

**Pittsfield Planning Board
Town Hall, 85 Main Street
Pittsfield, NH 03263
Minutes of Public Meeting**

DATE: Monday, March 14, 2016

AGENDA ITEM 1: Call to Order

Chair Clayton Wood called the meeting to order at 7:00 P.M.

AGENDA ITEM 2: Roll Call

Planning board members present:

Clayton Wood (chair),

Pat Heffernan (vice-chair),

Jim Pritchard (secretary),

Daren Nielsen,

Gerard LeDuc (selectmen's ex officio member), and

Paul Nickerson (alternate)

Planning board members absent:

Roland Carter (alternate) and

Larry Konopka (alternate for the selectmen's ex officio member)

Members of the public appearing before the planning board: None.

“Members of the public appearing before the planning board” includes only members of the public who spoke to the board. It does not include members of the public who were present but who did not speak to the board.

AGENDA ITEM 3: Public Input

No public input.

AGENDA ITEM 4: Approval of the Minutes of the February 4, 2016, February 18, 2016 and March 3, 2016 Meetings.

Clayton Wood suggested deferring the approval of the March 3, 2016, minutes because board members received the March 3 minutes in their folders only today.

Gerard LeDuc moved to approve the minutes of February 4, 2016, as written in draft.

Jim Pritchard seconded the motion.

Discussion:

Jim Pritchard asked for the following change:

Agenda item added, page 3: “Jim Pritchard said that warrant article 27 differs from the other warrant articles in that warrant article 27 does not have a parenthetical note stating the warrant articles origin, which is the board of selectmen.” should have a correcting comment saying that none of the warrant articles that came from the board of selectmen states its origin.

Vote to approve the minutes of February 4, 2016, with the change that Jim Pritchard requested: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

(Comment of recording secretary Jim Pritchard: After the meeting, Jim Pritchard noticed that “stating the warrant articles origin” should be “stating the warrant article’s origin”.)

Gerard LeDuc moved to approve the minutes of February 18, 2016, as written in draft.

Jim Pritchard seconded the motion.

Discussion:

Jim Pritchard asked for the following change:

Agenda item 3, page 6: “The town has recorded deeds for all of the auction properties except the two properties under consideration (tax map R-44, lots 7 and 8, and tax map R-48, lot 6).” should have a correcting comment saying that a deed for auction sale 3, tax map R-11, lot 13, has also not been recorded.

Vote to approve the minutes of February 18, 2016, with the change that Jim Pritchard requested: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

Gerard LeDuc moved to defer approval of the minutes of March 3, 2016, to the board’s next meeting.

Clayton Wood seconded the motion.

Discussion: None.

Vote to defer approval of the minutes of March 3, 2016, to the board’s next meeting: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

AGENDA ITEM 5: Voluntary Lot Line Merger filed by Glenn H. & Tammy M. Annot, Trustees, 1324 Upper City Road, Pittsfield, NH 03263, for property located at 1324 Upper City Road (Tax Map R17, Lots 4-2) and Upper City Road (Tax Map R17, Lot 4-3). Properties are adjacent to each other and located in the RURAL Zone

Clayton Wood said that he had wanted to do the Annot lot merger tonight so that the merger would happen before the April 1 tax assessment date.

Jim Pritchard moved to approve the Annot lot merger.

Pat Heffernan seconded the motion.

Discussion: None.

Vote to approve the Annot lot merger: carried 5 - 0 - 0. Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting “no”: none. Abstaining: none.

AGENDA ITEM 6: Sale of Town Property Policy Recommendation to the Board of Selectmen

Planning board's letter of recommendation (attached to these minutes) on the board of selectmen's proposed sale of tax map R-48, lot 6, (pest house lot) and tax map R-44, lots 7 and 8 (Blake Pond lot):

Clayton Wood and Jim Pritchard said that Jim Pritchard had been the natural person to write a draft letter because Jim Pritchard had written the minutes.

Paul Nickerson said that the pest house lot is only 110 feet deep from Tan Road, with 110 feet being measured between the center lines of the stone walls at the middle of the lot's frontage on Tan Road.

Pat Heffernan referred to the letter of recommendation's recommendation that the board of selectmen should sell the pest house lot only to an abutter. Pat Heffernan asked how the board of selectmen could sell the lot only to an abutter when David Moore, of Alton Rollinsford, LLC, says that he bought the lot and that he has a deed.

Jim Pritchard said that David Moore's claim of ownership had two problems. First, David Moore does not own the pest house lot because the board of selectmen had not established proper authority under RSA 41:14-a, I, to sell the lot. Second, David Moore does not own the pest house lot because he has not recorded the deed. For this second statement, Jim Pritchard cited and read RSA 477:3-a:

“Every deed or other conveyance of real estate and every court order or other instrument which affects title to any interest in real estate, except probate records and tax liens which are by law exempt from recording, shall be recorded at length in the registry of deeds for the county or counties in which the real estate lies and such deed, conveyance, court order or instrument shall not be effective as against bona fide purchasers for value until so recorded.”

Clayton Wood said that the planning board's letter of recommendation alerts the board of selectmen to what they may hear in their own public hearings.

Jim Pritchard said that Pat Heffernan was opening an important matter: A person cannot rely on statements of town officials if those statements conflict with statute. (*Thomas v. Town of Hooksett*, 153 N.H. 717, 903 A.2d 963 (2006).) Jim Pritchard said that the board of selectmen's failure to follow the process of RSA 41:14-a, I, had voided his mother's purchase and

sale agreement (for the Blake Pond lot) and that he had not complained when town administrator Cara Marston had showed him the law. Jim Pritchard said that David Moore is in the same position—he has no rights to the pest house lot—but that the public does have rights to be heard under RSA 41:14-a, I. Consequently, Jim Pritchard said, the planning board had done correctly in reviewing the sales as if the auction had not happened; otherwise, the board would have denied the public a meaningful hearing.

Jim Pritchard said that Carl Wallman had said at the last conservation commission meeting that the board of selectmen had scheduled another auction and that the auction was coming soon. Jim Pritchard said that the planning board should recommend that the board of selectmen defer the auction indefinitely while the planning board develops a good process for disposing of town property.

Pat Heffernan said that David Moore might sue over the sale of the pest house lot.

Jim Pritchard said that David Moore would have no ground for suing because David Moore had said that he owned the pest house lot. If David Moore does own the pest house lot, Jim Pritchard said, then the town does not own the pest house lot and cannot sell the pest house lot to anyone, including David Moore. If, on the other hand, David Moore does not own the pest house lot, Jim Pritchard said, then David Moore has no grievance.

Daren Nielsen said that the town's failure to follow the process of RSA 41:14-a, I, had created a title problem. Clearing the title requires the town to go through the process of RSA 41:14-a, I.

Pat Heffernan said that Jim Pritchard's participation in writing the letter of recommendation would raise objections.

Daren Nielsen said that the letter of recommendation was a direct synopsis of what the board decided.

Pat Heffernan agreed with Daren Nielsen.

Jim Pritchard said that the minutes of February 18 were 23 pages long, that he had had to proofread the minutes about 10 times, and that his resulting familiarity with the minutes made him the best person to summarize the

minutes. Jim Pritchard said that Clayton Wood could have read the minutes several times to summarize the information but that Jim Pritchard's doing the summary and submitting it to the board was a more efficient use of time. Jim Pritchard said that he would not vote on the letter.

Paul Nickerson objected to the letter's recommendation that the board of selectmen sell tax map R-44, lots 7 and 8, (the Blake Pond lot) only to an abutter because Mary Pritchard already owns tax map R-44, lot 8, and because Mary Pritchard is not the only abutter.

Jim Pritchard said that he was asking the town to deed its interest, which is nothing, in tax map R-44, lot 8, to Mary Pritchard because the area shown on tax map R-44 as lot 8 has been cataloged as town land when Mary Pritchard actually owns it and because the town's deeding its interest in this area is necessary to remove any confusion about who owns it.

Daren Nielsen said that the confusion over tax map R-44, lot 8, was coming from an error in the tax map and that the town cannot sell property from a tax map; the town must sell property from a deed.

Jim Pritchard suggested not referring to tax map R-44, lots 7 and 8, but referring instead to the Merrimack County Registry of Deeds book 339, page 120.

Daren Nielsen agreed with citing the Merrimack County Registry of Deeds book and page numbers.

Jim Pritchard said that the planning board cannot just ignore tax map R-44, lot 8, because the town put lot 8 up for auction and because town administrator Cara Marston, in her request to the planning board for its recommendation, referred to tax map R-48, lot 6, and tax map R-44, lots 7 and 8, as three parcels, not as two parcels.

Daren Nielsen said that all of the references to the town-owned land had been to tax map R-44, lots 7 and 8, so the planning board cannot just change to a different reference.

Jim Pritchard said that the planning board minutes of March 3, 2016, (agenda item 3, page 2) were very clear about the ownership of tax map R-44, lot 8:

“Jim Pritchard said that his mother was the prospective buyer of tax map R-44, lots 7 and 8, (known herein as the Blake Pond lot) and that his mother had submitted to the board a proposal to buy this lot. (Comment of recording secretary Jim Pritchard: tax map R-44, lot 8, is a nonexistent lot. The area shown on tax map R-44 as lot 8 is land that Jim Pritchard’s mother, Mary Pritchard, owns as the trustee of the Mary H. Pritchard Trust. See Merrimack County Registry of Deeds plan 9338 and Merrimack County Registry of Deeds Book 2062, Page 1511.)”

Paul Nickerson said that Mary Pritchard had not paid taxes on tax map R-44, lot 8, but that she could pay the taxes and buy the lot back.

Jim Pritchard said that the survey of Pritchard land was recorded and that any failure to pay taxes was the town’s fault. (Merrimack County Registry of Deeds plan 9338.)

Clayton Wood said that he wanted to leave the letter of recommendation as it was written in draft.

Jim Pritchard reminded the board that he was recused from approving or disapproving the planning board’s letter of recommendation to the board of selectmen.

The board approved the letter of recommendation by unanimous consensus of Clayton Wood, Pat Heffernan, Daren Nielsen, Gerard LeDuc, and Paul Nickerson.

Policy guidelines for future sales of town property:

Clayton Wood referred to the Moultonborough guidelines (attached to these minutes) for sales of town property under RSA 41:14-a. Under the Moultonborough guidelines, the board of selectmen must review and catalog town properties every year.

Clayton Wood said that the Moultonborough guidelines say nothing about whether a given property is vacant or not and that Pittsfield’s guidelines should consider whether the property is vacant or not.

Clayton Wood said that the Moultonborough guidelines have a formula for disposing of nonconforming lots to abutters and that Pittsfield's guidelines should say that disposing of the property should be in such a manner as to improve the property's conformance to the zoning ordinance.

Clayton Wood said that the Moultonborough guidelines treat tax-deeded properties and non-tax-deeded properties the same and include both types of property in the process of RSA 41:14-a, I. Clayton Wood said that the planning board should recommend that the board of selectmen follow the process of RSA 41:14-a, I, for both types of properties regardless of the advice that the board of selectmen got from the municipal attorneys.

Daren Nielsen said that he had asked (on February 18, 2016, in agenda item 3, page 7) why tax-deeded properties would not come under the process of RSA 41:14-a. Daren Nielsen said that he had read the municipal attorneys' advice (attached to these minutes), that he had read Jim Pritchard's analysis (attached to these minutes), and that he was convinced that tax-deeded properties should come under the process of RSA 41:14-a, I. Daren Nielsen said that the extra scrutiny from two other boards—the conservation commission and the planning board—would help to uncover what would come of the sales. Daren Nielsen referred to David Moore's statement that the zoning ordinance should be the only restriction on the property, and Daren Nielsen said that he disagreed with David Moore because the town owned the property and because the town could put covenants on its own property if the town wanted to do so. Daren Nielsen said that bypassing the process of RSA 41:14-a, I, would not serve the town's interest.

Clayton Wood referred to the master plan section 2.9, item 6: "Seek to revitalize, reuse, demolish, or sell tax-deeded properties with restrictions aimed at improving property values." Clayton Wood said that the planning board's recommended policy could include guidelines for covenants.

Daren Nielsen referred to the board of selectmen's proposed acquisition and sale of the property at 37 Main Street, tax map U-3, lot 44, C1-C5, per RSA 41:14-a. 37 Main Street is next to the Josiah Carpenter Library. The board of selectmen proposed to impose covenants on the sale of this property. (Planning board minutes of March 5, 2015, agenda item 5, page 3.)

Clayton Wood agreed that tax-deeded properties and non-tax-deeded properties are the same relative to problems that the properties might have.

Clayton Wood said that tax-deeded lots might be the worst lots. Landlocked properties and properties with driveway easements are undesirable. Clayton Wood said that the board of selectmen should consider what they want in the policy. Clayton Wood said that the Moultonborough guidelines say that the town should hold tax-deeded properties for three years, but, Clayton Wood said, the selectmen could decide whether to adopt this guideline.

Jim Pritchard said that the planning board's recommendations on policy are only advisory but that he felt strongly that the three-year hold time was important to give the previous owner the maximum opportunity to recover his land. Jim Pritchard said that the previous owner had a statutory right to buy back his land unless the town gave a notice of intent to sell, in which case the buy-back window of opportunity is much smaller. Jim Pritchard thought that the town should always give the three years as a matter of policy. Jim Pritchard said that holding the auction properties for three years would have allowed the abutting family that had once owned one of the auction properties to reacquire that property by financing the property's repurchase from the town.

(See RSA 80:89, II: **“Within 30 days after the notice required by paragraph I, or if no such notice is received, at any time within 3 years after the date of recording the tax deed,** any former owner of the property may give notice by certified mail, return receipt requested, of intent to **repurchase** the property from the municipality, and stating that such owner is ready, willing, and able to pay all back taxes, interest, costs and penalty, as defined in RSA 80:90.”)

Clayton Wood agreed that holding tax-deeded properties for three years was an appropriate recommendation.

Paul Nickerson said, “It’s two years that a person has a right to go back. The town can hold it for three years. The idea of the three years is once it’s gone three years, they have to sell it under [RSA] 41:14[-a] because then they’ve owned it, it becomes their land, so then it’s not a tax-deeded piece of land.”

Jim Pritchard said that he was not certain of the buy-back time.

Paul Nickerson said, “It’s two years for you to buy it back, but the big three year is if the town keeps that land, we buy it, deed, and we keep it for more

than three years and don't sell it, then we do have to use [RSA] 41:14[-a] because then it, it's at the three-year limit, we own it, it's not deeded no more, we own it."

(See RSA 80:32, Redemption: "Any person with a legal interest in land so sold may **redeem** the same by paying or tendering to the collector, or in his absence, at his usual place of abode, at any time **before a deed thereof is given by the collector**, the amount for which the land was sold, with interest at 18 percent per annum upon the whole amount for which the land was sold from the time of sale to the time of payment in full..."

and RSA 80:38, **Tax Deed**, paragraph I, sentence 1: "**The collector, after 2 years from the sale, shall execute to the purchaser, his heirs or assigns, a deed of the land so sold and not redeemed.**")

(Comment of recording secretary Jim Pritchard: "Tax-deeded property" typically means property for which the tax collector has executed a tax deed under RSA 80:38, Tax Deed. "Tax-deeded property" typically does not include property that has an overdue-tax lien but that has not been conveyed by tax deed under RSA 80:38, Tax Deed. See RSA 80:88, Distribution of Proceeds From the Sale of Tax-Deeded Property.)

* * * * *

Jim Pritchard's proposed letter to the board of selectmen on whether RSA 41:14-a applies to tax-deeded property:

Paul Nickerson's statement that the town must use the process of RSA 41:14-a, I, for properties that the town actually owns and that are "not deeded [any] more" led the board to discuss (1) advice from the town attorney, Matthew Serge, and from the New Hampshire Municipal Association, Stephen Buckley, that RSA 41:14-a, I, does not apply to tax-deeded property and (2) Jim Pritchard's proposed letter to the board of selectmen saying that RSA 41:14-a, I, does apply to tax-deeded property.

The board's discussion was long, and the following minutes summarize that discussion. The attorneys' letters and Jim Pritchard's proposed letter are attached to these minutes.

The town attorney's letter argued as follows:

“My answer is that Town does not have to go through the RSA 41:14-a process to sell tax-deeded properties. RSA 80:80 deals with a specific type of town property (tax deeded) and provides that the Selectmen, if authorized by town meeting vote, may dispose of tax-deeded property without any other formalities.” (Emphasis on “does not” in original; other emphasis added.)

Jim Pritchard’s letter argued (1) that “without any other formalities” is verbiage that RSA 80:80 does not contain, (2) that RSA 80:80, III, authorizes the town to authorize the board of selectmen “to dispose of a lien or tax deeded property in a manner than otherwise provided in this section [RSA 80:80], as justice may require,” (3) that in approving the provisions of RSA 41:14-a, the town meeting did adopt a process “than otherwise provided in this section [RSA 80:80],” and (4) that “any such proposed acquisition or sale [of land, buildings, or both]” (RSA 41:14-a, I) excepting the properties listed in RSA 41:14-a, II, means just that: it means any proposed acquisition or sale of land, buildings, or both excepting the properties listed in RSA 41:14-a, II. RSA 41:14-a, II, does not list tax-deeded properties as exceptions to the process of RSA 41:14-a, I.

Paul Nickerson said that RSA 41:14-a, I, does not apply to tax-deeded properties because RSA 41:14-a does not explicitly mention tax-deeded properties. Paul Nickerson distinguished what he called “tax-deeded land” from what he called “tax-owned land”: “They can’t sell, since [19]84, they cannot sell, the selectmen can’t sell tax deeded and, back then they could sell either one: tax-deeded or tax-owned land.”

Jim Pritchard said that resolving the question of whether RSA 41:14-a, I, applies to tax-deeded property was important because of title uncertainty. Jim Pritchard cited a tax deed, from 1964, that should have been good under RSA 80:39 because the deed was more than 10 years old when the town sold the property later, in 1980, but that had had a procedural flaw that resulted in the subsequent owner’s having to re-buy the land, in 2000, from a former owner from 1956 despite the tax deed’s being more than 10 years old. (See tax map R-44, lot 5, and Merrimack County Registry of Deeds book 788, page 422; book 943, page 401; book 1367, page 41; book 2205, page 633; and book 2206, page 73.) Jim Pritchard said that resolving the question of whether RSA 41:14-a, I, applies to tax-deeded property was important to the

planning board because the law might require the planning board's involvement in selling such property.

Daren Nielsen said that RSA 41:14-a, I, does apply to tax-deeded properties and that the town's failure to process a sale properly could cause title problems. Daren Nielsen said that RSA 41:14-a, I, does not conflict with the town's prior adoption of the provisions of RSA 80:80.

Daren Nielsen asked whether resolving the question were urgent.

Jim Pritchard said that resolving the matter was urgent because of title uncertainty. Jim Pritchard said that he was holding a deed to one of the tax-deeded properties sold at auction, that he wanted to sell the property before April 1 to avoid taxes, and that he could not sell the property because he believed that he did not have title to the property.

Clayton Wood said that he had not reached a good understanding of the matter and that he wanted to work one-on-one with Daren Nielsen. Clayton Wood said that he and Daren Nielsen would discuss the matter with the board of selectmen's new chair and vice-chair once Clayton Wood and Daren Nielsen had resolved the matter between themselves.

AGENDA ITEM 7: Members' Concerns

Pat Heffernan said that he would not mind retiring from his position on the housing standards board when the planning board has to appoint one of its own members to the housing standards board next month.

No other planning board member wanted Pat Heffernan's position on the housing standards board, and Pat Heffernan agreed to accept reappointment.

Pat Heffernan said that he did occasional work for landlords and that, by rule, no one who does work for landlords can be on the housing standards board. (Pat Heffernan is an electrician.)

Clayton Wood said that the planning board would elect its officers at the regular meeting in April, which is the board's next scheduled meeting.

AGENDA ITEM 8: Adjournment

Pat Heffernan moved to adjourn the meeting.

Gerard LeDuc seconded the motion.

Vote to adjourn the planning board meeting of March 14, 2016: carried 5 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Gerard LeDuc. Voting "no": none. Abstaining: none. The planning board meeting of March 14, 2016, is adjourned at 9:02 P.M.

Minutes approved: April 7, 2016

Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on March 16, 2016, from notes that I made during the planning board meeting on March 14, 2016, and from a copy that Chairman Clayton Wood made on March 15, 2016, of the town's digital recording of the meeting.

Jim Pritchard, planning board recorder and secretary

Attachments:

1. Planning board's letter of recommendation on the board of selectmen's proposed sale of tax map R-48, lot 6, (pest house lot) and tax map R-44, lots 7 and 8 (Blake Pond lot).
2. Town of Moultonborough, New Hampshire, guidelines for sale of town property.
3. Letter of town attorney Matthew Serge saying that the process of RSA 41-14-a, I, does not apply to tax-deeded properties.
4. Letter of New Hampshire Municipal attorney Stephen Buckley saying that the process of RSA 41-14-a, I, does not apply to tax-deeded properties.
5. Jim Pritchard's proposed letter to the board of selectmen saying that the process of RSA 41:41-a, I, does apply to tax-deeded properties.



TOWN OF PITTSFIELD
Planning Board
Town Hall
85 Main Street
Pittsfield, New Hampshire 03263

May 16, 2016

Pittsfield Board of Selectmen
Town Hall
85 Main Street
Pittsfield, NH 03263

RE: Planning board recommendation to the board of selectmen regarding the sale of property at tax map R-48, lot 6 and tax map R-44, lots 7 and 8 pursuant to RSA 41:14-a.

Dear board of selectmen:

Pursuant to RSA 41:14-a, I, the planning board reviewed the board of selectmen's proposed sales of tax map R-48, lot 6, (the pest house lot) and tax map R-44, lots 7 and 8 (the Blake Pond lot) on March 3, 2016.

For the pest house lot, the planning board recommends that the board of selectmen should sell this lot only to an abutter so that any construction associated with the lot will force the merger of the lot with abutting property. (Zoning ordinance article 4, section 2.) In developing this recommendation, the planning board considered the following factors:

1. The area of the pest house lot: approximately 1 acre or less.
2. The depth of the pest house lot: approximately 115 feet from the Tan Road right-of-way line.
3. The fact that the pest house lot's area would be nonconforming to the zoning ordinance even if the lot were in the Suburban District. The lot is in the Rural District.
4. The adjacent Hertel development on Tan Road: The planning board approved this subdivision on condition of 100-foot minimum setbacks from both Tan Road and Governor's Road. (Merrimack County Registry of Deeds plan 16737.) The purpose of these 100-foot minimum street setbacks is to protect the rural character of the Tan Road neighborhood.
5. The master plan and its finding that the townspeople value rural character.
6. The master plan and its recommendation that the population density in the rural areas of town should be sparse.
7. The zoning ordinance and its requirement that nonconforming lots should be merged with abutting property under common ownership. (Zoning ordinance article 4, section 2.)

The planning board found that, because of the pest house lot's small area and shallow depth, any development of the pest house lot would necessarily conflict with the rural development plan that the planning board established by imposing development conditions on

Planning Board Members:

Clayton Wood (Chairman)

Daren Nielson

Gerard LeDuc (Selectman Ex Officio)

Pat Heffernan (Vice-Chairman)

Roland Carter (Alternate)

Larry Konopka (Alternate for Selectman Ex Officio)

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Jim Pritchard (Secretary)

Paul Nickerson (Alternate)

the Hertel subdivision. The planning board concluded that such conflicting development would likely degrade the rural character of the Hertel development, that such conflicting development would likely diminish the values of properties in the Hertel development, and that to permit such conflicting development by selling the pest house lot to anyone other than an abutter would betray the Hertel property owners' reasonable expectation that the town would stand behind the rural development plan that the planning board established by imposing development conditions on the Hertel subdivision.

For the Blake Pond lot, the planning board also recommends that the board of selectmen should sell this lot only to an abutter so that any construction associated with the lot will force the merger of the lot with abutting property. (Zoning ordinance article 4, section 2.) In developing this recommendation, the planning board considered the following information or factors:

1. Mary Pritchard's proposal to buy the Blake Pond lot. Mary Pritchard's proposal stated four major reasons for why the town should sell the Blake Pond lot to her:
 - a. The Pritchards have no plans to change the lot's use.
 - b. The Pritchards have never posted their land and have no plans to post the Blake Pond lot if the Pritchards should succeed in buying it.
 - c. The town will generate current use tax income from the sale.
 - d. The Pritchards' 49-year history as landowners in Pittsfield shows that Pritchards will be a more stable owner than the town would likely be going forward.Mary Pritchard's proposal is attached to the planning board's minutes of March 3, 2016.
2. The fact that the Blake Pond lot is conforming under the zoning ordinance but that a very large fraction of this lot is swamp and that the rest of the lot is probably too small in dry land to be buildable. This lot has never had a building on it.

Sincerely,



Clayton Wood
chair
Pittsfield Planning Board

Planning Board Members:
Clayton Wood (Chairman)
Daren Nielson
Gerard LeDuc (Selectman Ex Officio)

Pat Heffernan (Vice-Chairman)
Roland Carter (Alternate)
Larry Konopka (Alternate for Selectman Ex Officio)

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Jim Pritchard (Secretary)
Paul Nickerson (Alternate)

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Statement of Policy
No. 19

Sale of Town Property

The Town of Moultonborough, with the passage of Article 33 at the 2003 Town Meeting, adopted the provisions of RSA 41:14-a authorizing the Selectmen to dispose of Town properties.

The selectmen shall review all property held by deed to determine their intent for that property. Property held by Tax deed will be held for a minimum of three years. Thereafter, the Selectmen will annually review properties with tax deeds held for three years after the date of record. The annual review shall determine whether each parcel should be retained by the Town or made available for sale.

Town owned lots will first be offered to owners of abutting, nonconforming lots for merger with their nonconforming lot. Any nonconforming Town property will be offered to abutters for merging with abutting lots or to local associations for recreational use or green space.

Those properties that are intended for sale will be offered annually.

The selectmen may convey these properties by advertised sealed bids. The selectmen shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

Any proceeds from such sales will be deposited into a Trust Fund for future acquisition of real estate.

Addendum 1. Process

Addendum 2. Property Evaluation and Categorization

This policy shall be effective immediately upon adoption and shall remain in effect until superseded or amended.

Date of Adoption:
July 29, 2004

Karel A. Crawford, Chair, Board of Selectmen
Jerry D. Hopkins, Selectman
Ernest E. Davis, Jr., Selectman

Addendum 1

Process

The selectmen, by the 1st of July, shall annually review all property held by the Town, including parcels that were tax deeded at least three years from the date of record, to determine their intent for that property.

The Selectmen shall categorize those properties held by deed with their determination noted for each parcel.

Consistent with the spirit of the purpose and authority of the zoning ordinance, the Selectmen will endeavor to retain all non-conforming parcels or merge such parcel with abutting parcels.

Pursuant to RSA 41:14-a, the Selectmen shall first submit any such proposed property sale to the planning board and to the conservation commission for review and recommendation by those bodies.

After the selectmen receive the written recommendation of the planning board and the conservation commission they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed sale.

However, prior to the selectmen's vote, upon the written petition of 50 registered voters presented to the selectmen, according to the provisions of RSA 39:3, the proposed sale shall be inserted as an article in the warrant for the town meeting.

The selectmen's vote shall take place no sooner than 10 days nor later than 14 days after the second public hearing which is held.

The selectmen shall adequately advertise the properties to be sold, requesting sealed bids by not less than four weeks after the last advertisement. The selectmen shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

The goal is to complete any sale by the 1st of December.

Any proceeds from such sales will be deposited into a Trust Fund (to be established by Warrant Article at the March 2005 Town Meeting) for future acquisition of real estate.

Town owned Land

	Map & Lot	Address	Description	Value	Date of Record	Deed Record	Former Owner	Conforming lot	Abutting Lots	Selectmen's Decision
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										

Cara Marston

From: Matthew R. Serge <MSerge@dwmlaw.com>
Sent: Thursday, February 25, 2016 3:57 PM
To: Cara Marston
Subject: RE: town property auction problem?

Hi Cara,

My answer is that Town does not have to go through the RSA 41:14-a process to sell tax-deeded properties. RSA 80:80 deals with a specific type of town property (tax deeded) and provides that the Selectmen, if authorized by town meeting vote, may dispose of tax-deeded property without any other formalities. This is logical because this is part of a tax collection process and the interest of the town is to try and recoup those taxes etc. expeditiously.

RSA 41:14-a was adopted shortly after 80:80 and relates to the acquisition or sale of town property in general. When interpreting the interplay between RSA 80:80 and RSA 41:14-a, we are guided by the tools of statutory construction which provide that "Where reasonably possible, statutes should be construed as consistent with each other. When interpreting two statutes which deal with similar subject matter, we will construe them so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statute. To the extent two statutes conflict, the more specific statute controls over the general statute." EnergyNorth Natural Gas, Inc. v. City of Concord, 164 N.H. 14, 16 (2012). Further, the supreme court has stated that "[w]e acknowledge that the legislature's choice of language is deemed to be meaningful, and that we generally assume that whenever the legislature enacts a provision, it has in mind previous statutes relating to the same subject matter. Therefore, unless the context indicates otherwise, words or phrases in a provision that were used in a prior act pertaining to the same subject matter will be construed in the same sense. Conversely, where the legislature uses different language in related statutes, we assume that the legislature intended something different." In re Guardianship of Williams, 159 N.H. 318, 323 (2009).

Read together, it is reasonable to presume that the legislature had intended to treat the disposal of tax-deeded property differently from the sale of town property that was acquired through conventional sale, or donation etc. This reading gives meaning to both statutes. Thus, absent some clear indicator from state legislator that it intended to repeal or otherwise amend the general authority afforded Selectmen to dispose of tax-deeded property under RSA 80:80, a court will likely interpret RSA 41:14-a as not including the sale of tax-deeded properties. The policy for treating tax-deeded property different makes sense since the goal there is to try and recoup the lost tax money, as opposed to proposing to sell property that was either purchased with taxpayer money or donated to the town and still part of its holdings.

There is one interesting caveat that I will raise, and that is there may be an argument that any tax-deeded property that is held longer than three years after deeding, which cuts off the obligation to pay any excess proceeds to the former owner (see RSA 80:89, VII) could be subject to RSA 41:14-a because the property would then be the same as any other property held by the town. I still say that regardless of when the property is sold it is still a tax collection issue and not part of the RSA 41:14-a process. So my feeling is that the Selectmen were permitted to sell those parcels that were properly tax-deeded without going through the RSA 41:14-a process.

-Matt

From: Cara Marston [mailto:cmarston@pittsfieldnh.gov]
Sent: Tuesday, February 23, 2016 5:08 PM
To: Matthew R. Serge
Subject: town property auction problem?

This past November 2015 property auction has seemed to unearth some yucky issues. The auction, sale, defaulted sale, re-sale of the lot on Tan Road seems to go from bad to worse (map R44-lots 7&8). Along the way, we have figured out that the parcels R44 7&8 and R48-6 should NOT have gone to auction, as they were not acquired by tax deed, as the board did not follow the 41:14-a procedure of the planning/conservation comment gathering along with the two selectboard public hearings. Thankfully, the deeds for these two sales did not get recorded. So, we are in the stages of gathering the planning board/conservation commission comment and then will schedule the two public hearings to properly sell these parcels. But now..... it has been brought to my attention that the town possibly did not have the proper authority to sell ANY of the parcels at the fall auction due to the timing of the town meeting authorized statutes, 80:80 and 41:14-a. In 1994, town meeting approved 80:80. In 2007, town meeting approved 41:14-a. (attached). The question to you is, due to the wording in 41:14-a, it appears the board has to go through the comment/public hearing process to sell all parcels (tax-deeded or not) since that was the most recently adopted statute dealing with the sale of town property. Is this accurate or is there another aspect of the statutes that is being overlooked? And, if so, how do we fix the deeds that have been recorded? A suggested 'corrective' deed was provided to me, to use, once the board goes through the comment and 2 public hearing process for all of these properties possibly sold incorrectly.

Thank you...

Cara M. Marston
Town Administrator
Town of Pittsfield
P.O. Box 98
85 Main Street
Pittsfield, NH 03263
(603) 435-6773 x20
(603) 435-7922 (fax)
cmarston@pittsfieldnh.gov
www.pittsfieldnh.gov

--- On Thu, 3/3/16, james pritchard <jamesapritchard@yahoo.com> wrote:

From: james pritchard <jamesapritchard@yahoo.com>
Subject: FW: Pittsfield: sale of town owned/tax deeded property, competing RSAs
To: "Dee Fritz" <dfritz@pittsfieldnh.gov>, "Cara Marston" <cmarston@pittsfieldnh.gov>, "Clayton Wood" <cwood911@gmail.com>, "Pat Heffernan" <patheffnh@gmail.com>, "Daren Nielsen" <dsnielsen@mathmechanixs.com>, "Gerard LeDuc" <cudelg@gmail.com>, "Gerard LeDuc" <selectmanleduc@metrocast.net>, "Roland Carter" <rccarter03276@yahoo.com>, "Larry Konopka" <konopakflooring@metrocast.net>
Date: Thursday, March 3, 2016, 1:09 PM

March 3, 2016

Dee Fritz <dfritz@pittsfieldnh.gov>
cc: Cara Marston <cmarston@pittsfieldnh.gov>
Clayton Wood <cwood911@gmail.com>
Pat Heffernan <patheffnh@gmail.com>
Daren Nielsen <dsnielsen@mathmechanixs.com>
Gerard LeDuc <cudelg@gmail.com>
Gerard LeDuc <selectmanleduc@metrocast.net>
Roland Carter <rccarter03276@yahoo.com>
Larry Konopka <konopakflooring@metrocast.net>

Dear Dee,

Please print and distribute to planning board members the correspondence below between town administrator Cara Marston and NHMA attorney Stephen Buckley.

Thank you,

Jim

--- On Thu, 3/3/16, Cara Marston <cmarston@pittsfieldnh.gov> wrote:

From: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: FW: Pittsfield: sale of town owned/tax deeded property, competing RSAs
To: "Planning Board" <planning@pittsfieldnh.gov>, "jamesapritchard@yahoo.com" <jamesapritchard@yahoo.com>
> Cc: "Al Douglas" <belfastgolf60@yahoo.com>, "Eric R. Nilsson" <nilssonselectman@gmail.com>, "Gerard A. LeDuc" <selectmanleduc@metrocast.net>, "Lawrence J. Konopka" <Konopakflooring@metrocast.net>, "Nick Hayes (selectmanhayes@gmail.com)" <selectmanhayes@gmail.com>
Date: Thursday, March 3, 2016, 9:24 AM

To all,

Forwarding NHMA's response regarding the concern of the November 2015 sale of tax deeded property.

Both town counsel and NHMA appear to agree on this issue. Just keeping you apprised as this issue evolves, as has been recently discussed at a planning board meeting and we are in the 41:14-a process for the non-tax deeded sale of town property.

Cara

From: legalinquiries [mailto:legalinquiries@nhmunicipal.org]
Sent: Thursday, March 03, 2016 9:15 AM
To: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: Pittsfield: sale of town owned/tax deeded property, competing RSAs

Cara:

The language in RSA 41:14-a where the word "any" is used to describe land that may be sold or bought by the select board does not modify the independent and separate authority conferred to convey tax deeded property. RSA Chapter 80 contains all of the legal authority conferred on all municipalities, cities and towns, to enforce the payment of real estate taxes, including the ability to tax deed to the town and the sale of tax deeded property. In simple terms, when the Legislature adopted RSA 41:14-a the Legislature said nothing about the authority to convey tax deeded property under RSA 80:80, and by that silence the Legislature meant to make clear that the manner of selling tax deeded property was not being amended or modified through the adoption of RSA 41:14-a.

As I have already stated in the clearest terms possible, the authority to sell tax deeded property as provided in RSA 80:80 is separate and independent from the authority to sell non-tax deeded property under RSA 41:14-a.

Stephen C. Buckley, Esquire
Legal Services Counsel
New Hampshire Municipal Association

From: Cara Marston [mailto:cmarston@pittsfieldnh.gov]
Sent: Wednesday, March 02, 2016 6:45 PM
To: legalinquiries
Subject: RE: Pittsfield: sale of town owned/tax deeded property, competing RSAs

When the town adopted 41:14-a, they did not specify it was just for non-tax deeded property. They just adopted the statute. Since the statute does not carve out tax-deeded property, is the Board allowed to deviate from the procedure for just tax-deeded property since 80:80 had been adopted? And we do not need to worry about the timing of the article acceptances?

From: legalinquiries [mailto:legalinquiries@nhmunicipal.org]
Sent: Wednesday, March 02, 2016 12:51 PM
To: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: Pittsfield: sale of town owned/tax deeded property, competing RSAs

Cara:

The authority to sell tax deeded property as provided in RSA 80:80 is separate and independent from the authority to sell non-tax deeded property under RSA 41:14-a.

If the town meeting authorizes the select board to sell tax deeded property the select board may do so and must only abide by the procedures prescribed in RSA 80:80 or as provided by vote of the town meeting (e.g., by public auction or by advertised sealed bids or under such terms as justice may require).

If the town meeting authorizes the select board to sell non-tax deeded property under RSA 41:14-a the select board must first submit any such proposed sale to the planning board and to the conservation commission for review and recommendation by those bodies. After the selectmen receive the recommendation of the planning board and the conservation commission, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed sale. The select board's vote to sell the property shall take place no sooner than 7 days nor later than 14 days after the second public hearing.

The prior sale of tax deeded property by the select board after the vote of town meeting at the 1990 town meeting appear to be authorized conveyances that do not need to be revisited or reconsidered.

Stephen C. Buckley, Esquire
Legal Services Counsel
New Hampshire Municipal Association
25 Triangle Park Drive
Concord, NH 03301
Tel: 1-800-852-3358 ex. 3408 or
603-224-7447 ex. 3408
Fax: 603-415-3090
Email: legalinquiries@nhmunicipal.org
www.nhmunicipal.org

From: Cara Marston [<mailto:cmarston@pittsfieldnh.gov>]
Sent: Wednesday, March 02, 2016 11:04 AM
To: legalinquiries
Subject: sale of town owned/tax deeded property, competing RSAs

Hello,

In 1994, our town meeting approved 80:80. In 2007, town meeting approved 41:14-a. The question to you is, due to the wording in 41:14-a, it appears the board has to go through the comment/public hearing process to sell ANY parcels. Since that was the most recently adopted statute dealing with the sale of town property, does the Board have to go through the 41:14-a process for the tax deeded parcels, as well?

The town held a public auction in November 2015 and offered for sale both tax deeded and non-tax deeded property. Thankfully, before the deeds were recorded for the non-tax deeded sales, this 41:14-a provision was discovered, and we are going through the

planning/conservation/public hearing process. In preparing for the process the Board's authority was questioned as to their ability to sell the tax deeded properties, as well. Deeds have been recorded on those. We are wondering if that public hearing process should be held retrospectively and corrective deeds filed, in the case of the 41:14-a removing the authority of the Board to readily sell the tax deeded parcels without the public hearing process.

Thank you,
Cara

Cara M. Marston
Town Administrator
Town of Pittsfield
P.O. Box 98
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(603) 435-6773 x20
(603) 435-7922 (fax)
cmarston@pittsfieldnh.gov
www.pittsfieldnh.gov

March 14, 2016

Pittsfield Board of Selectmen
85 Main Street
P. O. Box 98
Pittsfield, NH 03263

Dear board of selectmen:

At the planning board meeting of February 18, 2016, board member Daren Nielsen asked why, in view of the Moultonborough guidelines for selling town property, tax-deeded properties should be exempt from the land-use review and recommendation process of RSA 41:14-a, I. The planning board's subsequent research indicates that tax-deeded properties are in fact subject to the same process as other properties under RSA 41:14-a, I. The town meeting approved article 26 of the 2007 annual town meeting warrant, authorizing the board of selectmen to buy or sell land, buildings, or both subject to certain procedural conditions in RSA 41:14-a, I:

If adopted in accordance with RSA 41:14-c, the selectmen shall have the authority to acquire or sell land, buildings, or both; **provided, however, they shall first submit ANY such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies**, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings...

RSA 41:14-a, II, lists three exceptions to "any such proposed acquisition or sale [of land, buildings, or both]," but these exceptions do not include tax-deeded properties:

The provisions of this section shall not apply to the sale of and the selectmen shall have no authority to sell:

- (a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.
- (b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.
- (c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

RSA 80:80, whose provisions the town meeting adopted under article 12 of the 1994 town meeting warrant, specifically authorizes the town meeting, under RSA 80:80, III, to authorize the board of selectmen "to dispose of a lien or tax deeded property in a manner than otherwise provided in this section [RSA 80:80], as justice may require."

Authorizing the board of selectmen to dispose of tax-deeded property in a manner than otherwise provided in RSA 80:80—that is, by imposing procedural conditions on the board of selectmen’s authority to sell tax-deeded property—is exactly what the town meeting did in adopting the provisions of RSA 41:14-a.

In the planning board’s analysis of RSA 80:80, III, the board has not overlooked RSA 80:80, VI, which clarifies RSA 80:80, III. Paragraph VI says that “the authority to dispose of the property ‘as justice may require’” *includes* a certain power, but paragraph VI does not say that that authority is *limited to* that certain power.

In response to questioning by the town administrator, the town attorney has recently opined that the procedural conditions of RSA 41:14-a, I, do not apply to tax-deeded properties. The planning board respectfully asserts that the town attorney is mistaken. The town attorney’s opinion depends on his assertion that RSA 80:80, whose provisions the town meeting adopted under article 12 of the 1994 annual town meeting warrant, affirmatively excludes what the town attorney calls “any other formalities” from the process of selling tax-deeded properties:

My answer is that Town does not have to go through the RSA 41:14-a process to sell tax-deeded properties. RSA 80:80 deals with a specific type of town property (tax deeded) and **provides** that the Selectmen, if authorized by town meeting vote, may dispose of tax-deeded property **without any other formalities**.

(Emphasis on “does not” in original; other emphasis added.)

The town attorney is mistaken. RSA 80:80 does not affirmatively exclude other formalities and, as noted above, RSA 80:80, III, specifically authorizes the town meeting to authorize the board of selectmen to dispose of tax-deeded properties in a manner different from the manner provided in RSA 80:80. The only restriction that RSA 80:80, III, puts on the different manner is that it must be “as justice may require.” Therefore, RSA 80:80 does not affirmatively exclude other procedural conditions but instead allows the town meeting to require the explicit procedural conditions of RSA 41:14-a, I.

The planning board has identified several other errors in the town attorney’s statutory construction:

1. He has added words to RSA 80:80—“without any other formalities”—that the legislature did not include in RSA 80:80. “We interpret legislative intent from the statute as written and will not consider what the legislature might have said or add language that the legislature did not see fit to include.” (*Town of Amherst v. Gilroy*, 157 N.H. 275, 950 A.2d 193 (2008).)
2. He has ignored the word “any” in RSA 41:14-a. “any” in RSA 41:14-a, I, means any excepting only the exceptions stated in RSA 41:14-a, II. “We can neither ignore the plain language of the legislation nor add words that the legislature did not include.” (*In re Haley K.*, 163 N.H. 247, 37 A.3d 377 (2012).)

3. He has assumed an exception to “any such proposed acquisition or sale [of land, buildings, or both]” when the RSA 41:14-a lists its exceptions and does not include the exception, namely, tax-deeded properties, that the town attorney claims. “[E]xceptions are not to be implied. . . . Where there is an express exception, it comprises the only limitation on the operation of the statute and no other exceptions will be implied.” (*Ettinger v. Madison Planning Board*, 162 N.H. 785, 35 A.3d 562 (2011).)
4. He has argued a public policy

The policy for treating tax-deeded property different makes sense since the goal there is to try and recoup the lost tax money, as opposed **to proposing to sell property that was** either purchased with taxpayer money or **donated to the town** and still part of its holdings. (Emphasis added.)

that seems improbable in view of RSA 41:14-a, II, (c), which prohibits the board of selectmen from selling properties that were “donated to the town,” in the town attorney’s words, and used for “charitable or community purposes.” (RSA 41:14-a, II, (c).) Any property “donated to the town” and proposed for sale must be drawn from a noncharitable and noncommunity use and therefore would be indistinguishable, relative to land-use, from tax-deeded properties. It was this sameness in tax-deeded properties and eligible non-tax-deeded properties that drew Daren Nielsen’s attention and led to the planning board’s analysis that ultimately concluded that “any ... proposed acquisition or sale [of land, buildings, or both]” (RSA 41:14-a, I) is subject to the process of RSA 41:14-a, I.

In view of the planning board’s conclusion that the process of RSA 41:14-a, I, does apply to “any ... proposed acquisition or sale [of land, buildings, or both]” (RSA 41:14-a, I) excepting only the properties listed in RSA 41:14-a, II, the planning board respectfully suggests that the board of selectmen send a copy of this letter to all auction buyers and offer to ratify the sales by doing the process of RSA 41:14-a, I, and by issuing new deeds according to the model deed attached.

For future sales, of course, the board of selectmen should conduct the process of RSA 41:14-a, I, for all properties proposed for sale and should finish this process before scheduling an auction.

Respectfully submitted,

Clayton Wood, chair,
for the Pittsfield Planning Board

Attachments:

1. RSA 41:14-a and RSA 41:14-c with emphasis added.
2. RSA 80:80 with emphasis added.
3. Town attorney's (Matthew Serge's) opinion that the process of RSA 41:14-a, I, does not apply to tax-deeded properties.
4. M.C.R.D. book 3501, page 1517 (Town of Pittsfield to Conlin, written by town attorney Matthew Serge, and saying that the board of selectmen was "duly authorized").
5. Model correction deed (Town of Pittsfield to Mahood and Pritchard).

MINUTES OF THE ANNUAL TOWN MEETING

TOWN OF PITTSFIELD

MARCH 12, 1994

TAKEN UP TUESDAY, MARCH 8, 1994:

ARTICLE # 1. To choose one Selectman for a three (3) year term; one Moderator for a two (2) year term; one Town Clerk/Tax Collector for a three (3) year term; one Fire Ward for a three (3) year term; one Library Trustee for a three (3) year term; one Checklist Supervisor for a six (6) year term, and one Trustee of the Trust Funds for three (3) year term.

The results of the election are as follows: Selectmen (3) years, William F. Bleckmann 89; Neil M. Delorey 187; Frederick T. Hast 94; Gerard A. Leduc (57). Neil M. Delorey elected. Moderator (2) years, Henry F. Stapleton 15, elected. Town Clerk/Tax Collector (3) years, Elizabeth A. Hast (411), elected. Fire Ward (3) years, Leonard E. Deane, II (395), elected. Library Trustee (3) years, Daniel F. Welch (391), elected. Checklist Supervisor (6) year term Roberta J. Maxfield (408), elected. Trustee of the Trust Funds (3) year term Ogden H. Boyd, Jr. (401), elected.

TAKEN UP SATURDAY, MARCH 12, 1994:

Moderator David Pollard called the meeting to order at 1:05 P.M.

Reverend Carson gave the prayer.

David Fogg from the Boy Scouts, led in the Pledge of Allegiance.

The Moderator imposed a few simple rules, everyone who wants to speak must come and use the microphone even though your voice might carry. Anyone who has spoken will not be recognized, until everyone who wants to speak, has had the opportunity to do so.

ARTICLE # 2. To see if the Town will vote to raise and appropriate the sum of Ninety Thousand Dollars (\$90,000) for the purpose of a Town wide revaluation. *(Recommended by the Board of Selectmen)*
(Recommended by the Municipal Budget Committee) (Majority Vote Required).

Floyd Carson made a motion to accept Article #2 as read, Dean Whittier seconded. Don Bergeron stated that he voted favorably, but was concerned whether or not this was the right time to do a revaluation. Joe Carson stated there was 89 applications for abatements filed in 1993. He stated he does not feel we can hold off on the reval, it needs to be done now. There are fifteen cases pending with the Board of Tax & Land Appeals. The Town must do it now to make it equitable. If the reval is approved, it will not take effect until 1995. Mr. Carson wants everyone to pay their fair share. Fred Dunlop asked what percentage of these abatements are for rental property versus residential homes? Mr. Carson stated he did not have the figures on hand, but stated that the majority of all the multi-dwelling property owners have applied. Most of the cases have received abatements from the state, which throws everything out of wack and some people are coming back a second time for an abatement. Scott Brown stated he agrees that there are inequities in the assessments, but he stated he does not think this is the time to do a reval because the real estate market is up and down and it would be hard to find

Carson made a motion to accept Article #8 as read, Ruth Connor seconded. Voice vote on Article #8 as affirmative; motion carried.

ARTICLE # 9. To see if the Town will vote to establish a Capital Reserve Fund under the provision of RSA for the purpose of replacing the small DPW truck, and raise and appropriate the sum of Ten Thousand Dollars (\$10,000.00) to be placed in this fund. *(Recommended by the Board of Selectmen) (Recommended by the Municipal Budget Committee) (Majority Vote Required)*

Carson made a motion to accept Article #9 as read, Dean Whittier seconded. Voice vote on Article #9 as affirmative; motion carried.

ARTICLE # 10. To see if the Town will vote to establish a Capital Reserve Fund under the provision of RSA for the purpose of replacing Fire and Rescue apparatus vehicles and raise and appropriate the sum of Ten Thousand Dollars (\$15,000.00) to be placed in this fund. *(Recommended by the Board of Selectmen) (Recommended by the Municipal Budget Committee) (Majority Vote Required)*

Whittier made a motion to accept Article #10 as read, Joe Carson seconded. What vehicles does this refer to? It is anticipated this will replace engine 1 and engine 2 in approximately 15 to 20 years. Voice vote on Article #10 as read affirmative; motion carried.

ARTICLE # 11. To see if the Town will vote to establish a Capital Reserve Fund under the provision of RSA for the purpose of converting to an optional fiscal year, and raise and appropriate the sum of Fifty Thousand Dollars (\$50,000.00) to be placed in this fund. *(Recommended by the Board of Selectmen) (Not Recommended by the Municipal Budget Committee) (Majority Vote Required)*

Henry Stapleton made a motion to accept Article #11 as read, Joe Carson seconded. Helen Schoppmeyer asked what is this for? This money will be put aside each year until we switch from January to December year to July to June year. This money would be used for the budget from January to June, an 18 month budget. Henry Stapleton stated he didn't think this will save the Town any money, just put the town on the same calendar year as the school. Art Morse stated the Budget Committee voted against this, because they did not feel there was any benefit to the town. Voice vote on Article #11 as read, defeated.

ARTICLE # 12. To see if the Town will vote to authorize the Board of Selectmen, until rescinded, the authority to convey any real estate acquired by the Town by Tax Collector's Deed. Such conveyance shall be by public auction, or the property may be sold by advertised sealed bids, or may be otherwise disposed of as justice may require, pursuant to NH RSA 80:80. *(Recommended by the Board of Selectmen) (Majority Vote Required)*

Whittier made a motion to accept Article #12 as read, Joe Carson seconded. David Barker stated this article was revised by the legislature this year for the Town to adopt this now. It will stay into effect until this year unless the Board decides to rescind this action. Brenda Butterfield asked how many properties were sold last year by advertised sealed bid? The town sold approximately 7 or 8 properties last year by advertised sealed bid. They were advertised in the Concord Monitor and the Suncook Valley Sun and posted at the Town office and the Post Office. Dan Welch stated last year we had specific properties that had to be decided on what to do with them, and this eliminate that? Yes. Voice vote on Article #12 as read affirmative; motion carried.

ARTICLE # 13. To see if the Town will vote to accept the following in trust:

Section 80:80

80:80 Transfer of Tax Lien. –

I. No transfer of any tax lien upon real estate acquired by a town or city as a result of the execution of the real estate tax lien by the tax collector for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption be conveyed to any person, **unless the town, by majority vote at the annual meeting**, or city council by vote, **shall authorize the selectmen** or the mayor to transfer such lien or **to convey such property by deed**.

II. If the selectmen or mayor are so authorized to convey such property by deed, either a public auction shall be held, or the property may be sold by advertised sealed bids. The selectmen or mayor shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

II-a. If the selectmen or mayor are authorized to transfer such liens during the 2-year redemption period, either a public auction shall be held, or the liens may be sold by advertised sealed bids. The selectmen or mayor may establish minimum bids, and may set the terms and conditions of the sale. Such liens may be sold singly or in combination, but no fractional interest in any lien shall be sold. Such transfer shall not affect the right of the owner or others with a legal interest in the land to redeem the tax lien pursuant to RSA 80:69, or make partial payments in redemption pursuant to RSA 80:71, but the transferee shall become the lienholder for purposes of RSA 80:72 and 80:76.

III. **The selectmen may, by a specific article in the town warrant, or the mayor, by ordinance, may be authorized to dispose of a lien or tax deeded property in a manner than otherwise provided in this section, as justice may require.**

IV. **Such authority to transfer or to sell shall continue in effect for one year from the date of the town meeting or action by the city or town council provided, however, that the authority to transfer tax liens, or to sell real estate acquired in default of redemption, or to vary the manner of such sale or transfer as justice may require, may be granted for an indefinite period, in which case the warrant article or vote granting such authority shall use the words "indefinitely, until rescinded" or similar language.**

V. Towns and cities may retain and hold for public uses real property the title to which has been acquired by them by tax collector's deed, upon vote of the town meeting or city council approving the same.

VI. For purposes of this section, the authority to dispose of the property "as justice may require" shall **include** the power of the selectmen or mayor to convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the registry of deeds. This paragraph shall not be construed to obligate any municipality to make any such conveyance or agreement.

Source. 1987, 322:1. 1992, 173:3, 4. 1993, 176:10. 1997, 266:4, eff. Jan. 1, 1998.

2007 TOWN MEETING MINUTES

Moderator Firstenberger re-read Article 24 ~

To see if the town will vote to raise and appropriate the sum of Three Million Six Hundred Four Thousand Four Hundred Forty Six Dollars (\$3,604,446) to fund the Town Budget and Capital Outlay as recommended by the Budget Committee. Said sum does not include the sums contained in special or individual articles of this warrant. (Recommended by the Budget Committee) (Recommended by the Selectmen) (estimated gross tax impact – 8.05) (the 2006 town tax portion of the total tax rate of 22.60 is 7.34)

There being no further discussion, card vote on Article 24 as read passed.

Article 5: Shall we modify the elderly exemptions from property tax in the town of Pittsfield based on the assessed value, for qualified voters to be as follows: for a person 65 years of age up to 75 years, (\$50,000); for a person 75 years of age up to 80 years, (\$75,000); for a person 80 years of age or older, (\$125,000); To qualify the person must have been a New Hampshire resident for at least 3 years, own the real estate individually or jointly, or if the real estate is owned by such person's spouse, they must have been married for at least 5 years. In addition, the taxpayer must have a net income of not more than (\$23,140) or, if married, a combined net income of less than (\$33,130); and own net assets not in excess of (\$43,983).

Selectman Konopka moved to accept Article 5 as read, Selectwoman Small seconded.

Selectwoman Small explained the need for the increase, to offset the burden that the revaluation's value adjustments have added to the elderly and to bring the exemptions in line with other towns. A discussion took place about which assets were included in the allowance (excludes primary residence), how the income/asset adjustments were made (consumer price index), and the possibility of changing the wording of the article to restrict it to Pittsfield residents for five years (which isn't recommended to be done as it is strictly from NH statute).

There being no further discussion, the question was called and a card vote on Article 5 as read passed.

Article 25: Shall the town vote to adopt the provisions for RSA 79:E for a community revitalization tax relief incentive program? Adoption of this tax relief program will allow a property owner to apply for tax relief, for a limited duration on improvements, when rehabilitating a qualifying structure. At the end of the tax relief period, the property shall be taxed at its full market value in accordance with RSA 75:1.

Selectwoman Small moved to accept Article 25 as read, Selectman Vien seconded.

Selectwoman Small explained that this is the second of the three 'tools' that the committee can use to help initiate economic development, a downtown area where this can be used (for business purposes only) has been established by the committee and support of this will help move the town forward. A discussion took place about what was eligible for this tax relief with detailed input from economic development committee member Eric Bahr, who explained that the Selectboard has the discretion of which projects will be considered, that it is for commercial/business purposes only, the terms of relief are for one to five years, how the amount of relief is calculated, and explained that the period of tax relief will help the business recoup their investment.

There being no further discussion, card vote on Article 25 as read passed.

Article 26: Shall the municipality accept the provisions of RSA 41:14-a, which grants to the Board of Selectmen, until specific recession of such authority, the authority to buy and sell land and buildings without additional voter approval, after first submitting any proposed acquisition or sale to the planning board and conservation commission for review and comment and hold two public hearings regarding such sale or acquisition?

Selectwoman Small moved to accept Article 26 as read, Selectman Vien seconded.

2007 TOWN MEETING MINUTES

Selectwoman Small explained that this is the third of the three 'tools' that the committee can use to help initiate economic development, if an apartment building comes up for sale, the Selectboard would be able to enter into an agreement to purchase it for business development purposes (with two public hearings) without having to have a special meeting or wait for the annual town meeting. A discussion took place about granting the Selectboard more authority (to purchase land), yet the Selectboard would still have to come to the townspeople in the form of public hearings, which have more of a faster timeline than special town meetings.

There being no further discussion, card vote on Article 26 as read passed.

Article 27: To see if the town will vote to change the membership of the conservation commission from 5 members and 1 alternate to 5 members and 2 alternates in accordance with RSA 36-A:3 with the terms to be arranged such that approximately 1/3 of the members and alternate will expire each year. The additional alternate member shall be appointed by the selectmen.

Selectwoman Keeley moved to accept Article 27 as read, Chairman Morse seconded.

Selectwoman Keeley explained that most towns have two alternates and this would make it easier to achieve the quorum needed at meetings for when some of the members travel for a few months of the year.

There being no further discussion, card vote on Article 27 as read passed.

Article 28: To see if the town will vote to amend Section VI (C) (1) of the Code of Ethics to allow employees to present written complaints even if they are not residents of the town.

Chairman Morse moved to accept Article 28 as read, Selectman Konopka seconded.

There being no discussion, card vote on Article 28 as read passed.

Article 29: To see if the town will vote to amend Section VI of the Code of Ethics to amend the definition of "personal interest" to include interests arising from property ownership as personal interests, even if pecuniary interest is not present.

Chairman Morse moved to accept Article 29 as read, Selectman Konopka seconded.

Chairman of the Ethics Committee, Glenn Amnott, explained that the purpose of this article was to further define and clarify the state's definition. A short discussion ensued about the concern over amending the state's definitions in the statutes.

There being no further discussion, card vote on Article 29 as read passed.

Article 30: To see if the town will vote to amend Section VI of the Code of Ethics to amend the definition of "pecuniary interest" to include advantages in the form of property ownership as pecuniary interests.

Chairman Morse moved to accept Article 30 as read, Selectman Konopka seconded.

After a definition of pecuniary was explained, the article was called to question as the subject matter of discussion was a parrot of the previous article.

There being no further discussion, card vote on Article 30 as read passed.

Article 31: Are you in favor of amending the Housing Standards Ordinance as proposed by the Housing Standards Agency? (Copies of the changes are available at Town Hall)

Section 41:14-a

41:14-a Acquisition or Sale of Land, Buildings, or Both. –

I. If adopted in accordance with RSA 41:14-c, the selectmen shall have the authority to acquire or sell land, buildings, or both; **provided, however, they shall first submit any such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies**, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed acquisition or sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed acquisition or sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner than 7 days nor later than 14 days after the second public hearing which is held.

II. **The provisions of this section shall not apply to the sale of** and the selectmen shall have no authority to sell:

(a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.

(b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

Source. 1994, 197:3. 1997, 38:1. 2001, 187:2. 2005, 80:1. 2007, 221:2. 2008, 109:1, eff. July 27, 2008.

Section 41:14-c

41:14-c Adoption Procedure. –

I. Towns may adopt the provisions of RSA 41:14-a at any duly warned meeting. **Once adopted, these provisions shall remain in effect until specifically rescinded by the town at any duly warned meeting.**

II. Towns with 10,000 or more inhabitants may adopt the provisions of RSA 41:14-b at any duly warned meeting. Once adopted, these provisions shall remain in effect until specifically rescinded by the town at any duly warned meeting.

Source. 1994, 197:3. 2001, 187:3, eff. Sept. 3, 2001.

Cara Marston

From: Matthew R. Serge <MSerge@dwmlaw.com>
Sent: Thursday, February 25, 2016 3:57 PM
To: Cara Marston
Subject: RE: town property auction problem?

Hi Cara,

My answer is that Town does not have to go through the RSA 41:14-a process to sell tax-deeded properties. RSA 80:80 deals with a specific type of town property (tax deeded) and provides that the Selectmen, if authorized by town meeting vote, may dispose of tax-deeded property without any other formalities. This is logical because this is part of a tax collection process and the interest of the town is to try and recoup those taxes etc. expeditiously.

RSA 41:14-a was adopted shortly after 80:80 and relates to the acquisition or sale of town property in general. When interpreting the interplay between RSA 80:80 and RSA 41:14-a, we are guided by the tools of statutory construction which provide that "Where reasonably possible, statutes should be construed as consistent with each other. When interpreting two statutes which deal with similar subject matter, we will construe them so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statute. To the extent two statutes conflict, the more specific statute controls over the general statute." EnergyNorth Natural Gas, Inc. v. City of Concord, 164 N.H. 14, 16 (2012). Further, the supreme court has stated that "[w]e acknowledge that the legislature's choice of language is deemed to be meaningful, and that we generally assume that whenever the legislature enacts a provision, it has in mind previous statutes relating to the same subject matter. Therefore, unless the context indicates otherwise, words or phrases in a provision that were used in a prior act pertaining to the same subject matter will be construed in the same sense. Conversely, where the legislature uses different language in related statutes, we assume that the legislature intended something different." In re Guardianship of Williams, 159 N.H. 318, 323 (2009).

Read together, it is reasonable to presume that the legislature had intended to treat the disposal of tax-deeded property differently from the sale of town property that was acquired through conventional sale, or donation etc. This reading gives meaning to both statutes. Thus, absent some clear indicator from state legislator that it intended to repeal or otherwise amend the general authority afforded Selectmen to dispose of tax-deeded property under RSA 80:80, a court will likely interpret RSA 41:14-a as not including the sale of tax-deeded properties. The policy for treating tax-deeded property different makes sense since the goal there is to try and recoup the lost tax money, as opposed to proposing to sell property that was either purchased with taxpayer money or donated to the town and still part of its holdings.

There is one interesting caveat that I will raise, and that is there may be an argument that any tax-deeded property that is held longer than three years after deeding, which cuts off the obligation to pay any excess proceeds to the former owner (see RSA 80:89, VII) could be subject to RSA 41:14-a because the property would then be the same as any other property held by the town. I still say that regardless of when the property is sold it is still a tax collection issue and not part of the RSA 41:14-a process. So my feeling is that the Selectmen were permitted to sell those parcels that were properly tax-deeded without going through the RSA 41:14-a process.

-Matt

From: Cara Marston [mailto:cmarston@pittsfieldnh.gov]
Sent: Tuesday, February 23, 2016 5:08 PM
To: Matthew R. Serge
Subject: town property auction problem?

This past November 2015 property auction has seemed to unearth some yucky issues. The auction, sale, defaulted sale, re-sale of the lot on Tan Road seems to go from bad to worse (map R44-lots 7&8). Along the way, we have figured out that the parcels R44 7&8 and R48-6 should NOT have gone to auction, as they were not acquired by tax deed, as the board did not follow the 41:14-a procedure of the planning/conservation comment gathering along with the two selectboard public hearings. Thankfully, the deeds for these two sales did not get recorded. So, we are in the stages of gathering the planning board/conservation commission comment and then will schedule the two public hearings to properly sell these parcels. But now..... it has been brought to my attention that the town possibly did not have the proper authority to sell ANY of the parcels at the fall auction due to the timing of the town meeting authorized statutes, 80:80 and 41:14-a. In 1994, town meeting approved 80:80. In 2007, town meeting approved 41:14-a. (attached). The question to you is, due to the wording in 41:14-a, it appears the board has to go through the comment/public hearing process to sell all parcels (tax-deeded or not) since that was the most recently adopted statute dealing with the sale of town property. Is this accurate or is there another aspect of the statutes that is being overlooked? And, if so, how do we fix the deeds that have been recorded? A suggested 'corrective' deed was provided to me, to use, once the board goes through the comment and 2 public hearing process for all of these properties possibly sold incorrectly.

Thank you...

Cara M. Marston
Town Administrator
Town of Pittsfield
P.O. Box 98
85 Main Street
Pittsfield, NH 03263
(603) 435-6773 x20
(603) 435-7922 (fax)
cmarston@pittsfieldnh.gov
www.pittsfieldnh.gov

--- On Thu, 3/3/16, james pritchard <jamesapritchard@yahoo.com> wrote:

From: james pritchard <jamesapritchard@yahoo.com>
Subject: FW: Pittsfield: sale of town owned/tax deeded property, competing RSAs
To: "Dee Fritz" <dfritz@pittsfieldnh.gov>, "Cara Marston" <cmarston@pittsfieldnh.gov>, "Clayton Wood" <cwood911@gmail.com>, "Pat Heffernan" <patheffnh@gmail.com>, "Daren Nielsen" <dsnielsen@mathmechanixs.com>, "Gerard LeDuc" <cudelg@gmail.com>, "Gerard LeDuc" <selectmanleduc@metrocast.net>, "Roland Carter" <rccarter03276@yahoo.com>, "Larry Konopka" <konopkaflooring@metrocast.net>
Date: Thursday, March 3, 2016, 1:09 PM

March 3, 2016

Dee Fritz <dfritz@pittsfieldnh.gov>
cc: Cara Marston <cmarston@pittsfieldnh.gov>
Clayton Wood <cwood911@gmail.com>
Pat Heffernan <patheffnh@gmail.com>
Daren Nielsen <dsnielsen@mathmechanixs.com>
Gerard LeDuc <cudelg@gmail.com>
Gerard LeDuc <selectmanleduc@metrocast.net>
Roland Carter <rccarter03276@yahoo.com>
Larry Konopka <konopkaflooring@metrocast.net>

Dear Dee,

Please print and distribute to planning board members the correspondence below between town administrator Cara Marston and NHMA attorney Stephen Buckley.

Thank you,

Jim

--- On Thu, 3/3/16, Cara Marston <cmarston@pittsfieldnh.gov> wrote:

From: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: FW: Pittsfield: sale of town owned/tax deeded property, competing RSAs
To: "Planning Board" <planning@pittsfieldnh.gov>, "jamesapritchard@yahoo.com" <jamesapritchard@yahoo.com>
> Cc: "Al Douglas" <belfastgolf60@yahoo.com>, "Eric R. Nilsson" <nilssonselectman@gmail.com>, "Gerard A. LeDuc" <selectmanleduc@metrocast.net>, "Lawrence J. Konopka" <Konopkaflooring@metrocast.net>, "Nick Hayes (selectmanhayes@gmail.com)" <selectmanhayes@gmail.com>
Date: Thursday, March 3, 2016, 9:24 AM

To all,

Forwarding NHMA's response regarding the concern of the November 2015 sale of tax deeded property.

Both town counsel and NHMA appear to agree on this issue. Just keeping you apprised as this issue evolves, as has been recently discussed at a planning board meeting and we are in the 41:14-a process for the non-tax deeded sale of town property.

Cara

From: legalinquiries [mailto:legalinquiries@nhmunicipal.org]
Sent: Thursday, March 03, 2016 9:15 AM
To: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: Pittsfield: sale of town owned/tax deeded property, competing RSAs

Cara:

The language in RSA 41:14-a where the word "any" is used to describe land that may be sold or bought by the select board does not modify the independent and separate authority conferred to convey tax deeded property. RSA Chapter 80 contains all of the legal authority conferred on all municipalities, cities and towns, to enforce the payment of real estate taxes, including the ability to tax deed to the town and the sale of tax deeded property. In simple terms, when the Legislature adopted RSA 41:14-a the Legislature said nothing about the authority to convey tax deeded property under RSA 80:80, and by that silence the Legislature meant to make clear that the manner of selling tax deeded property was not being amended or modified through the adoption of RSA 41:14-a.

As I have already stated in the clearest terms possible, the authority to sell tax deeded property as provided in RSA 80:80 is separate and independent from the authority to sell non-tax deeded property under RSA 41:14-a.

Stephen C. Buckley, Esquire
Legal Services Counsel
New Hampshire Municipal Association

From: Cara Marston [mailto:cmarston@pittsfieldnh.gov]
Sent: Wednesday, March 02, 2016 6:45 PM
To: legalinquiries
Subject: RE: Pittsfield: sale of town owned/tax deeded property, competing RSAs

When the town adopted 41:14-a, they did not specify it was just for non-tax deeded property. They just adopted the statute. Since the statute does not carve out tax-deeded property, is the Board allowed to deviate from the procedure for just tax-deeded property since 80:80 had been adopted? And we do not need to worry about the timing of the article acceptances?

From: legalinquiries [mailto:legalinquiries@nhmunicipal.org]
Sent: Wednesday, March 02, 2016 12:51 PM
To: Cara Marston <cmarston@pittsfieldnh.gov>
Subject: Pittsfield: sale of town owned/tax deeded property, competing RSAs

Cara:

The authority to sell tax deeded property as provided in RSA 80:80 is separate and independent from the authority to sell non-tax deeded property under RSA 41:14-a.

If the town meeting authorizes the select board to sell tax deeded property the select board may do so and must only abide by the procedures prescribed in RSA 80:80 or as provided by vote of the town meeting (e.g., by public auction or by advertised sealed bids or under such terms as justice may require).

If the town meeting authorizes the select board to sell non-tax deeded property under RSA 41:14-a the select board must first submit any such proposed sale to the planning board and to the conservation commission for review and recommendation by those bodies. After the selectmen receive the recommendation of the planning board and the conservation commission, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed sale. The select board's vote to sell the property shall take place no sooner than 7 days nor later than 14 days after the second public hearing.

The prior sale of tax deeded property by the select board after the vote of town meeting at the 1990 town meeting appear to be authorized conveyances that do not need to be revisited or reconsidered.

Stephen C. Buckley, Esquire
Legal Services Counsel
New Hampshire Municipal Association
25 Triangle Park Drive
Concord, NH 03301
Tel: 1-800-852-3358 ex. 3408 or
603-224-7447 ex. 3408
Fax: 603-415-3090
Email: legalinquiries@nhmunicipal.org
www.nhmunicipal.org

From: Cara Marston [<mailto:cmarston@pittsfieldnh.gov>]
Sent: Wednesday, March 02, 2016 11:04 AM
To: legalinquiries
Subject: sale of town owned/tax deeded property, competing RSAs

Hello,

In 1994, our town meeting approved 80:80. In 2007, town meeting approved 41:14-a. The question to you is, due to the wording in 41:14-a, it appears the board has to go through the comment/public hearing process to sell ANY parcels. Since that was the most recently adopted statute dealing with the sale of town property, does the Board have to go through the 41:14-a process for the tax deeded parcels, as well?

The town held a public auction in November 2015 and offered for sale both tax deeded and non-tax deeded property. Thankfully, before the deeds were recorded for the non-tax deeded sales, this 41:14-a provision was discovered, and we are going through the

planning/conservation/public hearing process. In preparing for the process the Board's authority was questioned as to their ability to sell the tax deeded properties, as well. Deeds have been recorded on those. We are wondering if that public hearing process should be held retrospectively and corrective deeds filed, in the case of the 41:14-a removing the authority of the Board to readily sell the tax deeded parcels without the public hearing process.

Thank you,
Cara

Cara M. Marston
Town Administrator
Town of Pittsfield
P.O. Box 98
85 Main Street
Pittsfield, NH 03263
(603) 435-6773 x20
(603) 435-7922 (fax)
cmarston@pittsfieldnh.gov
www.pittsfieldnh.gov

MERRIMACK COUNTY RECORDS *Kathi L. Guay* CPO, Register

Prepared by: Matthew R. Serge, Esq.
Drummond Woodsum & MacMahon
1001 Elm Street, Suite 303
Manchester, N.H. 03101-1845

B
1849
2-

Return to:

Town of Pittsfield
PO Box 98
85 Main Street
Pittsfield NH 03263

20.00 DEED

The **TOWN OF PITTSFIELD**, with a mailing address of 85 Main Street, Pittsfield, New Hampshire 03263, for consideration paid, grants to **Daniel J. Conlin**, with a mailing address of P.O. Box 5, Rye Beach, New Hampshire 03871, WITHOUT COVENANTS, all of its rights, title and interest in:

A certain tract or parcel of land situated in the Town of Pittsfield, New Hampshire, aforesaid, to have and to hold with the appurtenances forever, taxed by the Assessing Officials in 1994 to Oliver K. Ohlund, located at Chichester Town Line (Off Ingalls Road), and described in the invoice books as: Land 2.90 Acres, Known as Tax Map R37 Lot 6-2 (formerly identified as Lot 6B).

MEANING AND INTENDING to describe and convey all of the Town of Pittsfield's rights, title and interest in that portion of the premises described in the Deed of the Town of Pittsfield's Tax Collector, dated June 10, 1997, and recorded in the Merrimack County Registry of Deeds at Book 2059, Page 1446.

The conveyed premises is not homestead property.

WHEREFORE, the Board of Selectmen of the Town of Pittsfield has executed
this deed this 4th day of December, 2015.

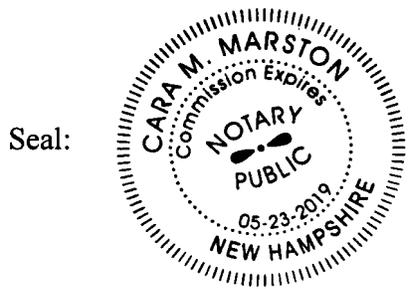
TOWN OF PITTSFIELD

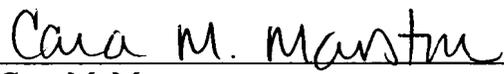
By Its Board of Selectmen

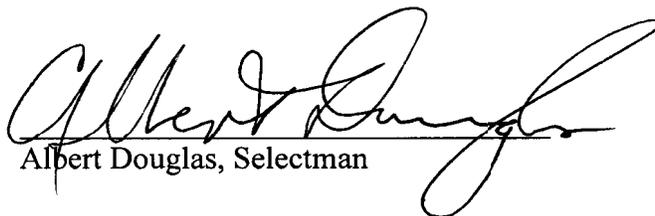

Eric R. Nilsson, Chairman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Eric R. Nilsson, Chairman of the Board of Selectmen of the Town
of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town
as aforesaid.



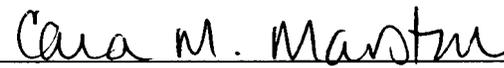

Cara M. Marston
Notary Public
My Commission Expires: 5/23/2019

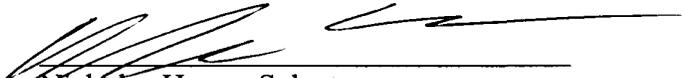

Albert Douglas, Selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Albert Douglas, member of the Board of Selectmen of the Town
of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town
as aforesaid.



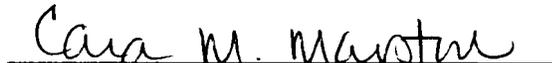

Cara M. Marston
Notary Public
My Commission Expires: 5/23/2019



Nicholas Hayes, Selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Nicholas Hayes, member of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.



Cara M. Marston
Notary Public
My Commission Expires: 5/23/2019

Seal:

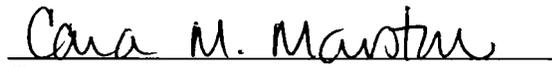




Gerard A. LeDuc, Selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Gerard A. LeDuc, member of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.



Cara M. Marston
Notary Public
My Commission Expires: 5/23/2019

Seal:



DEED

The **Town of Pittsfield**, with a mailing address of 85 Main Street, Pittsfield, New Hampshire 03263, for consideration paid, grants to **Timothy M. Mahood** and **Elaine H. Mahood**, with a mailing address of 3869 Federer Place, Saint Louis, Missouri, 63116-3130, as joint tenants with rights of survivorship a 99% interest, and to **Mary H. Pritchard, trustee of the Mary H. Pritchard Trust**, with a mailing address of 52 Needham Street, P.O. Box 17, Norfolk, Massachusetts, 02056 as a tenant in common an undivided 1% interest, with no covenants, all of the town's rights, title, and interest in the following described tract of land:

A certain tract of land situated in the town of Pittsfield, New Hampshire; located on Catamount Road, Pittsfield, NH 03263; taxed by the selectmen in 1967 to William Vincent; described in the town's invoice books as tax map R-30, lot 1; and known as the schoolhouse lot.

Meaning and intending to describe and convey all of the Town of Pittsfield's rights, title, and interest conveyed to the Town of Pittsfield by deed of the town's tax collector, dated June 1, 1968, and recorded in the Merrimack County Registry of Deeds at book 1073, page 157.

The tract conveyed is not homestead property.

The Town of Pittsfield sells this tract through the town's board of selectmen under article 26 of the March 13, 2007, town meeting warrant. Article 26 of the March 13, 2007, town meeting warrant authorized the board of selectmen to acquire or sell land, buildings, or both according to RSA 41:14-a, which in whole says as follows:

I. If adopted in accordance with RSA 41:14-c, the selectmen shall have the authority to acquire or sell land, buildings, or both; provided, however, they shall first submit any such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed acquisition or sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed acquisition or sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner than 7 days nor later than 14 days after the second public hearing which is held.

II. The provisions of this section shall not apply to the sale of and the selectmen shall have no authority to sell:

(a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.

(b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

On (month, day, year), the planning board reviewed and made its recommendation on the board of selectmen's proposal to sell this tract. On (month, day, year), the conservation commission reviewed and made its recommendation on the board of selectmen's proposal to sell this tract. On (month, day, year), the board of selectmen held a public hearing on its proposal to sell this tract, and on (month, day, year), the board of selectmen held another public hearing on its proposal to sell this tract.

This tract is not

- (a) town-owned conservation land managed and controlled by the conservation commission under the provisions of RSA 36-A,
- (b) any part of a town forest established under RSA 31:110 and managed under RSA 31:112, or
- (c) any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

Before the planning board, the conservation commission, and the board of selectmen conducted the process that RSA 41:14-a specifies for selling town-owned land, the board of selectmen recorded a deed to **Timothy M. Mahood** and **Elaine H. Mahood** and to **Mary H. Pritchard, trustee of the Mary H. Pritchard Trust**, in the Merrimack County Registry of Deeds at book 3501, page 1514.

WHEREFORE, the board of selectmen of the Town of Pittsfield has executed this deed this ____ day of _____, 2016.

TOWN OF PITTSFIELD

by its board of selectmen

Eric R. Nilsson, chair

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Eric R. Nilsson, member and chair of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Albert Douglas, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Albert Douglas, member of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Nicholas Hayes, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Nicholas Hayes, member of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Gerard A. LeDuc, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Gerard A. LeDuc, member of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Wheeler Bros

Know all Men by these Presents

That I, Frederic A. Franzeim, Collector of Taxes for the Town of Pittsfield, in the County of Merrimack and State of New Hampshire, for the year 1960 by the authority in me vested by the laws of the State, and in consideration of

BK943

ONE DOLLAR and other valuable considerations

to me paid by the said Town of Pittsfield, New Hampshire Do hereby sell and convey to the said Town of Pittsfield successors ~~and~~ and assigns, a certain tract or parcel of land situated in the Town of Pittsfield aforesaid. Taxed by the Selectmen/~~A~~ in 1960 to Charles and George Wheeler and described in the Invoice Books as

Land on Governor's Road, Jct. Route 107

A more particular description of said property is understood to be as follows:

MCRD

The whole of the above real estate was ~~was~~ bought by the Town of Pittsfield at a Tax Collector's sale held at the Selectmen's Office, Town Hall in said Town of Pittsfield, New Hampshire, on the twenty-seventh day of September 1961. To have and to hold the said Premises, with the appurtenances, to the said Town of Pittsfield its successors ~~and~~ and assigns forever. And I hereby covenant with the said Town of Pittsfield that in making sale of the same I have in all things complied with the law, and that I have good right, so far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in the manner aforesaid.

In Witness Whereof, I have hereunto set my hand and seal, the eighteenth day of July, in the year of our Lord one thousand nine hundred and sixty-four.

Signed, Sealed and Delivered in the presence of:

Allen R. Pennington
Allen R. Pennington

Fred A. Franzeim
Collector.

State of New Hampshire, MERRIMACK ss. July 18, 1964
Personally appearing FRED A. FRANZEIM
and acknowledged the foregoing instrument to be his voluntary act and deed. Before me

Allen R. Pennington
Notary Public
My Commission expires March 30, 1969

Edson C. Eastman Co., Concord, N. H. E11-59564

Received and recorded Aug. 5, 2-23 P.M., 1964

Kathleen M. Boy, Register

401

11.75

QUITCLAIM DEED

B1367P041

THE TOWN OF PITTSFIELD, a municipal corporation located in Merrimack County, New Hampshire, by its Board of Selectmen, thereunto duly authorized, grants to HARRY R. THOMPSON and MAYBELLE F. THOMPSON, of Pittsfield, County of Merrimack and State of New Hampshire, with QUITCLAIM covenants, as joint tenants with right of survivorship, every right, title and interest which it may have in a certain tract of land upon the westerly side of Route 107, a public way in said Pittsfield, being known as the Fred Emerson Lot, and further described as follows:

Beginning at an iron pipe in the westerly line of Route 107 in said Pittsfield; thence S 42 1/2° W for 410 feet by an old barbed wire fence and land of Gene A. Matras and Boleslaw K. Matras to an iron pipe; thence N 44° 24' W for 451 feet to an iron pipe; thence N 32 1/2° E for 410 feet in part by a stone wall to an iron pipe in the westerly line of said Route 107; thence S 45 1/2° E for 522 feet by the westerly line of Route 107 to the point of beginning.

IN WITNESS WHEREOF, The Town of Pittsfield, by its Board of Selectmen, has caused this instrument to be signed and its seal affixed this 29th day of February, 1980.

WITNESS:

TOWN OF PITTSFIELD

David F. Mann
James A. Hillsgrove
James A. Hillsgrove

By Floyd Carson
 Floyd Carson
 By Steven A. Davis
 Steven A. Davis
 By Elizabeth A. LeDuc
 Elizabeth A. LeDuc



State of New Hampshire
 Merrimack, ss.

On this the 29th day of February, 1980, before me, the undersigned officer, personally appeared Floyd Carson, Steven A. Davis and Elizabeth A. LeDuc, who acknowledged themselves to be the Selectmen of the Town of Pittsfield and that they as such officers, being authorized so to do, executed the within instrument for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

MERRIMACK COUNTY RECORDS
 Recorded Mar. 4, 2-00P.M. 1980

James A. Hillsgrove
 Justice of the Peace
 Notary Public B1367P041

Kathleen M. Guay
 REGISTER

STATE OF NEW HAMPSHIRE
 TAX ON TRANSFER
 OF REAL PROPERTY
 COMMISSION
 R.S.A. 78-B
 11.75
 MAR 1980
 RB 10660
 867770



QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENT, that I, **HELEN CHICKERING**, a widow, of 216 Dearborn Road, Town of Pembroke, County of Merrimack and State of New Hampshire, for consideration paid, grant to **MAYBELLE THOMPSON**, of P.O. Box 736, Matlacha, Florida, 33909 with QUITCLAIM COVENANTS, all my right, title and interest in the following described tract of land situate in the **Town of Pittsfield, County of Merrimack and State of New Hampshire**, and described as follows:

A certain tract or parcel of land, with improvements thereon, if any, situate on the south side of Route 107, so-called, also known as the Mountain Road;

Beginning at the brook on the southwest side of the Mountain Road; thence southeasterly by said brook a distance of 300 feet more or less to a bound; thence turning and running easterly to a bound formerly of William T. Batchelder; thence turning and running northerly along said Batchelder land a distance of 250 feet, more or less, to the Mountain Road; thence turning and running westerly along said road to the point of beginning.

Meaning and intending to describe and convey the residue of the property described in Tract II of the deed of Charles H. Wheeler and George C. Wheeler to Howard C. Saturley and George Chickering dated April 2, 1956 and recorded at Book 788, Page 422. The grantor herein is the residuary legatee of George Chickering who died testate on April 16, 1998, Merrimack County Probate #98-376. This is a non-contractual transfer pursuant to NH RSA 78-B:2(IX).

THIS IS RAW LAND AND NOT HOMESTEAD PROPERTY.

BK2205 PG0634

EXECUTED this 9th day of May, 2000.

Helen Chickering

Helen Chickering

STATE OF New Hampshire
COUNTY OF Merrimack

On the 9th day of May, 2000 before me, the undersigned officer, personally appeared Helen Chickering, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed same for the purposes therein contained, before me,

Donna Maynard
Justice of the Peace/Notary Public

DONNA M. MAYNARD, Notary Public
My Commission Expires December 8, 2003



MERRIMACK COUNTY RECORDS

Kath L. Gray, Register

387940

2000 MAY 18 AM 8:33

BK2206 PG0073

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENT, that I, **HOWARD C. SATURLEY**, of 831 Bachelder Road, Town of Pembroke, County of Merrimack and State of New Hampshire, for consideration paid, grant to **MAYBELLE THOMPSON**, of P.O. Box 736, Matlacha, Florida, 33909 with QUITCLAIM COVENANTS, all my right, title and interest in the following described tract of land situate in the **Town of Pittsfield, County of Merrimack and State of New Hampshire**, and described as follows:

A certain tract or parcel of land, with improvements thereon, if any, situate on the south side of Route 107, so-called, also known as the Mountain Road;

Beginning at the brook on the southwest side of the Mountain Road; thence southeasterly by said brook a distance of 300 feet more or less to a bound; thence turning and running easterly to a bound formerly of William T. Bachelder; thence turning and running northerly along said Bachelder land a distance of 250 feet, more or less, to the Mountain Road; thence turning and running westerly along said road to the point of beginning.

Meaning and intending to describe and convey the residue of the property described in Tract II of the deed of Charles H. Wheeler and George C. Wheeler to Howard C. Saturley and George Chickering dated April 2, 1956 and recorded at Book 788, Page 422. THIS IS RAW LAND AND NOT HOMESTEAD PROPERTY. This is a non-contractual transfer pursuant to NH RSA 78-B:2 (IX).

EXECUTED this 10 day of May, 2000.



Howard C. Saturley

BK2206 PG0074

STATE OF New Hampshire
COUNTY OF Merrimack

On the 10 day of May, 2000 before me, the undersigned officer, personally appeared Howard C. Saturley, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed same for the purposes therein contained, before me,


Justice of the Peace/Notary Public

JAMES C. ROBINSON, Notary Public
My Commission Expires September 6, 2000



MCRD

MERRIMACK COUNTY RECORDS

Kathi L. Quay, Register

Section 80:39

80:39 Incontestability. – No action, suit or other proceeding shall be brought to contest the validity of a tax sale or any collector's deed based thereon after 10 years from the date of record of the collector's deed. This section shall apply to all collectors' deeds of record as of July 1, 1956, and to those recorded thereafter.

Source. 1947, 103:1. RSA 80:39. 1965, 19:1; 253:1. 1986, 48:3, eff. Jan. 1, 1987.