

TOWN OF SEABROOK

SELECTMEN'S MEETING

MARCH 6, 2023

Present: Aboul B. Khan 10:30AM
Theresa A. Kyle
Srinivasan "Ravi" Ravikumar
William M. Manzi, III

Mr. Khan opened the meeting at 10:30AM.

Mrs. Kyle spoke to a couple of issues that are of public interest. She addressed the lawsuit that was imposed on the town on the default budget. Mrs. Kyle said the plaintiffs are Maria Brown and Mary Messina against the Town and members of the Board of Selectmen. The injunction was denied by the judge and even though it was denied it has to be defended and that is costing the taxpayers a lot of money that is frivolous in nature. They stated that about \$810K was put into the default budget by the board erroneously and one member of the Board Ravi prepared the spreadsheet and was made to testify in court by the judge in order to verify the figures that were presented. Mrs. Kyle stated that members of this board should not be working against each other as they serve to work together for the betterment of the Town. She said it is a slap in the face to the other 2 board members and the town manager.

Ravi stated that the judge did not find the plaintiffs had the proof to order the injunction so therefore it was denied.

Mrs. Kyle stated that by filing the injunction the day after the deliberative session held up the printing of the ballots. If the ballots were delayed any more this would have affected the voting by some of the taxpayers. Mrs. Kyle stated we are not done with this we still need to answer the complaint and that is more money on the taxpayer. If we lose this lawsuit all departments will have to take cuts and is outraged that a member of this board would engage in this lawsuit all because he has a vendetta against the fire department.

Mrs. Kyle addressed the fund balance and the statement that was made that money is being hidden in a black hole somewhere. The money in this fund balance goes back to the taxpayer. If this person who made this statement ever came to a board meeting they would know where this money goes and how it is used.

Mr. Manzi explained the fund balance and that expenditures that were not made in that year's budget as well as any additional revenue that may come in make up the ending balance. He said the board has used the fund balance in a couple of ways one.

being to subsidize the tax rate which does not require voter approval and secondly with requests through town meeting to allocate funds for warrant articles that do require voter approval. The auditors provide the town with the figure for the fund balance at each annual audit finding and it is in the report that the selectmen receive. Mr. Manzi said over the course of the last few years about \$10 million dollars has been used to offset the tax rate.

There was a discussion on the recommendation by DRA that the town should consider keeping in the fund balance account. Currently the town is at approximately \$6.2 million. Mrs. Kyle said any article that requires funding gets reviewed by the budget committee. They can recommend or not recommend those articles but the budget committee does not have the ability to remove the article they can only make changes to the budget.

Ravi responded to the comments made that he shares information and stated he shares with the people who are in his email list. He does that because when he wasn't a selectman, he wished someone in the local government did that for him with the information. Ravi said there is nothing that he is hiding. The information that was shared by the plaintiffs was sent out to a lot of people in the community. He felt compelled to go to court as his information was being provided and thought there may be questions, he could answer. The judge asked where the information came from and further asked Ravi to explain the information which he did. Ravi read the email from the plaintiff Mary Messina describing what was brought forward to court as well as the finding from the judge. There was no request for money but rather to ask the town to follow the law of setting the default budget. Ravi also read the judge's ruling (see attached) that he feels clarifies that the plaintiff's did not meet their burden to show proof of the errors in the default budget. He wants the people in the town to understand what transpired and that the accusatory actions made are ignorant and vicious. He said when he gets attacked he has to read what was written.

Mr. Khan stated when the board takes a vote, and two members vote one way he doesn't go to court just because he lost the vote. Ravi said he hopes the plaintiffs are watching this, as he did not file the case, the residents did.

Mrs. Kyles said the emails that are sent out by Ravi go to only a select group. She said she doesn't like being called ignorant she has just as much education as he does. Ravi said if any resident asks to be added to his email list he will add them.

MEETING - WATER SUPERINTENDENT

Curtis Slayton was present and said he had asked the board to place a voluntary water restriction earlier. The water has gone up in the last few weeks and it is his and the chief operator's recommendation that the board lift the voluntary restrictions.

MOTION: Ravi To lift the voluntary
Second: Aboul B. Khan water restrictions.
Unanimous

MONTHLY MEETING - FIRE CHIEF

Fire Chief Bill Edwards was present for his monthly report (see attached).

Mr. Khan said there was an email sent out by member Ravi that the services are going to be the same so why add personnel and spend money. Chief Edwards said they will continue with services to the best of their ability. At some point the balloon will pop and they won't be able to get out to a call. Chief Edwards said they have been continuing but the injuries are higher and longer and they will continue to see those increase without any additional manpower. Mrs. Kyle said the men and women are dedicated to this town, but they are missing out on their families and life events. She said all of the firemen live in town and own home so they pay the taxes as well.

Ravi said he wants the people to know that the lower tax rate is due in part to the power plant. He would like to request a lit sign be placed on Route 286 informing the public of the upcoming election. Mr. Manzi commented we have had some issues with the signs but if available they will be put up.

Earl asked if they considered an on-call person that would be paid a rate that would be less costly than overtime. It was explained that they would need to be paid overtime as they are union members. If they were to look at someone outside of the union they could also have an issue as we are contracted with the union for this work. There was discussion on making this work but they would still be looking at 7 firefighters in order to keep up with the calls for service.

Koko Deputy Fire Chief spoke and said yes 8 seems like a lot but the town has never met the minimum staffing levels. He said it is industry standard and it is for a reason. Other communities are rolling out with 4 members and Seabrook is rolling out with 1 member. Hampton doesn't provide a third ambulance, but Seabrook does.

Mr. Khan said the board voted to put 4 new firefighters on the ballot. A citizen amended this article to make it 8 new firefighters after long discussion on how they would serve the town. The budget committee chairman who was also the Fire Chief in Newburyport commented that Seabrook is getting 2 for 1, meaning that our paramedics are also firefighters. No other community does this their paramedics do not fight fires. Mr. Khan said they did a little for the police department but not enough. Every day they are providing services and no one is complaining about the services. Mrs. Kyle said they should have more than 1 station. This is something that needs to be addressed but would be further down the road.

Ravi said qualitatively it is hard to argue the point that the fire department needs the staffing. However, quantitatively he has asked for data but has not been provided the information to satisfy his needs. He was told that adding 8 may reduce overtime. Ravi said they would need to add additional office space. Chief Edwards clarified there is no office space required. The turnout gear is required and that will be an additional expense. Chief Edwards commented that they have a capital reserve fund to fund the turnout gear. The article itself is just for the salary and benefits there will be additional money in overtime. Ravi said he is not convinced that this is required so he will not support.

Mrs. Kyle said she uses common sense as there are unknown factors, and we don't know what is going to happen.

Board took a 5-minute recess at 11:45AM. Board reconvened at 11:57AM.

Earl spoke about the 8 firefighters and what happens if it is rejected by the voters. Mr. Khan said this is not the first time it has been addressed. There has been a warrant article a couple times but was rejected by the voters. Now we are in a dire situation and it is going to have a big effect but they cannot compromise money for a life. In order to save some money in the overtime they need to start with 8 firefighters. We may not see it this year or next year but over time there will be a savings but the issue needs to be addressed. Chief Edwards said if money was no object than 8 is what they need to do their job. They do it now with what they have but it's not the best. Earl is concerned they won't get any. The chief agreed that is the risk.

There will be a question-and-answer session on Thursday at the community center regarding the fire department.

Ravi said the warrant article has been presented 4 out of the last 6 years and has failed. He doesn't believe it has been convincing enough to satisfy the need. Chief Edwards asked what numbers he is looking for that he hasn't provided. Ravi said he has received a handwritten report and was told he doesn't have the manpower to put it in a format that could be analyzed.

Mr. Khan commented if he asked for information and received it but not in the format, he wanted doesn't mean they don't need more manpower.

Koko said he is questioning numbers and the fact is when an engine goes out it should go out with more men and it currently goes out with 1 which is not enough,. Koko asked for a study of the fire department to see if they are under staffed. Chief Edwards said he has stated numerous times that there was a study done in Hampton and they are understaffed and we are further behind than Hampton.

Laura Carty said the data is there and they have been paying overtime that is equivalent to 10 firefighters. The chief is only asking for 8 new firefighters. She said it only makes sense to add the 8 in order to save money in overtime.

There was also information provided about some commercial properties but only included the buildings not the land. The square footage number when not including the land will lead you to believe that the tax per square footage is less than what was received. In Seabrook and through the methodology of the assessor, she attaches more value to the land than the building so that is where the discrepancy is and what was provided was only half the story not the full story. When you add in the land to the buildings than you can see where we are at compared to the information that was provided. Mr. Manzi said he is not an assessor but Angie Silva is a good assessor and we have had good outcomes with her. When you look at the numbers for the big box outfits and include the land, they are more comparable than what the audience was led to believe when the land wasn't included. Mr. Khan asked for a statement from the assessor be put on the website addressing the information that was provided previously by a resident. This information will be shared with the public.

Ravi is in favor of posting the information to the public and asked if the candidates night video was put on the website. Mr. Khan commented that candidate's night was always done at town hall and was taken out by some other members. Mrs. Kyle said it wasn't that it was taken away but it is not a town sponsored

event. Earl said its not about selling it to the voters its just talking about it and doing nothing and not inform the public.

PREVIOUS MINUTES - DECEMBER 6 PUBLIC & NON-PUBLIC, JANUARY 16 PUBLIC AND FEBRUARY 6 PUBLIC

MOTION: Ravi To adopt the minutes of
Second: Aboul B. Khan December 6.
 Unanimous

Ravi has a few corrections - February 6 on 1st page last paragraph should be "2022" and page 7 strike the word "consumption". January 16 on 2nd page "the beach back in compliance with the beach deeds" should be stated.

MOTION: Ravi To adopt the minutes of
Second: Theresa A. Kyle 1/16 with corrections.
Abstain: Aboul B. Khan

MOTION: Ravi To adopt the minutes of
Second: Theresa A. Kyle 2/6 with corrections.
 Unanimous

Ravi said the February 6 meeting on page 5 questioned what was stated by Mary Messina and comments made by Mr. Manzi and Angie Silva. The December 6 meeting Maria Brown asked about the hours of town hall and the conflicting hours on the signs. Mr. Manzi said if the board asked him to do it he would. The sign is correct and that should close the issue presented. Ravi asked about Maria Brown's questions from the December 6 meeting about criminal background checks and the social media policy as well as the minutes being made available to the public. Mr. Manzi said no follow up on those requests are required.

MOTION: Aboul B. Khan No further action is
Second: Theresa A. Kyle required for the minutes
 Unanimous

REFUNDS

34 Marshview Circle - \$42.84
 54 Carolyn Avenue - \$177.28 & \$91.53
 73 Alison Drive - \$228.89
 19 Adder Lane - \$63.72

MOTION: Ravi To approve and sign all
Second: Theresa A. Kyle the refunds.
 Unanimous

ABATEMENTS

Denise Retelle - 34 Marshview Circle - \$14.02 & \$113.80
Tricket Realty Trust - 809 Lafayette Road - \$53.06

MOTION: Theresa A. Kyle To approve and sign both
Second: Ravi abatements.
Unanimous

4 ELDERLY EXEMPTIONS

MOTION: Ravi To approve and sign all
Second: Theresa A. Kyle elderly exemptions.
Unanimous

WATER SERVICE APPLICATIONS

Spednik LLC. - 19 Adder Lane
Lyndsey Hamblet - 2A Cross Beach
Lisa Kattar - 360 Woodstock Street

MOTION: Theresa A. Kyle To approve and sign all
Second: Ravi water applications.
Unanimous

SEWER SERVICE APPLICATIONS

Spednik, LLC. - 19 Adder Lane
Lyndsey Hamblet - 2A Cross Beach
Windriver Environmental - 831 Lafayette Road

MOTION: Ravi To approve and sign all
Second: Theresa A. Kyle sewer applications.
Unanimous

QUESTIONS/COMMENTS

Mrs. Kyle said the board visited the NextEra site and it was very informative. She is looking forward to them bringing the information to the town. Ravi said he felt extremely safe at NextEra. He is proud we are a host community that is servicing electricity to NH. Mr. Khan said he is very proud that we do not provide them as many services and it was good to see the site.

Mr. Khan urged the voters to come out and vote next Tuesday, March 14. This is your time to have your voice heard and with over \$40 million on the ballot we need everyone to come out and vote.

SELECTMEN'S MEETING

-8-

MARCH 6, 2023

MOTION: Aboul B. Khan

To adjourn the meeting

Second: Ravi

at 12:45PM.

Unanimous

Meeting adjourned at 12:45PM.

Minutes taken by Kelly J. O'Connor.

Approved and endorsed:

Srinivasan "Ravi" Ravikumar,
Clerk

Date: _____

TOWN OF SEABROOK BOARD OF SELECTMEN

AGENDA

March 6, 2023

Open Meeting at 10:30 A.M.

**TURN CELL PHONES TO VIBRATE OR OFF PLEASE
PLEDGE OF ALLEGIANCE**

MEETING

- 1.) Meeting – Water Superintendent – Water Restrictions
- 2.) Monthly Meeting – Fire Chief

NEW BUSINESS

- 1.) Question of approving previous minutes of December 6 public & non-public, January 16 public and February 6 public.
- 2.) Question of approving refund for 34 Marshview Circle - \$42.84, 54 Carolyn Avenue - \$177.28 & \$91.53, 73 Alison Drive - \$228.89 and 19 Adder Lane - \$63.72.
- 3.) Question of approving abatements for Denise Retelle – 34 Marshview Circle - \$14.02 & \$113.80 and Tricket Realty Trust – 809 Lafayette Road - \$53.06.
- 4.) Question of approving 4 elderly exemptions.
- 5.) Question of approving water service applications for Spednik, LLC. – 19 Adder Lane, Lyndsey Hamblet – 2A Cross Beach and Lisa Kattar – 360 Woodstock Street.
- 6.) Question of approving sewer service applications for Spednik, LLC. – 19 Adder Lane, Lyndsey Hamblet – 2A Cross Beach and Windriver Environmental – 831 Lafayette Road.

QUESTIONS/COMMENTS

Board of Selectmen on any boards and/or committee meetings they have attended

PUBLIC PARTICIPATION



SEABROOK FIRE DEPARTMENT

87 Centennial Street

Seabrook, NH 03874

Phone: 603-474-2611 Fax: 603-474-5187

seabrooknh.info



William J Edwards

Fire Chief

603-474-3880

Lawrence "Koko" Perkins

Deputy Fire Chief

603-474-5300

Report of The Fire Department

Date: March 6, 2023

To: The Board of Selectmen
and William Manzi, Town Manager

Prepared By: William J Edwards, Fire Chief

We wanted to thank everyone that came out for the Xmas Tree Bon Fire event. It was a good night with better weather than we'd typically get for this time of year. We hope to continue to bring community events like this to the public each year and hopefully add more as we go.

With that, we would like to ask the board for permission to bring the Easter Bunny around town again. We have not settled on a date yet, but would be posting it soon and we would follow the same route as when Santa rides through town.

We would like to wish all of the candidates running for all of the offices good luck next week, Voting at the Rec is next Tuesday the 14th.

The Seabrooks Citizens Group has asked me to come to the Seabrook Rec this Thursday at 6:30pm to answer any questions the public may have about our department, what we do and how we operate. I would like to thank the Seabrook Citizens Group for setting this up, I hope it can be helpful for our community going forward.

We will be putting out more information regarding the Warrant Articles that the Fire Department has placed on the Ballot. Article 10 is for Building Maintenance, \$50k. Article 11 is for the Fire Capital Reserve Fund, \$90k, and Article 19 is to replace insulation in the apparatus bay, \$100k. The



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Board of Selectmen has placed Warrant Article 30 on the ballot. This is to add 8 New FireFighters to our Ranks. This would be the first additional Firefighters since 2003.

We really hope the voters in Seabrook are able to make it out to the polls and exercise their right to vote. We've had some rough weather the last few years, so hopefully this year is better and not such a trek to get to the Rec Center.

Respectfully,

William J Edwards

Fire Chief

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Rockingham County

Rockingham Superior Court

Maria Brown, et al v Town of Seabrook New Hampshire, et al

218-2023-CV-00185

ORDER

Plaintiffs seek a declaratory judgment, mandamus, temporary and permanent injunction, and emergency *ex parte* relief against the Town of Seabrook (the "Town") and several members of the Seabrook Board of Selectmen (the "Board") related to the Town's 2023 default budget. See Doc. 1 (Compl.); see also Doc. 4 (*Ex Parte* Motion). The Town objects to Plaintiffs' request for preliminary injunction. See Doc. 15. The Court held a hearing on the matter on February 23, 2023. For the following reasons, Plaintiffs' request for preliminary injunction is **DENIED**.

The Town has adopted an "official ballot" form of governance, which means it is required to submit a proposed "operating budget" to its voters pursuant to RSA 40:13, IX(a). Should the voters reject this proposed operating budget, the Town must use the "default budget" for that year, which RSA 40:13 IX(b) defines as:

[T]he amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget and by salaries and benefits of positions that have been eliminated in the proposed budget.

In 2022, the Board considered and accepted a default budget for fiscal year 2023. Doc. 4 ¶ 15. Plaintiffs allege that this 2023 default budget improperly includes increases to electricity and fuel costs, overtime expenses, and part-time positions yet to be filled, totaling approximately \$810,000 of the default budget. Id. ¶¶ 16–17; see also id. Ex. 5 (budget spreadsheet prepared by Board Clerk Srinivasan Ravikumar). Plaintiffs now seek preliminary injunctive relief to prevent the Town from presenting this default budget to the voters at the Town meeting on March 14, 2023. Id. ¶¶ 33–38.

"The issuance of injunctions, either temporary or permanent, has long been considered an extraordinary remedy." N.H. Dep't of Envtl. Servs. v. Mottolo, 155 N.H. 57, 63 (2007). "An injunction should not issue unless there is an immediate danger of irreparable harm to the party seeking injunctive relief, and there is no adequate remedy at law." Id. In addition, "a party seeking an injunction must show that it would likely succeed on the merits." Id.

In objecting to Plaintiffs' request for preliminary injunction, the Town contends that only \$396,381 is at issue here—as opposed to Plaintiffs' figure of \$810,000—providing accounting spreadsheets to that effect. See Doc. 15 Ex. C. Regardless of which number is accurate, the Town argues that the challenged amounts were all properly included in the 2023 default budget.

First, the Town argues that increases in electricity and fuel costs were pursuant to pre-negotiated contracts with utility providers, which were properly included in the default budget as contracts and other obligations. *Id.* ¶¶ 7–9. Similarly, the Town contends that increases in overtime expenses were previously negotiated through a Memorandum of Understanding with the Seabrook Fire Department, and thus qualify as other obligations previously incurred for purposes of the statute. *Id.* ¶¶ 13–16. Further, the Town argues that the inclusion of part-time positions not yet filled was consistent with a previously established pay scale from 2017, which obligated pay raises over time and was thus an obligation previously incurred. *Id.* ¶¶ 10–12.

At the hearing, the Court pressed Plaintiffs for information on the amounts alleged to be improperly included in the default budget given the Town's offer of proof and competing amount in question. Plaintiffs had difficulty explaining how they arrived at their challenged \$810,000 figure, pointing to broad areas of possible discrepancies. Further, Plaintiffs were unable to provide sufficient detail as to any specific amount that was included in the default budget contrary to the requirements of RSA 40:13, IX(b).

Plaintiffs credibly explained they had challenges in obtaining details on the default budget. While Plaintiffs testified as to their diligence in attempting to break down the default budget and expressed frustration on alleged obstacles they faced in obtaining information from the Town, Plaintiffs have not sought relief based on lack of access to government records under RSA 91-A.

Given the record before the Court, Plaintiffs are presently unable to overcome the Town's assertion that many of the costs in question are associated with pre-existing contracts or obligations previously incurred, as contemplated by the statute.

Of note, the Town cites *Lamb v. Danville Sch. Bd.*, 102 N.H. 569, 571 (1960) (quoting Justice Oliver Wendell Holmes) for the proposition that "the machinery of government would not work if it were not allowed a little play in its joints." Doc. 15 ¶ 23. The Court finds this argument unpersuasive, as RSA 40:13 plainly outlines the requirements of a default budget, such that granting the government additional "play in its joints" is unnecessary here.

The Court is not finding in this order that there are no irregularities or improper appropriations in the default budget. Rather, the Court finds that, on the evidence and record before it, that Plaintiffs have failed to meet their burden to specify appropriations that should be excluded through a preliminary injunction. As such, they have failed to show they would likely succeed on the merits. *See Mottolo*, 155 N.H. at 63. Accordingly, Plaintiffs' request for preliminary injunction is **DENIED**. *See Docs. 1, 4.*

February 24, 2023

Date


Judge Lisa M. English

Clerk's Notice of Decision
Document Sent to Parties
on 02/24/2023