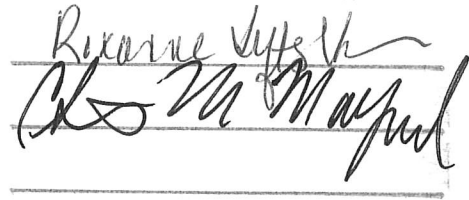


Approved By
Board of Selectmen



March 28, 2022, BOS meeting

Meeting called to order at 6:38pm

Pledge

Roll Call: Michael Boisvert, Christine Maynard, Roxanne Tufts-Keegan

Roxanne made a motion to accept the BOS minutes for February 25, 2022. Mike seconded the motion. The motion carried.

Roxanne made a motion to accept the BOS minutes for March 14, 2022. Christine seconded the motion. The motion carried.

Roxanne made a motion to accept the BOS minutes for March 18, 2022. Christine seconded the motion. The motion carried. (2-0-1)

Roxanne made a motion to accept the BOS minutes for March 22, 2022. Christine seconded the motion. The motion carried. (2-0-1)

Roxanne made a motion to accept the agreement for the 2020 audit. Christine seconded the motion. The motion carried.

Roxanne made a motion to accept application for Intent to cut. Mike seconded the motion. The motion carried.

Scott Ferguson asked if the intent to cut went against the road posting. It was stated it no, the intent to cut didn't doesn't have anything to do with the road posting.

Roxanne made a motion to accept application to Excavate. This was an application for 2021. Mike seconded the motion. The motion carried.

Jim Keegan asked how much was being excavated. Mike stated it was 200-300 yards of gravel. Janet Kalar asked if the land was in current use.

Roxanne made a motion to accept the Timber harvest application for 277 Kings Highway. Mike seconded the motion. The motion carried.

Roxanne made a motion to accept the Timber harvest application for Silver Street (Gardner property). Mike seconded the motion. The motion carried.

Scott asked if there was someone who monitors the amount of timber that is cut. Mike stated there is a person who checks the sites where cutting is taken place.

Roxanne made a motion to sign the MS-232. Christine seconded the motion. The motion carried.

Mike made a motion to sign the Strafford Regional Planning Commission for Jon and Janet Hotchkiss to be the representatives for Middleton. Roxanne seconded the motion. The motion carried.

Roxanne made a motion to sign the MRI contract for the Master Plan and CIP. Christine seconded the motion. The motion carried.

Mike made a motion to sign the settlement agreement for Tsiros. Christine seconded the motion. The motion carried. (2-0-1)

Christine stated she had working on the following items:

1)Heartland Payroll – Christine stated Laura Parker was pulling together the employee information that needs to be sent over to Heartland. She stated it would take about another week for them to get everything set up. Christine stated she was getting information regarding timecard options (electronic sign it). She stated the service could be customized for the town. She stated the start-up cost was between \$300-\$400 and would be \$98 a month. She stated that Heartland can also do HR work and its cloud based. Tracy asked about the efficiency of using the timecards. Brian Taylor asked how the minimal call out pay would work. There was discussion as to how the timecards may work. It was stated there would be different options for the various departments. Some people may use an app on their phone whereas others may log into a computer.

2)Keys and locks replaced – Christine stated she spoke with KB Security about changing out the locks at the municipal building. She stated there were a couple of different options. The first option would be to replace the locks with regular locks and keys. The second option is to have security keys. These keys would be unique and would not be able to be copied. She stated the second option would be more costly. The discussion did come up about the security keys and that only that company would be able to provide copies. Several people spoke about if the company went out of business how would you be able to get copies of the keys. There was discussion about key fobs and the ability to enter the building if the power was out. It was stated the municipal building does have a generator that automatically comes on if the power goes out.

3)Christine stated she had been able to get the pipe fixed at the Fire station. She stated she called Ken Anderson and he contacted Badger Plumbing and got the issued resolved.

4)Christine stated she had reminded the fire chief of the grant for Firehouse. She stated he was actively looking into it.

5)She stated she had been reaching out to several temp agencies regarding the administrative assistant position. She commented the Leddy group was expensive. She commented that hopefully the BOS could recruit on its own and not have to spend any money on a temp agency.

6)She commented she has signed up for a couple of NH Municipal webinars. She stated she had signed up for the Right to Know Law webinar and the 2022 Local Officials webinar.

7)She stated she spoke with Primex regarding the SS# breach and there had been a claim opened. She stated the BOS had met with the town's attorneys and Roxanne would speak more to this issue.

Roxanne stated the BOS had met with the town attorneys prior to this meeting. She stated for the breach of NPPI information (SS#) that Primex had been notified. She commented that each person whose information was breached would be receiving a letter stating the breach occurred and each person would be offered 2 years of Lifelock.

8)She stated she had reached out to Pinard regarding the bulk pickup days. She stated she is going to get both the Spring and Fall dates confirmed.

Roxanne stated the BOS had met with the town attorneys earlier in the day. She stated regarding the security cameras in the municipal building there is an open investigation by the Strafford County attorney. She stated that the county attorney would be reaching out to the current BOS and prior BOS members. The town attorney told the BOS that any person contacted should cooperate with the investigation.

She stated that the BOS had been asked what the criteria was for town employees to receive ARPA funds. She commented that she had an email from a previous board of selectmen that included some guidelines. She stated the BOS did ask the town attorneys if they could share the email with the public and they (town attorneys) stated that the BOS could share the email. Roxanne asked Andrea if she could provide Christine with the individuals from the Fire/EMS who didn't receive ARPA funds, and the BOS discuss if funds may be available to those individuals. A resident expressed his concerns of paying out additional funds for premium pay. Roxanne stated there was an ARPA committee being formed and the committee would provide recommendations to the BOS as to how the remaining money may be spent. She then proceeded to read the email to the public. (See attachment). There was discussion regarding the payout of the ARPA funds. Jill Brown publicly asked Mike Boisvert to resign as selectmen due to how the issues with the ARPA funds and the security cameras at the municipal building were handled. Tracy Donovan-Lavolette asked if former selectmen Lee Britton's personal email is subject to 91-A. Christine stated she would reach out to legal regarding this matter. Janet asked about people who did work the pandemic but didn't get paid. She wants to know why they didn't receive any ARPA funds. There was discussion regarding the cameras that had been placed at the municipal building. Christine stated this was an issue the BOS discussed with the town attorneys. She stated that she would be calling the county attorney and letting them know that the current BOS would cooperate with the open investigation. There was further discussion of the security cameras and what information is available regarding who put them up and who removed them. It was asked what information was leaving the building that caused to have the cameras put up. Janet Kalar asked for Mike to resign as selectmen. Tracy stated she appreciated the efforts of the new selectmen. She also commented with the release of the SS# numbers she asked Mike to resign as selectmen.

Jill Brown asked if any of the selectmen planned on taking any ARPA training. Roxanne stated she did sit in on webinar regarding ARPA funds. She stated the webinar was useful and provided information on where to find the final guidelines of how the ARPA funds can be used. She also stated the final guidelines were more general than what was initially proposed by the government.

Roxanne then stated she had signed up for the Right to Know webinar and the 2022 Local Officials webinar. Jill stated she thought it was important to participate in training to better help the board to move forward.

Andrea asked regarding the ARPA funds if it was a unanimous vote by the previous BOS to exclude the Fire and EMS. She stated according to the email Roxanne read the Fire/EMS were not considered essential personnel as they were not in the initial group paid out with ARPA funds. It was commented there was an issue with the bank and getting the funds to be released. A resident noted she had worked for a bank for over 22 years and had never heard of such an issue with releasing funds. Janelle stated there was an issue with the bank and Sandy had to fill out paperwork regarding the issue. Andrea stated the Fire/EMS were also the reason they didn't get ARPA funds initially is because the Fire/EMS are paid monthly.

Janelle stated she wanted to address an issue with a door that accesses the assessing office and the door to the tax collector/town clerk office. She stated it is a locked door and will be closed. Roxanne stated the decision for the door to be closed is a decision for the BOS to make. She also stated in the past that door was not closed it was always open. There was discussion regarding the various doors that are security doors in the municipal building. Janelle commented that assessing desk was moved downstairs to comply with the American Disabilities Act. Theresa spoke about the door to the back room being a safety issue and the potential risk of an active shooter. It was stated the door being closed is a fire hazard. Christine stated she is working with KB Security regarding security of the building. She stated that the tax collector/town clerk office would be getting panic buttons. Janelle stated the office already has active panic buttons. Jim commented that prior to COVID the back room was used as a meeting place for BOS meetings. He commented that the room is used as an office for a position that only require 16 hours a week. He asked why a person couldn't come downstairs to meet with someone who couldn't climb the stairs. There was further discussion of the door and the use of the back room. Christine asked about the reason the assessing clerk's desk being moved downstairs regarding the American Disabilities Act and if the state had notified the town of it being a violation. Jon Hotchkiss stated the solution that was used prior was if there was someone who came into see the assessing clerk, building inspector, or any other person whose desk was upstairs who couldn't manage the stairs then they would meet in the backroom where there is a table and chairs. There was further discussion regarding the use of the backroom. Christine commented the back room used to be used for meetings. Mackenzie Brisson stated the Supervisors of the checklist need access to the backroom as that is where their files are located.

Roxanne made a motion for her to be the contact person for Civic Plus so she could get access to the Town's website to update it. Mike seconded the motion. The motion carried.

Roxanne made a motion for the Board of Selectmen to meet 3 Mondays a month. This would be the 1st, 2nd, and 4th Mondays of each month. Christine seconded the motion. The motion carried.

Roxanne stated she was granted access to the online banking to be able to do the DMV and payroll transfers.

Christine asked about the wi-fi at the Old Town Hall. Mike stated it was Consolidated Solutions who handles the internet for the town.

Mike commented he has been working with Team Mobile. He stated they have been wanting to put a tower up in Middleton. He stated there were 2 potential locations, Ridge Road, or mountain off Drew Drive.

Mike stated he has been in contact with state forestry and logging companies regarding town owned properties to have them thinned out. He commented that it could bring in some revenue to the town.

Roxanne asked Mike why he hasn't been helping with fulfilling the active 91-A requests. He stated he has been busy working on other issues.

Jim Keegan spoke about Jessie Mountain and the Conservation Committee. He stated at the last Conservation Committed several people from are ATV and snowmobile clubs attended the meeting. He said the Conservation Committee voted and is recommending putting the trail in from the property on

Drew Drive to the property on Jessie Mountain. He stated he would like to be put on the agenda for the BOS meeting on April 4th.

Mackenzie asked about the potential telephone tower on Jessie Mountain and where did it stand on it actually happening. Mike stated it was in the initial phase. He said Team Mobile wanted to do a site walk. Jill asked if Team Mobile came to the town looking to put up a tower or did the town reach out to Team Mobile. Mike stated he didn't know that this was a project a prior selectman had started, and he took it over. Mackenzie asked how much revenue the current cell phone tower generates. Mike stated approximated \$1,500 a month.

Bonnie Gagnon asked about overtime and what was happening with that issue. A resident also asked about the use of take-home vehicles. Roxanne stated that was one of the topics discussed with the town attorney. She commented the attorneys stated the policy put in place needs to be in writing. She stated that she was working with the attorney's regarding a written policy.

Jon Hotchkiss spoke about the Hazardous Mitigation plan and stated it needs to be updated every 5 years. He stated the last time it was updated was in 2017 and it was due to be updated this year. He stated to be eligible for funding the hazardous mitigation plan needs to be up to date. Jon stated he would be willing to work on updating the plan along with one of the selectmen. Mike stated he would work with Jon to get the plan update to date. Mike stated he would provide Jon with the current Hazard Mitigation plan on file.

Tracy asked if she could get a copy of the email Roxanne read earlier. Roxanne stated she could go over to the municipal building after the meeting and she would provide a copy. Tracy asked what as the status of the outstanding 91-A request. Roxanne commented she had some of the information and was still gathering additional information. Jill asked if all elected official returned the ARPA funds. Roxanne stated all 3 of the selectmen returned the funds. There was discussion regarding other elected officials receiving funds and how is that being handled. Roxanne stated if the governing board for ARPA rejects the town's justification of how the ARPA funds were spent the BOS will need discuss how to handle paying the funds back.

Mackenzie asked Mike if he was working on any other projects. Mike stated he was working on a body cam grant.

Tracy asked when did the BOS expect to have the ARPA committee formed. Roxanne stated there was a signup sheet in the back of the room. She stated it would be a 5-member board, all at large members. There would be representative from the various town departments, but those individuals wouldn't have any voting rights.

Roxanne stated the BOS discussed the Police EMS paysheets regarding the new agreements/contracts. She commented this was discussed with the town attorneys and she would be sending over the documentation for them to review. Andrea asked if all police officers who took the training were certified. Roxanne stated she didn't know that information had not been shared with her.

Tracy asked if there was tension with the new board and the other town employees. Roxanne stated she was elected by the people to do a job not to make friends. She said she ran on transparency and a having a tight budget and not all people may agree with that. Tracy stated she would like to be kept abreast of dynamics of the BOS with various departments and the public.

Jon Hotchkiss commented it was a pleasure to have the 2-way conversation during the meeting.

Roxanne motion to adjourn (8:38pm). Christine seconded the motion. The motion carried.

Respectfully submitted,

Roxanne Tufts-Keegan, Selectmen, vice-chair

Board of Selectmen

From: Thurman, Kari <Kari.Thurman@mail.house.gov>
Sent: Thursday, February 17, 2022 10:45 AM
To: Board of Selectmen; Katherine Heck
Subject: RE: ARPA funds question

Hi Lee – I hope all is well. I am following up with some information from NH Municipal Association and a e-intro to their team.

Please meet Katherine Heck. Katherine is the Government Finance Advisor with NH Municipal Association. NHMA is an excellent NH resource for our communities and we work with them all the time! Katherine was kind enough to send along some information regarding your questions (see below) and is available for any further questions you all might have.

We are continuing to communicate with Treasury on the inquiry we sent along, but NHMA can also be helpful with your questions.

As always, don't hesitate to reach out anytime.

All my best,

Kari

From: Katherine Heck <kheck@nhmunicipal.org>
Sent: Wednesday, February 16, 2022 5:16 PM
To: Thurman, Kari <Kari.Thurman@mail.house.gov>
Subject: RE: ARPA funds question

Hello Kari,

This email for sent to me by Margaret as the resident ARPA point of contact at NHMA.

I will try to address each point in the inquiry.

- As per the Interim Final Rule and the Final Rule- funds have to obligated by December 31, 2024 and **expended by December, 31, 2026.**
- Under the interim rule, there was ambiguity about whether employees of public works; public utilities; courthouse employees; police, fire, and emergency medical services; and waste and wastewater services employees were eligible for premium pay as public sector employees. The final rule clarifies “all public employees of local governments are already included in the definition of ‘eligible worker.’”
- Although local governments can award premium pay to non-hourly or salaried employees, as well as part-time employees, the **final rule clarifies that elected officials are *not* eligible** for compensation under the premium pay category.

- **Volunteers are also excluded from eligibility for premium pay.**
- Fire Department Volunteers have their own section in Federal Labor Law. This is a complex topic. New Hampshire has three classifications of firefighters: permanent, paid-on-call and volunteer. Volunteers are just that, volunteers, with no compensation. On-call firefighters are paid per call, and for the time they train.

- **Compensation Rules for Volunteer Firefighters**

Staffing a department with volunteer firefighters means the city has no requirements for paying the volunteers. This changes, however, if these firefighters ever stop meeting the definition of a volunteer, and the Fair Labor Standards Act regulates that definition. Once a firefighter is no longer a volunteer, then FLSA rules on minimum wage and overtime apply.

Under the FLSA, volunteer firefighters can never receive hourly pay. This requirement falls well short of establishing a complete ban on payments, however. The city or town can pay the firefighters a nominal fee as well as expense reimbursements and some reasonable benefits, and payments are taxable income. While the fee cannot be tied to productivity, it can be paid on a per-call basis, and it can be paid as a monthly or annual stipend. According to the FLSA, the fee cannot amount to more than 20 percent of the total compensation a city would pay to a full-time firefighter.

- As defined in RSA 508:17, V(c), "volunteer" means an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services. Thus, if the fire department pays a member any compensation beyond amounts required to reimburse for actual out-of-pocket expenses, the status of the member changes from that of "volunteer" to "paid-on-call." For this purpose, it does not matter whether the compensation is based upon a "per call attended" basis, or is called a "stipend," or how often during the year the compensation is paid to the member.

- **Local fire department \volunteers or on-call members receive special protections against personal liability for actions**

- **NH RSA 508:12-b Liability Limited; Fire Department, Emergency Service, and Rescue Squad Members.**

I. No person who is a volunteer, "part paid" or "call" member of a nonprofit fire department, emergency service or rescue squad operating in any political subdivision shall be held personally liable in any action to recover for personal injury or property damage arising out of any act performed or occurring in the furtherance of his official duties. Nothing in this section shall affect the liability of the political subdivision, department, service or squad served by such person. Nothing in this section shall affect the liability of such person for damages arising out of willful misconduct, gross negligence, or operation under the influence of drugs or alcohol.

II. In this section: (a) "Call" member means any member other than a full-time paid employee who receives payment for each emergency response. (b) "Official duties" mean emergency duties only. © "Part paid" member means any member other than a full-time paid employee who receives an annual retainer or stipend of less than \$5,000 for his services as a member.

- While this gives substantial individual protection, note the limitations. **It only protects while in the performance of "emergency duties." If the person is paid more than \$5,000 per year for his or her services, the statute no longer applies to that person.**

Realize this a lot of information to digest, so I am happy to speak further on the topic or answer any questions.

Thank you,

Katherine



Katherine Heck
Government Finance Advisor
NH Municipal Association
25 Triangle Park Drive
Concord, NH 03301
Tel: (603) 224-7447
Email: kheck@nhmunicipal.org
American Rescue Plan Page

From: Thurman, Kari
Sent: Tuesday, February 15, 2022 10:19 AM
To: Board of Selectmen <bos@middletonnh.gov>
Subject: RE: ARPA funds question

Hi Lee – Thank you for your email. We have not heard back from Treasury at this time. I will look into other points of contact that may be able to offer some feedback on your situation and we will continue to convey the urgency of the matter to the agency.

We appreciate your patience and will be back in touch. In the meantime, please don't hesitate to call anytime.

All my best,

Kari

From: Board of Selectmen <bos@middletonnh.gov>
Sent: Tuesday, February 15, 2022 8:54 AM
To: Thurman, Kari <Kari.Thurman@mail.house.gov>
Subject: RE: ARPA funds question

Good morning, Kari,

I was wondering if you have received a ruling yet from the Treasury Department. I am receiving a lot of pushback from a small, but vocal group of taxpayers claiming what we did was improper. It is imperative that we have the correct information before it becomes a major issue.

I'm sure you understand, and I realize that things in DC move slowly, and we are a small town in NH but if you could give me an idea of when you might hear something I would appreciate it.

Thank you for your help.

Regards,
Lee

From: Thurman, Kari <Kari.Thurman@mail.house.gov>
Sent: Tuesday, February 8, 2022 1:35 PM
To: Board of Selectmen <bos@middletonnh.gov>
Subject: RE: ARPA funds question

Hi Selectman Britton – Thank you for the email. I will have our office check in with our congressional liaison at the Treasury Department on the questions you indicated below.

Once I have received feedback from them, I will send along and we can find a time to discuss further. If anything comes up in the meantime, please do not hesitate to reach out to me directly via email or you can reach me at 603-731-2174.

All my best,

Kari

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*Kari Thurman
District Director
Office of Congressman Chris Pappas*

From: Board of Selectmen <bos@middletonnh.gov>
Sent: Tuesday, February 8, 2022 11:11 AM
To: Thurman, Kari <Kari.Thurman@mail.house.gov>
Cc: Board of Selectmen <bos@middletonnh.gov>
Subject: ARPA funds question

Good morning, Kari,

Perhaps I could save you some time if I just explain how we expended the funds, the thinking behind the decision and someone can let us know if we properly distributed them and are in compliance with the Treasury Departments ruling.

- On 31 Dec 2021 knowing that funds had to be allocated before 1 January 2021 the Board of Selectman met and consulted the available rules of uses for SLFRF. We unanimously decided to allocate the ARPA funds for premium pay for local government workforce.
- We identified essential workers that have regular, in-person interactions with the public; regular physical handling of items that were handled by the public; and those that actually contracted the virus.
- Essential workers consisted of; Police Department (4), Highway Department (3) Town Clerk and Deputy Town Clerk (2) BOS Administrative Assistant (1) and the Board of Selectmen (3)
- ALL contracted Covid Virus in the performance of their duties for the town except for the Town Clerk and Deputy Town Clerk. The town remained open and at no time did the town offices close due to Covid.
- Checks were distributed in the amount of \$3,600 per individual.
- The BOS also intended to compensate the Fire Fighters and EMS workers at the same time but ran into difficulties having the funds being released from our bank. It was decided to distribute funds to the Fire Fighters and EMS personnel at a later date once the issue was resolved with the bank.
- On 6 January 2022, the U.S. Department of the Treasury adopted a final rule implementing the Coronavirus State and Local Recovery Funds (SLFRF) that will take effect on 1 April 2022.
- After disbursing funds to the Fire Fighters and EMS personnel it was found in the Final Rule, on page 36, sec 3, last paragraph states “premium pay may NOT be paid to volunteers”. The Fire Fighters are “paid call” i.e.: paid when

responding to a call out. The EMS is an "on call" service that receives on call pay and an hourly pay when called out. It is one department, and they received the amount as the first group.

DETERMINATION NEEDED: Were the funds expended properly and the personnel that received the funds were entitled to them. Are the Fire Fighters and EMS personnel considered volunteer or part time under FLSA? All persons mentioned receive IRS W-2's and all mandated withholding taxes are collected.

Thank you for your assistance in this matter. The town wishes to comply with the with the terms of the grant but is receiving conflicting information and wants to ensure that we are in compliance. I ask that you copy my personal email (lbri@comcast.net) with and correspondence as the office email is monitored sporadically.

Sincerely yours,

Lee J. Britton

Lee J. Britton
Selectman
Town of Middleton
B: 603 473-5202
B: BOS@middletonnh.gov