

Board of Selectmen Town of Gilmanton, New Hampshire

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- 7 June 28, 2019
- 8 Approximately- 2:05 p.m. Gilmanton Academy

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- 10 Present: Chairman Marshall Bishop, Selectman Mark Warren, Town Administrator- Patrick
- 11 Bore` and Assistant Town Administrator-Heather Carpenter
- 12 Absent with notice: Vice Chair Michael Wilson
- 13 Also present please see attached sign in sheet. *see attached

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Chairman Bishop opened the meeting, took attendance of those present and voting (Chairman Bishop, and Selectman Warren).

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Public Input:

Disclaimer: The views and opinions expressed in stated or attached statement read during public comment are those of the speaker/authors and do not reflect the opinion of the Town of Gilmanton.

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- **Opened public input at 2:08 p.m.** Topics listed below in the public comment are based on topics discussed and not described in full detail. Audio version of this meeting are on the Official Town website listed under the Board of Selectmen- Useful links tab- Board of Selectmen- Audio Recording.
- Mrs. Barbara Swanson- Biosolids and is the website still in process because she doesn't feel that it is user friendly.

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Mrs. Dodie Smither- Regularly scheduled BOS meetings for July and convenience of evening meetings for public attendance purposes.

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Mr. Leonard Swanson- Why are the BOS agenda postings on the website placed under News vs under the Agendas for ease of viewing. Future items that are discussed at meeting should be on the agenda so the public will know to attend if there is a topic of interest.

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The Town Administrator recommends the Board go into a non-public session.

- (1) Non-Public Session per RSA 91-A:3, II (I)
- 38 MOTION: On a Motion by Chairman Bishop, and seconded by Vice Chairman Wilson it was
- voted unanimously to go into Non-Public Session per RSA 91-A:3, II (I). (2-0 Voice Vote –
- 40 Chairman Bishop -yes, and Selectman Wilson-absent and Selectman Warren-yes).
- 41 To discuss legal advice given
- 42 MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted to
- come out of Non-Public Session. (2-0 Voice Vote Chairman Bishop -yes, and Selectman
- 44 Warren-yes).

- 45 Statement read by Selectman Warren- See attached
- 46 Town Administrator- Selectmen Wilson has seen and agrees to the statement

48 Close Public Input at 2:51 p.m.

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- 50 Minutes:
- 51 MOTION: On a motion by Selectman Warren and seconded by Chairman Bishop it was voted to 52 approve the minutes of 06-03-19 and 06-17-19. (2-0)

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- **Transfer Station fee waiver request:**
- 55 Board consensus is to approve the fee waiver for Mr. Graham Wilson (2-0)
- 56 Consent Agenda-
- 57 PO- Belknap Landscape Company- \$2950.00- Park and Rec tree removal/maintenance
- 58 **Events:**
- 59 Events-
 - Camp Fatima Road Race- 5k 09-21-19 from 11 a.m. to 12 p.m.- Approved by PD
 - Crystal Lake Park ball field- every Monday from 06-24-19 through 09-02-19- at 2:00 p.m. -4 p.m.
 - Crystal Lake Park ball field and Birthday party- 08-25-19 from 12—5 p.m.
 - Crystal Lake Park- Cookout- 07-14-19 1- 5 p.m.

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501c3 Fee waiver request for ZBA fee of \$113 cost; application and notification and the potential Planning Board cost for site plan review in the amount of \$200.00.

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- MOTION: On a motion by Chairman Bishop and seconded by Selectman Warren it was voted to close the consent agenda and approve as amended. (2-0)
- **Old Business:**
- 72 Loon Pond Damn-Town Administrator explains the issue;
- 73 The Dam is owned by the Town. Previous BOS have used the Association as their agents to
- 74 conduct maintenance of the dam on behalf of the Town. The concern that brought about this
- 75 negotiation is that the Town, in owning this dam, may be subjected to potential liability from
- 76 the
- 77 Dam Bureau, and the goal is to shift that liability onto the Association as the beneficiary of the
- impoundment caused by the Dam. There is no written document that defines rights & 78
- 79 obligations of the parties which creates exposures for both parties. I had worked with DTC to
- 80 come up with a draft agreement to address the situation.
- 81 Submitted a draft agreement to the Loon Pond owners' Association. I met with Richard
- 82 Hillsgrove who has historically been taking care of the dam on behalf of the Town. Mr.
- 83 Hillsgrove has informed me that the Association has really no financial resources and therefore
- 84 no interest in entering an agreement, and surely not any exposure.
- 85 The dam is on the DES list for annual inspection. Mr. Hillsgrove has agreed to attend the
- 86 inspection. We will ask if there is any "appetite" for the State to take over the dam. If not, I foresee two other options: 1) have the Road Agent handle the maintenance going forward, or 87
- 88 2) contract a third party to perform the maintenance.
- 89 I contacted Bob Carter at a company called NH Dams, who was recommended to me by Robert

Dow at Crystal Lake District. Mr. Carter currently provides this type of services to the District
 for their dam. Mr. Carter will provide me with a proposal shortly.

92 93

- Personnel Policy Manual Update-
- 94 Town Administrator recommendation as follows;
- 95 I was initially recommending to have the new Manual effective July 1st. I would like to
- 96 recommend pushing the effective date back to July 15 as the Manual is just been distributed
- this week to Town employees. I want to give time for them to review, ask questions and return
- 98 their signed acknowledgement.

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100 Stage Road Bridge C.D. update: The interest accrued so far in the account is \$2, 074.16.

101

- 102 4th of July Association request for additional funds:
- 103 Mr. Guarino has requested an additional \$700 to cover unexpected
- increased firework insurance of (\$500) and flag-related overspend (\$200).
- MOTION: On a motion by Chairman Bishop and seconded by Selectman Warren it was voted to request background information for the expenses paid on the event. (2-0)

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Further discussion on the 4th of July event being run by the association vs Town Hall involvement.

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- 111 Fire Department hiring practice for call/student firefighters:
- 112 Background information is as follows:
- 113 2014 memo actually states specifically "All part-time and full-time employees of the Police
- and Fire Department are subject to polygraph test in accordance with State of NH
- 115 standards".
- while the NH Police Academy requires polygraphs, the NH Standards for Fire
- 117 Departments does not.
- 118 the new Town Hiring Policy, effective since June 1, states "The Town may require an
- applicant for a job to undergo additional testing or background examinations, including, but not
- 120 limited to, ...polygraph examination..."
- 121 not "shall"
- RSA 485-A:24, which is specifically referenced in the Hiring Policy, does relate to employee
- working with children in a recreation camp setting
- 124 Town Administrators recommendation to the Board would be to agree with The Fire Chief
- proposal that polygraphs are not required for call/student firefighters.
- 126 MOTION: On a motion by Selectman Warren and seconded by Chairman Bishop it was voted to
- wave the requirement of Polygraphs for call/student firefighters. (2-0)

- Select Board Items:
- The Chairman of the HDC would like to meet with a Chairman from each Board; Selectman,
- 131 Planning, HDC, and Zoning. Chairman Bishop had agreed to bring this up to the Board of
- 132 Selectmen but it hasn't been addressed. The workshop is to discuss a possible warrant article to
- change the zoning and or districts.
- 134 It is a workshop that doesn't technically require minutes because it's not a quorum of any

- singular Board, however, it might be a good idea to record it.
- Outcome of discussion: Board members agree that it would be helpful and to proceed setting a date with Chairman Hudziec.

- 139 (2) Non-Public Session per RSA 91-A:3, II (I)
- 140 MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted
- unanimously to go into Non-Public Session per RSA 91-A:3, II (I). (2-0 Voice Vote Chairman
- 142 Bishop -yes, and Selectman Warren-yes).
- 143 To discuss legal advice given

144

MOTION: On a Motion by Chairman Bishop, and seconded by Vice Chairman Wilson it was voted to come out of Non-Public Session. (2-0 Voice Vote – Chairman Bishop -yes, and Selectman Warren-yes).

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MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted to seal the minutes of Non-Public Session. (2-0 Voice Vote – Chairman Bishop-yes, and Selectman Warren-yes).

152

- 153 (3) Non-Public Session per RSA 91-A:3, II (c)
- 154 MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted
- unanimously to go into Non-Public Session per RSA 91-A:3, II (c). (2-0 Voice Vote Chairman
- 156 Bishop -yes, and Selectman Warren-yes).
- 157 Reputation

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MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted to come out of Non-Public Session. (2-0 Voice Vote – Chairman Bishop -yes, and Selectman Warren-yes).

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MOTION: On a Motion by Chairman Bishop, and seconded by Selectman Warren it was voted to seal the minutes of Non-Public Session. (2-0 Voice Vote – Chairman Bishop-yes, and Selectman Warren-yes).

166 The meeting room was opened to the public. The Board noted the Non-Public Session minutes

were sealed.

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- 169 Unseal non-public minutes of 05-06-19;
 - MOTION: On a motion by Chairman Bishop and seconded by Selectman Warren it was voted to unseal the non-public minutes of 05-06-19 #4 (2-0)

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Adjournment: On a Motion by Chairman Bishop and seconded by Selectman Warren it was voted to adjourn at 4:06 p.m. (2-0).

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176 Respectfully Submitted,

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Heather Carpenter

191 Selectman Mark E. Warren

{Audio recordings are available at the Selectmen's Office and for free as a link on the Town website through

193 SoundCloud}

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SELECTMEN'S OFFICE

TOWN OF GILMANTON

PO Box 550, Gilmanton, NH 03237
Ph: (603) 267-6700 Fax: (603) 267-6701 Website: www.gilmantonnh.org

ATTENDANCE SIGN-IN

PRINT NAME		SIGNATURE & DATE
Leonard Swanson Barbara Swanson Layrel Roebuel William Roebuel Dodie Smither	Lenden Bentara Efwansan Karrel Roelle Willion Deelle	6/28/19



SELECTMEN'S OFFICE TOWN OF GILMANTON

PO Box 550, Gilmanton, NH 03237

Ph: (603) 267-6700 Fax: (603) 267-6701

Website: www.newgilmantonnh.org

Mon., Wed., Thurs. & Fri 9:00 a.m. - 4:30 p.m. *Closed Tuesdays*

June 28, 2019

Dear residents of Gilmanton,

On June 13, 2019, the Town Clerk received a Gilmanton Voters Request by Petition, a copy of which is attached herewith. The Petition seeks to have the Board of Selectmen warn a Special Town Meeting related to the Board of Selectmen's authority to fill a vacancy on the Board of Selectmen.

The Petition originated from the anticipated vacancy on the Board resulting from Selectman Wilson's anticipated resignation. Selectman Wilson has not resigned to-date and there is currently no vacancy on the Board of Selectmen.

The Town, thereafter, learned that the Petition's primary sponsor sought to withdraw the Petition.

Notwithstanding, the Town has not received a withdrawal of the Petition from the other signatories of the Petition, and, therefore, the Board has had the Petition reviewed by the Town's legal counsel. The Town's legal counsel reviewed the Petition against existing New Hampshire election laws, and discussed the Petition with the Secretary of State's Office. After consulting with the Town's legal counsel, the Board has determined that the articles presented are unlawful and violate New Hampshire law. Based on this determination, the Board of Selectmen has unanimously decided to decline warning the Special Town Meeting as requested by the Petition.

If and when Selectman Wilson resigns, the Board intends to advertise the vacancy and seek interest from potential candidates. Applicants will be asked to submit a letter of interest by an established due date. The Board will make the list of applicants and their respective letters of interest available to the public.

As set forth in New Hampshire law, specifically RSA 669:63, the remaining Selectmen have the authority to appoint a replacement, and, if they fail to fill the vacancy, any citizen of the Town would then be able to petition the Superior Court to fill the vacancy. The Superior Court will then fill the vacancy with a "suitable person".

There is an alternative protocol under RSA 669:61, IV to fill vacancies by special election that can be deployed if and when the remaining Selectmen fail to appoint an individual to fill the vacancy within 45 days. However, to use this alternative protocol, the Town Meeting would first have to adopt this alternative protocol. To date, the Town has not adopted this optional procedure and, consequently, this alternative procedure is currently not available.

Therefore, the only protocol for filling a vacancy on the Board of Selectmen in the Town of Gilmanton is for the remaining selectmen to fill the vacancy, failing which a citizen may petition the Superior Court for the appointment of a "suitable replacement."

Thank you for your understanding and continued support.

Since	elv.

Chairman: Marshall E. Bishop

Selectman: Mark E. Warren

Selectman: Michael J. Wilson



JUN 13 REC'D

Gilmanton Voters, request by petition, a Special Town Meeting to establish Selectmen's prudential affairs concerning replacing a Selectman who is not

	able to serve any longer for any reason. To be voted on at this Special Town Meeting. No action is to be taken by the Selectmen until this Special Town Meeting.
	 To establish a new policy to call a Special Town Meeting to elect a replacement Selectman to fulfill the term when any Selectman can no longer serve due to resignation, illness or death. Thus, eliminating the Selectmen's authority to appoint a replacement. YES Vote for one of the following write in Candidates for Selectmen to fill a vacancy in 2019:
)	
	3. If the Selectmen vote to make any appointment for a new Selectman, prior to this Special Town Meeting, the appointment will be voided. IND "In New England Town Meetings the automater"
	"In New England Town Meetings, the voters are the sovereigns, and their will, when duly expressed, is supreme." NHMunicipal.org, Jown and City
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GILMANTON VOTERS REQUEST BY PETITION

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3. If the Selectmen vote to make any a to this Special Town Meeting, the apportunity of the Special Town Meetings, the apportunity of the Special Town Meetings, the will, when duly expressed, is supreme. Article 423 1. IN Shanna 68 1. IN Shanna 68 1. IN Shanna 68 1. IN Shanna 68 1. Shanna 6	the voters are the covers

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BY: Card

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GILMANTON VOTERS REQUEST BY PETITION

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2.	longer serve due to resignation, illness or death. Thus, eliminating the Selectmen's authority to appoint a replacement. Vote for one of the following write in Candidates for Selectmen to fill a vacancy in 2019:
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3. It	f the Selectmen vote to make any appointment for a new Selectman, prior sis Special Town Meeting, the appointment will be voided.

"In New England Town Meetings, the voters are the sovereigns, and their will, when duly expressed, is supreme." NHMunicipal.org, Town and City Article 423

>TRustane	Printed Name	Home Address
William & Moule	TI-D DUVU TONY	68 MORTING HONSE YEN
0100	21 50	Gilmanton HH 03237 77 Mechinghouse Rd. Gilmanton NH 03237

GILMANTON VOTERS REQUEST BY PETITION

BY: STAND

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2.	fo establish a new policy to call a Special Town Meeting to elect a eplacement Selectman to fulfill the term when any Selectman can no onger serve due to resignation, illness or death. Thus, eliminating the electmen's authority to appoint a replacement.
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3. If the Selectmen vote to make any appointment for a new Selectman, prior to this Special Town Meeting, the appointment will be voided.

D YES D NO

"In New England Town Meetings, the voters are the sovereigns, and their will, when duly expressed, is supreme." NHMunicipal.org, Town and City Article 423

Signature	Printed Name	Home Address
Sand Jun	Leonard Swan son	77 Meetins House Road
James R. Burg		121 Meeting House Road.
ace flowing	Allison R. BOROWY	121 Meday Hase Kd.



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BY: Warut

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- MARK ANDERSON

 BETTY HAWES

 ROBERT DAWSON (SR)

 MI, FOGG

 TW MARNING

 ROLLAND HUEBER,

 JEAN BUEBER

 FRED BUCHTON
- S, Crowell

 R. (fowell

 Robert Richardson

 Louise Sawyer

 MARIZ SAWYER

 RETY O'CEN NOOF

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 J, HUGHRS

 DAVID KHIBBS

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- R, BURTON

 DUNCAN GEDDES

 JEHN REIFSNYDER

 BARBARA GEDDES

 KEN WITHAM

 BONNIE WHELAN

 COLD TIBBETTS

 JOHN WHELAN

 WAYNE BRAUN III
- England Bakes

 Bridge Robinson

 Richard Bakes

 Lisa Robinson

 Train Bakes

 David Strang

 william Bakes

 J. Shumway

 B. Howland

 C. Powell
- DIANA MORRISON
 SANDRA BUARIND
 MEGAN HEIGHT
 LARGE BUSH
 TEGILE FOGG
 AN CONTERCAU
 T. Meilett
 T. Lafreur
 M. FOGG
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