairman asked how much use does it have; he was trying to justify the \$65,000.00. John stated it's open 4 days a week, Wednesday through Saturday, they are open on weekends and they get any where from 20 to 35 a night and that's Grades 6, 7 and 8, Middle School age.

Earl Sires stated just a little background on the Teen Center. As a lot of people will remember 4, 5 or 6 years ago, it was actually proposed that we reduce the hours of operation, the nights of operation and that would have created a half-time rather than a full-time position and would reduce that cost by he thought \$20,000.00 to \$30,000.00 a year. The voters at Town Meeting put that funding back in as support for the Teen Center. That is there due to recent voter action.

Steven Steiner asked if he could get a detailed breakdown of the \$11,004.00 and how they got that number. John Eastman stated if members go to the Parks line for Personnel and to answer your question the answer is yes. John stated on page 2 for Parks and look at Personnel, look at Skating Rink. He actually breaks it down by hours; it's based on the hours of operation and fuel, heat, electricity and supplies. Steven asked if it was the first 5 items and John agreed.

Peter Donohoe stated he had one more question. Under the 2014 Budget Recreation Department, line K, Trail Grooming for Whitaker Woods. There is a line item there for \$3,000.00. Is that what the Town pays to Mount Washington Valley Ski Touring for winter grooming. John Eastman stated that is correct. Peter asked how did they arrive at \$3,000.00 for a figure, is that just every year it's been \$3,000.00 or is it a percentage of the total. Earl Sires stated it has just been the number that has been used. The Town contributes \$3,000.00 and the School contributes \$4,500.00 because there is some particular grooming for races and that kind of thing. That's just been the number that they've worked with since he has been here.

Bill Marvel stated he just wanted to observe that at the price you quoted for the Teen Center and the numbers John (Eastman) quoted, between 80 and 140 visitors a week for 26 weeks. John Eastman stated it runs over 43

weeks. Bill stated that will bring it down a bit, but it was well over \$20.00 per visitor. John stated he stands corrected, they are budgeted for 47 weeks, they are open 47 out of 52 weeks. Bill stated that would probably make it between \$13.00 and \$14.00 per visitor.

Frank McCarthy stated he wanted to go back to his question and he understood everything Earl Sires said, but his question was what did he (John Eastman) have to do in order to over spend a line item. Earl stated he would know about that before John would. Frank asked if John had to get permission from somebody in order to do it. Earl stated yes, from him. Frank stated that answers his question and, in other words, it's on Earl's shoulders and not John's. Earl stated yes, it is.

Dick Klement stated as with everything, the benefits costs for the employees are in the benefits section of the entire Town, correct. Earl Sires stated yes. Dick stated so the true cost of your personnel is probably 30% more than what is listed here and that would go for every department. Earl stated that would go for most departments.

Maury McKinney asked if the merit increases in the Recreation Department were consistent with the rest of the Town; is that a standard policy. Earl Sires stated yes.

Chairman Mosca thanked John Eastman for coming in.

#### Police Department

Rodney King, Police Commissioner, Chief Ed Wagner and Lt. Chris Perley presented to the members. Mr. King stated he thought he would do a review of their Budget. Their total Budget is up \$244,851.00 or about 7%. The breakdown on that is their Labor is up \$46,091.00; the Benefits are up \$179,655.00 which is about 76% of the total Budget increase; Professional Liability is up \$25,000.00; Health Insurance is up \$117,080.00; Retirement is up \$54,730.00 due largely to a rate increase that took effect July 1, 2013 as part of the downshift of the cost that was approved by the State Legislators; Operational Budget is up \$2,200.00 and that's for building maintenance; and Vehicles is up \$9,904.00 and that's the cost to outfit the two new cruisers because the Crown Vics that will be replaced, one has a 197,000 miles on it and it is a 2008, the other one is a 2004 with 160,000 miles on it.

Mark Hounsell stated to Lt. Perley that some time ago, a few years back and he wasn't sure how many, Lt. Perley might have stated, and that's if he is remembering right, something to the effect that the Conway Police Department, the force, may have to be as much as 34 in personnel. Lt. Perley stated that is probably pretty close to right, yes. Mark asked if he still held to that. Lt. Perley stated based on the data that was used years ago, yes. If you wanted to utilize the principles that they applied in that analysis then the answer was academic and he thought the total was 34 in the Patrol Division with the information that they used and the assumptions that are within that formula or model or process that one uses. Yes.

Mark Hounsell stated he likes the make up of the Board that we have and he trusts that their work is spot on. He has looked at it and he can't find

anything other than the same thing that we all suffer and that's the health benefits. Do you hold to Lt. Perley's position that we need 34 people eventually. Rodney King stated this is his fourth year as a Commissioner and he believes that currently they are doing adequate work with the number of Officers that they have. He thought with the change of every day living in this Valley between the murders and the robberies and the drugs, it's amazing. He didn't think people realized what exactly transpires in such a small little town because he could tell people that he was just appalled at the number of cases and the number of calls that they service on a daily, yearly basis.

Dick Klement asked for an explanation as the Selectmen apparently cut their Labor by \$25,000.00, the Benefits by \$55,000.00 and the Vehicles by about \$10,000.00, what did they carve out because he can't see it. Chief Wagner stated when he presents his first Budget, he doesn't have all of the facts and figures in yet, so he wouldn't necessarily say the Selectmen cut \$25,000.00 out of his Budget. He has to project what the raises might be and they came in less than he had projected. Same thing with the Vehicles; they were able to purchase some radios this year that they needed and that they don't have to put into the new cars next year, so he took out \$10,000.00. He wasn't sure what the other was. Dick stated the medical insurance went down. Chief Wagner stated medical insurance did go down. He thought he budgeted/anticipated a 15% increase, so that's how that happened.

Bill Marvel stated the Dispatcher line is 10% greater in your requested Budget for this year than last year. Are you adding someone? Chief Wagner stated they are not. Bill stated it's 10% greater than the actual he should say. He noticed that it fluctuates quite a bit. It was \$297,000.00 spent last year and you're asking for \$328,000.00. Chairman Mosca stated that \$297,000.00 was with two weeks left to go in the year and any incidentals. It is probably more than the \$297,000.00, but he didn't know what the exact number is. Lily Gilligan stated the total spent for Dispatchers for 2013 was \$318,611.00. Chairman asked if that included overtime or was it just straight time. Ms. Gilligan stated the overtime line is \$7,398.00. Chairman stated so they over expended. Bill stated so that's \$21,000.00 in two weeks or was there something that was paid at the end of the year. Ms. Gilligan stated the 18<sup>th</sup> is not the true version of having two weeks left.

Frank McCarthy stated on the same page at the bottom line in 2012 \$1,000.00, 2013 \$1,000.00 and this year the actual is zero and next year you are requesting \$15,000.00. Chief Wagner stated that's what's left over in the 2013 Budget, the \$1,362.00. In 2013 Budget Merit Account it says \$1,362.00, that's what's left out of that line. The Merit Account gets distributed into other lines within their Budget. Frank stated line 3 is what was budgeted, line 4 is actual usage and that's zero, but yet you have requested \$15,000.00 for this year. Chief Wagner stated he was not sure why that is like that but he could tell the members that in 2013 they budgeted \$14,259.00. Lucy Philbrick stated it started out at \$14,000.00 and money is transferred from that expenditure line to the other wage line for the merit increases that the Officers and staff received in November. The original appropriation is reduced and the salary lines are increased by the same amount.

Rodney King stated what she (Lucy Philbrick) is saying is that there is money set in there so that in November when the Officers get their annual review, the money for their raises comes from there and is transferred into the Labor line. We have to have that money there so that there is a place to take that money in November so that they would have their increase. He doesn't know why it doesn't say \$14,000.00, the original amount they asked for, but that was the original amount.

Frank McCarthy stated if you say that then it should have been used in November. Rodney King stated it was. Frank stated according to this it says actual usage was zero. Lucy Philbrick stated it was used by transferring the amounts into the other wage lines: Regular Officers, Prosecutor, Dispatchers and the secretaries.

Chief Wagner stated what he thought Frank (McCarthy) was seeing there was that the \$1,362.00 is what was left out of the original appropriation. All of the other money was transferred to the Regular Officers line, Prosecutor line, the Dispatcher line and the secretary line. Chairman Mosca stated it's just the way the accounting is done. Lily Gilligan stated this might help. She has the expenditure sheet that shows the original Budget and the Budget sheet shows the adjusted budgets so the original Budget, first line, Regular Officers was \$1,295,069.00 and if you look at the Budget book it says \$1,304,352.00. That merit account bumped up the Regular Officers Budget line and reduced the Merit Account so they offset each other. The money is still in there in the bottom line of the Labor account, it has just been moved within lines. It is similar to how you asked the Rec Director why didn't he move money around and get authorization to over spend in specific lines. Is that helpful?

Frank McCarthy stated he understood what Lily Gilligan was saying, but it is awful confusing to have a Budget that way; it doesn't mean that, it's left over, that's what we budgeted. Actually you used \$14,000.00 even though it says you used nothing.

Dick Klement asked if the Committee was going to get the answers to the questions submitted. Lt. Perley stated yes, he has them tonight.

Maury McKinney asked this time last year how many Officers did you have. Chief Wagner stated 23. Maury asked how many do they have today. Chief Wagner stated 23. Maury asked more work, same work. Chief Wagner stated he actually thought that the arrest total was about 10 more than last year. Maury asked how many Officers were added from last year. Chief Wagner stated none. They've had people leave and have had to fill in, but they have not added any more Officers. Maury asked how many Officers have you lost. Chief Wagner stated they lost 3 last year. Maury asked if they have been replaced. Chief Wagner stated two of them are at the Academy right now and they are down one. Maury stated in terms of recruiting, training and retaining, how are we doing. Chief Wagner stated not bad; one retired so you can't fault him for leaving and two of them resigned and he thought both had about 13 years on and they got out of police work all together. Maury asked how's morale. Chief Wagner stated there was a lot of overtime spent last year. They were down 3 people pretty much the whole year and a lot of overtime and although people like money, they also get tired. Maury stated off the top of the Chief's head is it more expensive to add 2 Officers or to pay the overtime. Chief Wagner stated he thought the answer

was the same. The people like the overtime, but eventually they just get tired and they can't do it any more. If you are asking if overtime is cheaper, yes it is cheaper, but like he said the guys get tired, they work around the clock. If someone works a Midnight shift and then have to stay over until 11:00 AM, if you've never worked Midnights you really don't know how tough it is to work at 11:00 PM to 7:00 AM and then find out that somebody didn't come in and you have to stay until 11:00 AM. It's very tough, so they do get tired.

Bill Marvel stated he guessed years are running together on him; was it 2 years ago that we approved the new Officers, how long ago was it. Rodney King stated they have had a few Officers leave over the last few years so it seems like they can never be fully staffed. Actually he thought last December when they came here or the beginning of January, he thought they were fully staffed for about 30 days and then someone left so they started all over again the next year in the hole and it didn't get a lot better until the latter part of this year and now they are back fully staffed.

Mark Hounsell asked didn't the Town vote have the Police Department get some federal money from the Justice Department a few years ago, wasn't that a vote. What became of that? Chief Wagner stated they actually finished ahead, it's a competitive Grant, of some of the towns down south, i.e. Manchester, Londonderry, but they did not receive the bid.

Frank McCarthy stated he was just curious, but he knows in past years they were having a problem with training Officers, having them be there for a couple of months after they had been trained and then finding jobs some where else where they get a little more money. Is that still happening? Chief Wagner stated he didn't think so. The last person that they hired that left before their initial 2-year Contract was up had a significant other that couldn't find a job up here so went back down south and got a job which he regrets by the way. He thought they were doing a good job at keeping people now. Their pay is pretty competitive and their benefit package is fairly competitive and their time off package is really good. He thought for the most part and, like he said, they had two just get out of police work this year. He did not know why they decided to get out, but they did and then one person retired. He didn't think that they were seeing that revolving door like they used to. Lt. Perley stated there is a substantial cost to the employee if they leave before their Training Contract is up. When they hire somebody, they have to sign a Training Contract that says they will stay for an extended period of time or pay the Police Department a significant sum of money for the cost of training, uniform and equipment. It's a disincentive to them to leave after two months, that never happens and if it does, their Equipment line and Labor line is refreshed considerably.

Chairman Mosca stated on Professional Liability Insurance, can someone explain the 56% increase. Lucy Philbrick stated originally when she had calculated the professional liability she had made a mistake in their department and she had made a mistake in the Town's department and the Town's went down considerably and theirs went up considerably when she calculated it correctly. Chairman thanked Lucy and stated that's a good way to cover for them. Lucy stated it wasn't that at all.

Chairman Mosca stated on Medical Insurance, he thought the Town went up 10% or 12%. Earl Sires stated 14%. Chairman stated the Police is going up 26%. Chief Wagner stated the cost of the insurance went up 14.2% and they also had, he was going to try to count them off the top of his head real quick, he thought there were 5 or 6 people that changed during the year. They had a family come on that was on with some one else so that's a whole Family Plan. They had another person go from a Single to a Family. They had a couple that went from a Single to a Two-Person so there were changes in the coverage also. Chairman stated he wasn't going to touch that one.

Chairman Mosca stated his only other question is on the Prosecutor line item and his question is either going to be to Earl (Sires) or to Stacy (Sand). Why did the Selectmen give the Police more than what they asked for? He knows it's only \$99.00, but is it a typo in the book. Chief Wagner stated that is just another adjustment that he made when he calculated the first raise, it's just a calculation error. Chairman stated that's the only one he found where the Selectmen actually gave more, so he does read the book.

Maury McKinney stated on the Equipment line for \$10,000.00. He remembers last year when there was a Warrant Article for the Equipment, he still feels like the Police need the best equipment out there. Chief Wagner stated that Equipment line purchases a lot of stuff; anything from something that is as little as a magazine pouch to maybe bullets to if a gun breaks they can purchase a new gun. That's the type of stuff that it covers. Speaking on that line, they just got a really good deal from, because he originally put new service weapons in that Revolving Account last year and they just got a really good offer to outfit the Patrol Units with Glocks, outfit the whole department for about \$1,500.00. That would come out of there. That's the type of stuff that it covers. Maury asked if there would be a Warrant Article for this year. Chief Wagner stated there is not; it wasn't really supported last year.

Mark Hounsell stated you bought 20 Glocks for \$1,500.00. Why are you in this business? Chief Wagner stated we are in the process. They are taking theirs in on trade and taking some trades on some old service weapons that they have floating around. Maury McKinney asked if that was something that they could count on every couple of years, every year. Chief Wagner stated no, he thought the only reason they are doing it is because Glock wants to get in the area so they are giving them a real good deal on new service weapons and theirs are about 8 years old so it's about time.

Frank McCarthy stated last week we brought up something about Contracts and something was said that we might get copies of them. Is that still in the works? Chairman Mosca asked if Frank wanted all of them because he could get them. Chairman has most of them from last year, other than the ones that are new this year, but he could get them for Frank, yes.

Rodney King stated he hated to do this, but he was pretty sure that Lt. Perley needed to answer some questions. Lt. Perley stated this Committee submitted 5 written questions and he has those answers.

Danielle Santuccio asked why are we being so easy on these guys? Chairman Mosca stated he didn't know and that he loves listening to Lt. Perley talk. Rodney King stated maybe they should just hand the answers in and

members could ask questions afterwards if they have more. Lt. Perley stated he would rather not come back. This Committee asked them, he'll answer them. For the record, this Committee submitted 5 written questions from the Budget Committee regarding a variety of subject matters and he has those answers here. He will read the question that was submitted and then the answer and then will take any questions on the answer and move on and if there are any general questions or ancillary questions at the end, feel free to ask them.

Lt. Perley read Question #2: How has the new Prosecutor helped the Conway PD?

**Answer:** The utilization of a civilian attorney for the position of Prosecutor has been a positive benefit to the Town of Conway. The switch allowed us to reassign a sworn officer back onto the street to replace a retiring Sergeant. This saved us time and money by seamlessly filling a supervisory position and brought courtroom experience to the street where it can be utilized in real time.

Additionally, the employment of a licensed member of the NH Bar ensures that traditional and emerging legal matters are handled professionally protecting both the interests of the State and the rights of the defendants.

The specific benefits of employing an attorney are: more effective legal research techniques, broader base of legal knowledge and principles garnered from years of practicing law, a more balanced view in the administration of justice. It may come as a shock, but the Police see things a certain way; lawyers may have a broader view of things when it comes to Court.

The specific benefits of our Prosecutor are: more effective legal writings, connectivity to the legal community, communication skills with officers, courts and the defense Bar, high capacity to handle workload, organizational commitment, credible legal training, and a semi-autonomous perspective both internally and externally.

As a budgetary consideration there is a substantial savings in having a civilian attorney hold the position due to the impact of retirement rates on overall costs. The cost of participation in the retirement system by the Town, as it applies to Police Officers, is 25.6% of the Officer's salary. The cost for civilian employees is 10.77%. At current pay grades this equates to approximately a \$10,000.00 savings in retirement costs in a given year. Exponentially expand that over years of service and you have considerable savings.

Mark Hounsell stated the Prosecutor is a civilian who works and answers to the Chief, right. Lt. Perley agreed. Mark stated you have that in other situations where you have civilians so that in itself is not unusual. Is this a position that should maybe be elected? Chief Wagner stated he

didn't know. Mark stated we have a County Prosecutor and that's an elected position. He was just wondering that's all.

Dick Klement stated he has noticed in the paper and that's his source of information, be that accurate or not, but there seems to be a significant number of plea bargains where an individual has a suspended license, has alcohol in the car, may or may not have drugs and who knows what else and he wasn't sure if this was the Prosecutor or the judge and the individual is found guilty of alcohol, given a \$300.00 fine, a suspended jail sentence and the other items are scratched. During the summer time we had an individual from Massachusetts who used to be a Policeman who became a Fireman who became an itinerant he guessed decided to do a u-turn in Tamworth, come screaming up here, went through the nail strips and knocked down a telephone pole. The cost to the Town and whomever to replace that telephone pole is not under the \$1,500.00 that the bail was. Why would a Prosecutor go forward, assuming this was our Prosecutor, and not ask for bail in the amount of what it would cost to fix the problem. If the person just takes off and runs back to Massachusetts and becomes an itinerant down there.

Lt. Perley stated it was easier when you broke that one question into the two written questions that are following. You've already asked those questions and he has answers for them, but that's two whole answers for two whole questions. Dick Klement stated he would shut up for the moment. Lt. Perley stated he would answer all of those questions, but those are two specific questions you've already asked and he has answered them and he will let the members know what the answers are because that would be a really long answer.

Lt. Perley read Question #3: How many pleas have been accepted which reduced sentences (numerical and percentage). Do we consider this number excessive? Please explain.

**Answer:** The nature of any plea negotiation is the exchange of consideration from one party to the other to obtain a resolution of the charges. We exchange something of value for an agreement to relieve the State of its burden to prove, beyond a reasonable doubt, a person's guilt. The fact that a plea is taking place, as opposed to a trial, is evidence that an exchange of consideration has taken place. In all cases, for a plea to occur there has to be an agreed upon reduction from the maximum allowable sentence or there is no inducement to relieve the State of its burden. Plea agreements are a guarantee that there will be a measure of accountability for a Defendant's conduct. Any trial lawyer will tell you that a plea with a reasonable sentence is more desirous than the uncertainty of a trial.

Plea agreements are also more cost effective. A trial court has only so many hours in a day to hear cases. A Prosecutor needs to apply discretion to those run of the mill cases that can be handled with reduced sentences so that the most serious cases can be heard if there is no agreement. To put that into perspective, the Conway Police Prosecutor, he did a little analysis of two other departments: Wolfeboro and Littleton; Littleton because it's a city and Wolfeboro because it's a

vacation town. He looked at 2010, 2011 and 2012 because when he was preparing the information they didn't have all the data for 2013. In 2010, they arrested 861 people - that's people who get locked up and have to come to Court. Wolfeboro arrested 347 and Littleton arrested 423. It is more than 2:1. In 2011, same ratio existed; we had 841 to Wolfeboro's 401 to Littleton's 359. In 2012, we had 818 to 466 to 409. Now you add to that the Summonses that they write; they write any where from 650 to 700 tickets a year. Those tickets require people who plead "not guilty" to have a face-to-face meeting with the Prosecutor for what's called a Pretrial Conference. If you plead "not guilty", you have to meet with the Prosecutor at Court to discuss some alternative, maybe they are going to go to Driving School or pay a lesser fine or something. That law passed in 2011. They had 10 Pretrial Conferences in 2011 and they had 240 in 2012 because that program had just started. In 2012, the Prosecutor had to meet face-to-face with over 1,000 Defendants either for a traffic ticket or a criminal matter. He just wanted to put it into perspective the sheer volume of the work.

The statutory construction of our laws has not only encouraged reduced sentencing but specifies it in some cases. Examples: Violations, misdemeanors and felonies all have a range of sentencing by statute. Offenses are often punishable by "up to" certain penalties but not mandated as a specific penalty. For instance, DWI first offense is a B misdemeanor which is punishable by up to a \$1,200.00 fine and 2 years loss of license but the minimum mandatory, specified in law, is a fraction of that (\$500.00 and 90 days Loss of License). Because few sentences are mandated or fixed at the maximum, the construction of all our laws encourages negotiation for something reasonable within those parameters. You've said that you see a lot of complaints that may be they're dismissed in exchange for a plea and he will explain how that happens or why that happens.

What primarily drives sentences up are aggravating facts such as a serious injury, recidivism, and the heinous nature of the crime itself. All sentences are subject to approval or rejection by the final arbiter on the matter, the judge. Judges are by design, independent and take many factors into consideration over and above the recommendations of the State.

The Conway Police Department also has a practice of applying the "Split Proof Theory" or "Alternative Proof Theory" with charging decisions. Simply put, when applicable we often elect to charge a defendant with two or more offenses of a similar nature. An example would be in a case where there was a police pursuit of a drunk driver, very similar to the case Dick (Klement) used in his earlier question. We would charge DWI, Disobeying a Police Officer (the pursuit) and Aggravated DWI (driving drunk while fleeing the Police). This gives the Prosecutor the maximum number of charges applicable to negotiate from a position of strength and to hold the offender accountable. Double jeopardy rules prohibit the Defendant from being convicted of all the charges because some would be considered "lesser included

offenses". As a result you may see the charge of DWI and Disobeying dismissed but it is as a result of the Defendant pleading guilty to the aggravated DWI which incorporated the pursuit behavior and the impaired driving.

Many factors effect pleas and plea negotiations. Witness availability (that's a big one), judicial standards, potential constitutional legal issues, and even victim reluctance can all be major factors in a Prosecutor's mind when deciding what to offer for a plea. We do not keep statistical data on plea negotiations but have no sense or feedback that they are excessive. In every case, it is always the prerogative of the Defendant or their legal counsel to decide whether to plead guilty or not guilty. The State does not control that component of the adversarial justice process and can only suggest a disposition that may be a factor in the Defendant's final analysis.

Bill Marvel stated is it really fair to array a battery of charges against someone in the hopes of making something stick. Lt. Perley stated it's fair and smart. Bill asked what if the initial offense the Defendant turns out to be innocent of. Lt. Perley stated then they would be acquitted. Bill stated unless he plea bargained because there were 7 charges against him. Lt. Perley stated as he said ultimately the Defendant and their legal counsel if they have it and they often do especially when they have serious charges and if the person was indigent with a scenario like that pursuit, they would have a Public Defender because some of them are jailable offenses. The person gets good legal counsel and ultimately makes the decision regardless of penalty, could be there is very little penalty or great penalty whether to plea "guilty" or "not guilty". We can't control that, we can only suggest or recommend and ultimately the judge is the final arbiter of what is fair in a sentence. It is not unfair to list all of the things that a person did that violates statutory law. That's not unfair, that is accurate and effective police work.

Lt. Perley stated here's the down side of the alternative, now you know what we do here's the alternative, well you know what we're really interested in is the DWI and we'll just charge him with DWI and let the chips fall where they may because you know what he's got to be feeling bad about what he did and that's really what we want to resolve and they get a Len Hardin from Coos County, expert DWI Prosecutor and he says "kid, you're in luck, they didn't charge you with disobeying, they didn't charge you with aggravated DWI; we've got one bullet to dodge, let's go for it". You would see more trials because they would have less risk at trial. Chief Wagner stated we don't make any of those charges up.

Bill Marvel stated it does seem silly to charge someone with resisting arrest for declining to sit down. Lt. Perley stated you couldn't charge somebody for resisting arrest for declining to sit down, but you could charge somebody with resisting arrest for physically refusing to comply with your lawful movements or things that you are doing; like if they pull away from an arrest or if they push or they shove or they use their body weight against you. They wouldn't charge somebody for not sitting down.

Frank McCarthy asked how about for disobeying an Officer. Lt. Perley stated disobeying an Officer by statutory construction means failing to stop for the blue lights and sirens. Obedience to an Officer is a violation because if he told Frank to go down Main Street and Frank went the other way because there's a crash or something like that. They would charge if the individual did that or give a strong talking to, depends on the circumstances.

Mark Hounsell stated he wanted to follow on the vein Bill (Marvel) just brought up, the separation of a Prosecutor, and he speaks of no individual or no Board or no person at all, he's talking about any community even if he had to say this up in Colebrook, isn't it in the best interest of justice versus budget to have the Prosecutor elected or some how installed separate from the Police Officers who, as you (Lt. Perley) say, wisely use a method that is accepted to the profession but not necessarily one that delves out the justice that we seek in certain crimes. In other words, has it become too much game playing and not enough sitting down discussing this is what you did and this is what you're going to do, deal with it. Lt. Perley stated his personal opinion on elected versus appointed Town Prosecutor would be very similar to his position on elected versus appointed judges. He thought that appointed judges can serve pure interest of justice because they do not have to pander every election cycle to public favor. We don't elect Supreme Court Judges and that's why. He didn't think we should elect Prosecutors at Town level. Danielle Santuccio stated she agreed 100%. Mark stated he didn't disagree, but he wanted to point out one thing, the best definition that he ever heard of a judge in New Hampshire is a lawyer who knew the Governor.

Lt. Perley read Question 4: Are we demanding remuneration in every instance where town costs are involved (example: summer 2013 vehicle chase and accident result in loss of electrical service in Center Conway).

**Answer:** The controlling statutes involving compensation to the State, whom they represent, for any loss associated with a crime are first and foremost controlled by NHRSA 651:63, *Restitution Authorized*. Now 651 is the sentencing chapter in the Criminal Code. When you charge somebody with a crime, you are bound within the Criminal Code. This statute, found in the Criminal Code defines victims, economic loss, offenders and restitution. Paragraph III(c), is the only applicable section when the State is a victim and that relates to restitution for the value of damaged or destroyed property. In cases where a defendant has destroyed Town property, we always ask for restitution back to the Town. It could be a torn mattress, a kicked out cruiser window, a torn up uniform, all that stuff and they regularly ask for restitution for that.

The question by the Budget Committee seems to suggest there is another mechanism for cost recovery associated with actions by the Government. There are two statutes currently in effect for this, but they are dealt with in a separate and distinct manner apart from criminal prosecutions. The one that most recently has caught the attention of the media is NHRSA 206:26-bb, *Search and Rescue Response Expenses; Recovery*. This is the negligent hiker statute and it is available exclusively to the Department of

Fish and Game. The language in the statute talks specifically about the division; they are not a division of Fish and Game. The other lesser known and understood statute is found in Chapter 153-A, *Emergency Medical and Trauma Services*. NHRSA 153-A:24, *Responsibility for Public Agency Response Services*, which went into effect in 1999, contains language that appears to allow the State to recoup costs associated with almost any action by the police. The difficulty with this statute is that it is not incorporated by reference or inference into the restitution chapter. Attempts to utilize it back in 1999 to recoup costs associated with DWI arrests failed because it is not authorized as a sentence component in criminal court. That statute says you can ask for it, but the judge says "but it doesn't say you can ask for it in this venue" was the upstart of it.

In order to recoup costs by way of NHRSA 153-A:24, a separate civil action would have to be undertaken by the Town. In short, we would have to sue the defendant, involve legal counsel, and afford all the rights available to a person in civil court. This may be an undertaking that the Town of Conway wants to explore as a source of reducing costs or of getting remunerations, but it would be a policy matter, and the responsibility of the Board of Selectman, not the Police Department Prosecutor, she is a criminal Prosecutor and deals with criminal statutes.

Bill Marvel asked what sort of costs were you talking about in that last 1999 statute that doesn't work; what sort of costs would you try to recover. Lt. Perley stated they try to recover the Officer's labor costs, try to recover paperwork costs, all kinds of things. When that statute came out it was designed to underwrite expensive SWAT calls and the rescue costs for standby on SWAT calls back in 1999 and the Legislature kind of dove tailed language in it that says "and any other action by the police" which any other action is all actions. That's not ambiguous. In 1999 he was the Prosecutor and they did try to recoup costs; they had breakdown sheets of the costs associated and the judge's conclusion was that statute language allows it, but this is the wrong venue; you can't recoup it through restitution in a criminal matter because restitution is controlled by RSA 651 and it's not incorporated by reference or inference. Right church, wrong pew so to speak.

Frank McCarthy stated in that same light if an amendment was brought forward down in Concord to add one to the other so that it is referenced, would that help. Lt. Perley stated it certainly would take away that jurisdictional argument that defense attorneys use to kick the statute out of the park. If it was incorporated into RSA 651, the Restitution statute, it would at least be in the right venue and the right statutory construction because that's the Criminal Code. Would it be realistic in application? You can't squeeze blood out of a stone. This may come as a shock, but a lot of people that cross paths with the law are indigent, they make bad decisions in a lot of areas of their life and breaking the law is one of them. There's not a lot there and it would be up to the judge to award it. Maybe sometimes they would and maybe sometimes they wouldn't. It certainly would take the jurisdiction argument away. Frank

asked if Lt. Perley was for or against it. Lt. Perley stated he didn't know.

Dick Klement stated the reason he asked the question is a budget reason. If you look at some of these cases, a person shoplifts and they're required to pay some Court costs and \$49.62 back to wherever they stole the thing from, but here we have this specific case where this individual who rammed into a telephone pole, somebody has come up with \$30,000.00 to replace that pole and everything that has to do with it. Lt. Perley stated often times insurance companies settle that or the power company, we don't own the poles, the power company may get a report and sue the person, he didn't know but they do it somehow. Dick stated when the judge came in and the Prosecutor came in and there was discussion about bail, his concern is that this person is just going to leave and forfeit the \$1,500.00 and then of course there'll be a Bench Warrant and then you've got to find him.

Lt. Perley stated there's two things that control that issue that you've just raised. The New Hampshire statutes that are encapsulated in RSA 597, the Bail section, that chapter tells you what you can and can not ask for bail for a variety of offenses. Now, it doesn't tell you the number but it tells you the rules when you're dealing with bail. He can state what's not in that section, RSA 597, what's not in it is the cost associated with the offense a person's charged with because the underpinnings of our whole system is that the person is innocent until proven guilty. You can't have an assumption that they're going to have to pay a bill when the base line assumption is they're innocent.

Dick Klement stated so from a Town cost perspective, the taxpayer cost, the taxpayer is responsible for the Police labor during that time. The pole was down, traffic was re-routed and he was sure there was labor costs involved, there were people without electricity and hopefully nobody was on a defibrillator or whatever at their home requiring something, but we're eating that cost, the Town is eating that cost. Danielle Santuccio stated that's why we have a department. Lt. Perley stated we don't eat the cost of no electricity. Dick stated he understood that, but the townspeople are eating that cost for somebody coming in and not being responsible to take care of things. The whole thing is that people have grown up in the past 10 or 20 years and they have no consequences, they're not responsible for anything, but that is not a budget issue. He just wanted to get the money back.

Chief Wagner stated we don't set bail either, nor does our Prosecutor set it; it's set by either the judge or a Bail Commissioner. Lt. Perley stated he didn't think anybody could sympathize with the spirit or tone of your (Dick Klement) frustration more than the members of the Conway Police Department when it comes to the volume of offenses that they deal with, bad things that happen to good people and the difficult burden to eat out some semblance of justice. He can tell the members that every one does not get away with everything. Sometimes it feels like that, but he knows that was a concern of Dick's and he checked with the Jail and on the 9<sup>th</sup> of January there were 64 inmates in the Carroll County Jail system. For 2012, he didn't have the numbers for 2013, the Carroll County Jail booked in 865 inmates in the course of the year. He thought he could say without fear of contradiction none of them were voluntary; that's 865 people in our county that went to jail for one reason or another, whether overnight or for the

whole year, that is a level of accountability. Is there 100% accountability? No there isn't, not in our system of justice and certainly not in our community, but he thought maybe that's why they call it a pursuit of justice because you are always chasing it.

Lt. Perley read Questions 5 and 6: Number of 3<sup>rd</sup> or more convictions for DUI? Number of permanent license revocations for 3<sup>rd</sup> DUI?

**Answer:** There are only two types of DWI charges in the State of New Hampshire and he's talking legal construction. The first is DWI First Offense; the second is DWI Subsequent Offense. The charge is not really broke out as a 3<sup>rd</sup>, 4<sup>th</sup> or 5<sup>th</sup> or a 10<sup>th</sup>. It's DWI First or DWI Subsequent. The penalties vacillate between high and low depending on how many you've had. Neither the Conway Police Department nor the District Court keeps statistical data on whether the Subsequent Offense is a second, third, fourth or greater. It is simply tracked as a Subsequent Offense. This is because the offense of DWI is what's referred to as a Bifurcated Offense. The trial is two-part, one is for the offense of driving while impaired because that doesn't change whether it's an 8<sup>th</sup> offense or 1<sup>st</sup> offense, and then there is a trial within the trial on the sentencing aspect of DWI. The number of DWI's only effects penalties not the charge itself.

The penalties available for a DWI Subsequent Offense, where there are two or more priors, does not include permanent license revocation. A license may be revoked for up to 5 years, but it is restorable. Therefore, no licenses have ever been permanently revoked for third offense DWI.

Lt. Perley stated he did have a copy of the answers written for both the Recording Secretary and the Chairman. Chairman Mosca thanked Lt. Perley stating he was just going to ask for a copy.

Chairman Mosca thanked everyone for coming in.

#### Library

Mark Hounsell asked Chairman Mosca that he be excused so that he could join the Library Director since he was the Chairman. Chairman Mosca stated it would be noted in the Minutes.

David Smollen and Mark Hounsell presented to the members. Mr. Smollen stated that he was the new Director at the Conway Public Library and had been there since July 15<sup>th</sup>. He was very happy to be there, it's a great place. The main differences between 2013 and the 2014 proposed Budget are in two areas: one is the increase of benefits that every department has witnessed and felt. There is an increase of \$28,896.00 over last year's budgeted amount and the other main increase is related to the Library Salaries which the proposed number is up by \$9,000.00. The main difference between 2013 and 2014 on the salary lines is that staff have received some increases from this year and there is a Director in place for a full year rather than a little under 5-1/2 months as it was in 2013.

David Smollen stated some other differences the members might note is there is a small increase in the Collections line and what he has tried to do is be more accurate in their expenses. For example, under Electronic Material they've added money in which is a much closer reflection of what they have spent this year. In addition to that, they did have some reductions in the Operations line; for example, in the Electric line, they under expended about \$2,000.00 +/- on the Electric line so the \$19,500.00 obviously it's a little bit of a guess, but it's a more accurate number of what they will actually spend. With those savings, he reallocated them to Collections.

David Smollen stated on the Revenue side, the Library does, as the members know, contribute and every year they send a check back to the Town. This year they're sending back \$40,900.00 and members can see the various Revenue lines, so the actual total to be raised by taxes is the number at the very bottom so they'll see an increase of about \$32,000.00 over last year. He would be happy to answer questions.

Peter Donohoe asked on the telephone bill, what costs \$2,100.00, what is that attributable to. David Smollen stated that the \$2,300.00 is actually closer to what their actual bill is. One is that they have an elevator in the building, so there's costs associated with maintaining a live phone line in the building, whether they have a power outage or not. They have a fax line, three lines in the building. Those are some of what probably add to the costs. Peter asked who the provider was for the Library. Mr. Smollen stated Time Warner and it is also their internet provider. Lucy Philbrick stated except for the elevator. Mr. Smollen stated he had to admit that he doesn't know that much about it, the elevator line, but did know that it has to be on no matter what, electrical outage or not.

Frank McCarthy asked David Smollen if he just got here in July. Mr. Smollen stated yes, July 15<sup>th</sup>. Frank stated time flies, it seems like just last week you were introduced to us. On the Revenue side, it shows what your proposed Budget is for 2014, it shows nothing for 2013. Mr. Smollen stated they gave back \$36,100.00 to the Town in 2013. Frank asked how much came from Albany and Eaton. Mr. Smollen stated approximately one-third, around \$12,000.00. Frank asked if the amount to Albany and Eaton increased.

Mark Hounsell stated all non-residents have increased as of now, they did that a couple of weeks ago, so all non-residents have increased. He didn't bring it, but they have a rough break down of how many people come from Albany and Eaton. David Smollen stated traditionally the Library had been charging \$70.00, the non-resident fee was \$70.00 and there was also a senior rate. At the last Board meeting, the Board voted to increase the non-resident rate to \$80.00 and the senior rate to \$40.00.

Frank McCarthy stated you increased the rates, you didn't change how the rates are configured. David Smollen stated the way it traditionally works with Albany and Eaton is that the Library runs a report that verifies how many people from those communities have used the Library for the calendar year and then they send an invoice. For example, this year from Albany there was 103. Mark Hounsell stated he thought it was 127. Mr. Smollen stated it was \$7,210.00 that the Library billed and Albany has paid already. Eaton was \$6,230.00, if he remembers right. Basically they just

multiply the number of residents by \$70.00. Next year it will be the number of residents by \$80.00.

Mark Hounsell stated what they had done, they had a gentleman's agreement between Eaton and Albany that basically said if you live there this is the amount of the non-resident fee and we'll send a bill to your town because that's how they're supporting public libraries. The only real cumbersome thing is, if cumbersome at all, is keeping track of it to bill them. They are doing more of a bookkeeping service than anything else. It's up to the people of Eaton and Albany. The Library sends a single bill at the end of the year. Unfortunately in some ways it has isolated them as getting something that others don't get. They actually get a large number of people from Brownfield; they pay it as they get it, but for Albany and Eaton there's a bill sent. David Smollen stated Albany and Eaton residents traditionally the Library serves them in the same way in the sense that when residents from those communities come to the Library they present evidence of their residency in those communities and they are issued a card. Just like they would for someone from Conway. People from those two communities are different from other communities and it's basically because those communities don't have libraries. Frank McCarthy stated then you just add up the number of cards from each community, tell them the Library did 120 of your folks and this is how much you owe. Mr. Smollen stated correct, that's exactly what happens traditionally.

Mike Fougere stated you're charging the other towns according to the number of cards or by the amount that card comes into the Library. His Library Card is a life time, he's a Conway resident and if you're charging these folks by the card and what if that person doesn't come to the Library that year. David Smollen stated they run a new report on it every year and the card expires. Mike asked if a non-resident has to get a card each year. Mr. Smollen stated not literally a physical card, but in the system what happens is they set it up in their circulation software that the card expires on January 1<sup>st</sup> of every year. What happens is that when that Albany or Eaton resident comes in, the system prompts the staff member to verify their information and they reactivate the card. Mike stated so it's only being billed for if it is activated during that time. Mr. Smollen stated that was correct. They probably purge the system every 3 or 4 years, so there are cards in there that have expired.

Maury McKinney asked if there had been any feedback from Albany and Eaton as far as the increase. Mark Hounsell stated yes. They had a communication that they will wait to see what the Conway Library does. We've done what we've done and we're still talking about it. We just keep talking to them. Albany hasn't had any increase except whether or not vouchers might be acceptable, something the Board may consider. If they issued vouchers, the Library would honor the vouchers and send them in.

Dick Klement stated that only applies if someone checks out a book. Mark Hounsell stated no, that would apply if they were to get a card. He didn't want the members to think it was in place, there aren't vouchers in place. Dick stated what he was trying to say is that any body can walk into the Library and sit down and read a book. Mark agreed and stated he hoped they did. Dick stated a card is not required. David Smollen stated yes. Dick stated the use of the Library is open, but they're paying for the privilege of being able to check out a book. Mr. Smollen stated there is a

minimal level of service the Library provides to any one. Dick stated any one can come in and use the Library, but you have to have a card to check a book out. Mr. Smollen stated correct and there are certain on-line data bases, for example their downloadable book service where you need to sign in with your card.

Chairman Mosca asked why the benefits line has gone up \$28,000.00. David Smollen stated probably it is his fault personally, he'll take responsibility. He has two small children, 3 and 1, so that's probably the main thing, but also of course it is the increase, the 14% or so benefits increase. In the 2013 Budget, the Library will have gone over by about \$67,000.00. They were budgeted at \$61,900.00. Everyone is basically the same; he has a Family Plan and the previous Director did not.

Steven Steiner stated in Grounds and Maintenance, do you have a detail on how you got that number. David Smollen stated part of the issue with the Grounds and Maintenance, he does have certain departments as estimates as the spreadsheet shows. Part of it is when you're dealing with a historic building of a nature like the Library, as we all know, a lot of it is estimates and there are some costs that they know what the cost would be; for example: the cost of Cleaning. They're spending about \$1,300.00 to \$1,400.00 a month for their cleaning service and that's one of the most exact things in there. They know Interstate is going to check their extinguishers and they know that they are going to check the elevator monthly which is \$193.00 a month. There are some things in there though that they just don't know with a building like that. The boilers, while they are running efficiently and as well as they can hope for right now, there's always things that can happen with a building of that nature. He feels that it is necessary to have a certain amount of money in there to account for unpredictable occurrences so it's not an exact number. He hopes they don't have any problems, but it helps to have a little buffer in there to account for them.

Steven Steiner asked if there was any kind of, just thinking of ways of Revenue to help pay for some of this, soda machines or vending machines. He has been in the Library once. David Smollen stated they don't have any of those sorts of things there. They have raised, in terms of Revenue, they have increased their non-resident fees and they also just increased on January 1<sup>st</sup> their photocopying fees which were \$.10 a page and he thought that was really low, it was just too low, to \$.20. They are trying to increase their Revenue. They have started doing faxing for \$1.00 a page which is still cheaper than Staples. They are doing different things in terms of Revenue, but there are only so many things that the Library can do.

Mark Hounsell stated he thought part of what should be considered as a form of Revenue is that the Library has over between 3,000 and 4,000 volunteer hours each year. These people are vital. They do cataloging, they stock the shelves and all sorts of things. They are not allowed on the Circulation Desk by law, but there's a pretty good value to that. He thought that the Friends of the Conway Public Library donated \$11,000.00+ to assist the Library in projects and programs that otherwise wouldn't be available. They raise their money themselves and decide what to support or what not to. They might buy a piece of equipment here or a book shelf there or something like that. Those should be considered as Revenue.

David Smollen stated Friends have multiple fundraisers: book sales and he hoped to see everyone at Flatbreads on February 20<sup>th</sup> where the proceeds will benefit the Library so they do a lot of fundraising through the Friends and also their Grants, many of their Grants are administered through the Friends group.

Maury McKinney asked if Friends was a 501(c)(3) and David Smollen stated that's correct.

Maureen Seavey stated the Buildings and Grounds, third page from the back, there is a Buildings and Grounds in there that is different with vendors and service providers. Is that what he (Steven Steiner) was talking about. David Smollen stated yes, that's correct.

Frank McCarthy stated on Benefits and he thought David Smollen had already said this, but at a \$37,000.00 increase, \$29,000.00 to \$30,000.00 in benefits alone, is that right. Mr. Smollen stated that's correct. The Benefits line is what Lucy (Philbrick) gives us, she does the math. They tell her what health care package, dental, etc. that people are choosing to take and she just plugs it in. Frank stated the vast bulk of the increase is in that one line. Mr. Smollen stated absolutely, definitely. He wished the main increase was in books or the real stuff for the Library honestly, but this is where it is.

Chairman Mosca thanked David Smollen for coming out this evening. Mr. Smollen stated he had the answer to his question and would pass it around.

#### Town - General

Chairman Mosca stated to Earl Sires that we were not going to do the Warrant Articles tonight. Earl stated he had not planned on it. Chairman asked if we were going to do them next week and Earl agreed.

Chairman Mosca thanked Earl Sires, Lucy Philbrick and Lily Gilligan for coming out.

#### NEW BUSINESS

Chairman Mosca stated that the Non-Profit packets were in the Postal Service box and asked that everyone grab one before they leave.

**Dick Klement moved, seconded by Greydon Turner, to adjourn the meeting at 8:43 PM. Motion carried unanimously.**

Respectfully Submitted,

Iris A. Bowden, Recording Secretary