

**Town of Litchfield, NH**  
**Board of Selectmen Meeting**  
**March 28, 2022**

**In Attendance:**

**Selectmen:** Steven Webber, Chairman; F. Robert Leary, Sr., Vice Chairman; Richard W. Lascelles; Kevin A. Lynch; and Kimberly M. Queenan

**Town Administrator:** Troy Brown

**In Attendance:** None

**Absent:** None

**A. Call to Order:**

1. 6:33 pm - Chairman Steven Webber called the meeting to order, followed by the Pledge of Allegiance.

**B. Review and Approval of Consent Items:**

1. A/P Manifest: 03/22/22 - \$51,883.22; 03/29/22 - \$70,476.10
2. P/R Manifest: 03/24/22 - \$64,026.04; 03/31/22 - \$55,358.61
3. Warm Zone Grant Acceptance - \$6,000
4. NH DRA Form MS-232 - Report of Actual Appropriations
5. Elderly Exemption (1)

**Motion:** (Selectman K. Lynch / Selectman K. Queenan) Motion to accept the Review and Approval of Consent Items.

**Discussion:** None

**Vote:** (5-0-0) The motion carried.

**C. Request for Additional Items / Other Business:**

1. None

**D. Business:**

**1. Meeting Minutes:**

- a. March 14, 2022, Meeting Minutes

**Motion:** (Selectman R. Leary / Selectman K. Queenan) Motion to accept the March 14, 2022, Meeting Minutes.

**Discussion:** None

**Vote:** (5-0-0) The motion carried.

**2. Purchase New Fire Engine with ARPA Funds Discussion:**

Town Administrator Brown mentioned that the Board discussed the purchase of a new fire engine at the last meeting and he added the topic to tonight's agenda. Mr. Brown commented that Chief Fraitzl and Deputy Chief Nicoll have been working, for the past year, with the company that sells fire trucks. The latest proposal for a fire truck was received today, and the newest proposal is:

- a. The purchase price of the fire truck is \$703,246.
- b. Trade-in would receive \$7,262.
- c. A \$15,000 prepayment credit.

- d. This reduces the purchase price of the fire truck to \$680,984. This was the amount provided in the article.
- e. The price is solid until April 15.
- f. The price will be locked in as long as the town provides a down payment of \$450,000 on or before April 15.
- g. The second payment would be due on July 1 in the amount of \$230,984.

Mr. Brown commented that they had reached out to legal counsel and asked if the warrant article failed, and in legal counsel's opinion, could the town use the American Rescue Plan Act (ARPA) funds to purchase the fire engine. Legal counsel's advice was that the town could use the ARPA funds for the purchase of a fire engine, and 'No Means No' would not be a factor in this case.

Mr. Brown explained that 'No Means No' would not be a factor because the ARPA funds are a Grant Fund, and the Select Board has been granted authority by the voters to accept Unanticipated Funds and to expend those funds however they choose. He noted that ARPA Funds are different from the Operating Budget, and when taxpayers vote 'No' regarding the Operating Budget, then 'No Means No.' Mr. Brown noted that he provided the Select Board with information regarding 'No Means No.'

Mr. Brown reminded the Select Board that the Town of Litchfield would receive \$904,623 in ARPA funds, and the town received the first payment of \$452,311.62 in July 2021. He noted that the funds are in the bank and a separate account from any other town funds. The second payment of 224,623 would be received around May or June of this year. Mr. Brown commented that he attended a webinar regarding ARPA funds that he found very informative. He mentioned that cities and towns that had received less than \$10,000 in ARPA funds may use the funds under the term 'loss of revenue.' The 'loss of revenue' term allows towns and cities to purchase capital items, one-time expenses, and items put off because of the pandemic.

Mr. Brown mentioned that if the Select Board wanted to consider using ARPA funds for the purchase of a fire engine, then the next step would be to hold a Public Hearing. The Select Board would hold a Public Hearing, and the Board would provide enough notice for the citizens. Mr. Brown noted that he reserved the auditorium at CHS, and he has spoken to LCTV to have their staff attend the hearing. The Litchfield Fire Department has gathered further information to provide to the citizens if the Select Board supports a Public Hearing. He added that if the Select Board does not support using ARPA funds to purchase a fire engine, then there is no need to have a Public Hearing.

Selectman Leary stated that he had several comments to make about using ARPA funds for the purchase of a fire engine. Mr. Leary added that he was going to read an email in its entirety into the minutes and point out some discrepancies.

Mr. Leary stated that he and Chairman Webber had received comments from Chief Fraitzl, Deputy Nicoll, and Paul Kelly about remarks made at the last Selectmen's meeting. Mr. Leary read, "The firemen are extremely upset that they were called out for not being at the polls on voting day, and they raised some valid points that we should all be aware of."

"First, not one other town employee only or Department has been at the polls over the past several years providing information that impacts their budget request. The firemen feel that they should not be asked to beg for equipment that is needed for their safety and the safety of Litchfield residents. Yet here we are. We have the

creation of a School Resource Officer (SRO), a part-time clerk, several plow trucks, \$200,000 paving warrant articles, radio communication products, etc. No one Department was outside and being represented. In fact, the Deputy Chief said that he would need to take advantage of a vacation day if he did attend the polls. He asked permission to place information at the polls but was denied by the Moderator.”

“Second, the Selectmen have asked the Fire Department to defer the purchase of the fire engine for two years, and they have done so with a handshake agreement that a new fire engine would be a priority of the Board. Based on this input, Chairman Webber requested a revised cost estimate of this specific purchase details and asked that I secure a location for a Public Hearing if the Board of Selectmen decides it is the next step to take.”

Mr. Leary responded to several parts of the email:

1. Mr. Leary said that Town employees, including firefighters, have been at the polls over the past few years. He noted that the firemen were at the polls a few years ago when the town was voting on a new fire station.
2. There were two police officers inside the polling station. You could walk into the building and lay eyes on them. The Town Clerk cannot be outside polling because the Town Clerk needs to be inside running the election. Town Administrator Brown reminded Mr. Leary that the police officers were there because they were on paid detail.
3. Mr. Leary stated that all the Selectmen were at the polling station, and they were not paid.
4. Mr. Leary acknowledged that it was true that the Moderator denied permission to allow the Fire Department to place information regarding the fire engine at the polling station.
5. Mr. Leary stated there was never a handshake agreement. Chairman Webber mentioned that the first year the Fire Department wanted a new fire engine on the warrant, Selectman Lemire asked the Fire Department to defer until the following year. The next year there was talk about putting the fire engine on the warrant, but it was during the pandemic and the Select Board voted not to put it on the warrant.

Mr. Leary mentioned that he had said all along that the town should not spend all the money on one item. He suggested that \$200,000 could be expended on the roads, or funds could be spent on culverts and catch basins that need to be replaced. He added that after fixing the roads, culverts, and catch basins, there would not be enough money to purchase a fire truck. Mr. Leary suggested that the remaining funds be spent on weapon upgrades and a new side by side for the Police Department.

Selectman Lynch said that ‘No Means No’ even though the funds would not come from the Operating Budget. He noted that there is a fire engine need, but the town should wait until the next election to approve the purchase of a fire truck. He suggested that the Fire Department look into purchasing a used fire truck. Mr. Lynch agreed with Mr. Leary that the ARPA funds should go to the repairing of the roads, and the purchase of a backhoe. He commented that the Fire Department should have been looking to replace the aging fire engines years ago, instead of having a new fire station.

Selectman Lascelles said that he did not doubt that there was a need for a new fire engine, but he was concerned with spending all of the ARPA funds on one item. He acknowledged that legally ‘No Means No’ was not applicable regarding the purchase of a fire engine. Mr. Lascelles mentioned that using the ARPA funds to

purchase a fire engine is ethically questionable, and added that he would want a consensus from the Board and not just a majority vote in order to purchase a fire engine.

Selectman Queenan mentioned that the need for a fire truck is real and acknowledged that she understood what their concerns were with 'No Means No.' Ms. Queenan noted that she is keeping an open mind, regarding the purchase of the fire engine, because she wanted to hear everyone's input. She added that if the money was going to be raised and appropriated by the town, then 'No Means No,' but this is a Federal Grant. Ms. Queenan commented that the CIP Plan shows that the fire engine is on the list for 2022. She noted that residents could see the CIP Schedule if they went to <https://litchfieldnh.gov/cip>.

Ms. Queenan pointed out that the taxpayers in town need a Town Meeting to learn what ARPA is, what ARPA funds will pay for, and what the funds will not pay for. She noted that the Select Board then needs to find out what the Department Heads need, and ask the taxpayers for input.

Chairman Webber agreed that 'No Means No' is a gray area but noted that the town needs a new fire engine because the fleet is aging. He suggested looking at the CIP Plan that Selectman Queenan had mentioned. Mr. Webber commented that the Capital Improvement Planning Committee is the correct Committee to decide how the ARPA funds should be spent.

Mr. Brown stated that all the ARPA funds need to be encumbered by December 31, 2024, and expended by December 31, 2026. He added that one of the reasons for the new fire station was that the fleet was getting old, and if they were going to replace a fire engine while still at the old fire station, the fire engine would have to be specially ordered. The new fire station allows the town to purchase a fire engine without being specially ordered.

The Board discussed the difference between spending \$703,246 once or approximately \$95,103 per year over eight years.

The Board then discussed how they wanted to proceed with the ARPA funds. Chairman Webber stated that the discussion with the ARPA funds should be headed by the CIP Committee. The CIPC is made up of Department Heads, and members of the community.

**E. Public Input @ 7:22 pm:**

1. George Lambert (1) -

Mr. Lambert introduced himself and noted that he spent time as a Selectman in the Town of Litchfield and as a member of the Legislature. He thanked Town Administrator Brown for his help earlier in the day. Mr. Lambert commented that when he was a former Selectman, he never would have contacted legal counsel to receive advice regarding an article because of his concern that he would look like an elected official who wanted to go against the will of the voters.

Mr. Lambert mentioned that the current Select Board asked legal counsel about their options if the taxpayers voted no to the purchase of a fire engine. He stated that legal counsel informed the Selectmen that "funds accepted under RSA §31:95-b (appropriation for funds made available during the year) are exempt from all the provisions relative to limitations and expenditures of town money. I would say that 'No Means No' does not apply."

Mr. Lambert chose not to accept legal counsel's answer and researched further. He went to the NHMA and found an article that asked the question, "Assume that a special warrant article seeking an appropriating is defeated at an Annual Meeting. The government body later applies for and receives either a grant or private donations which will cover all of the proposed expenses. Can the money be accepted under RSA §31:95-b and used by the governing body to accomplish the purpose?"

Mr. Lambert stated that the answer was, "You have a legal argument that such an action is appropriate because of RSA §31:95-b, which indicates that such action would be exempt from all provisions of RSA 32 relative to the limitation on expenditures by the town or village. This seems to suggest that the money could be accepted and used as the government body directs for any legal purpose."

Mr. Lambert acknowledged that the Select Board has a legal defense but added that the community would be angry. Mr. Lambert stated, "If I have anything to say about it, there is no way that you are going to enter into a contract by April 11. I am going to file a temporary injunction to keep the town from entering that contract and an indefinite injunction to keep the town from doing that."

Mr. Lambert stressed that the Select Board would be going against 'No Means No' if they use the ARPA funds to purchase a fire engine, and it does not cover the entire cost. Town Administrator Brown said the ARPA funds would cover the cost of the fire engine, and the Operating Budget would cover the maintenance cost.

Mr. Lambert stated, "Is there anyone on the Board that wants this to get messy? If there is, then vote in the affirmative; if you don't want it to get messy, vote tonight for a Deliberative Session to hold a Public Meeting." He pointed out that he played this game against the School District last year. Mr. Lambert said he was happy doing it against the School District and would be happy doing it against the Town of Litchfield.

Mr. Brown informed Mr. Lambert that the Select Board sent the question to legal counsel before the Deliberative Session to anticipate that a voter would ask, "what happens if this is voted no?"

2. John Latsha, 10 McElwain Dr. -

Mr. Latsha mentioned that he attended the Deliberative Session and even commented that the Select Board could pay for the engine in full. He noted that many cities and towns had used the ARPA funds to purchase a fire engine.

Mr. Latsha asked why Litchfield could not be like every other town. Instead, he had to come to a Select Board meeting and listen to a resident threaten the Selectmen with a lawsuit. Mr. Latsha was concerned that next year the fire engine would increase in cost, and the taxpayers of Litchfield would have to pay more for the exact vehicle.

Mr. Latsha asked the Board if this conversation would be happening if the fire engine article passed and the Select Board wanted to give the ARPA funds to the Transfer Station or the Highway Department. He asked that the Select Board avoid the drama that occurs in Litchfield and purchase the fire engine now instead of paying more for it later.

Mr. Latsha stressed that during the Deliberative Session, there was no discussion about the streets falling apart, the culverts, and the catch basins needing repair. He suggested that the Selectmen should have mentioned these issues at the Deliberative Session.

3. Joe Cabral, 7 Brickyard Dr. -

Mr. Cabral suggested that the town looks into purchasing a used fire engine instead of a new fire truck. He supported Selectman Leary's comment that the roads are bad and need to be repaired. He mentioned that the Fire Department should have brought the fire truck inspection reports to the Deliberative Session.

The Select Board stated that most of the Budget Committee members supported the purchase of the new fire engine, but as a Committee, they could not support the article because it went over the tax cap. Mr. Cabral mentioned that the Select Board should purchase a used fire truck then give the police officers a new police station.

4. George Lambert (2) -

Mr. Lambert stated that if the Board did not vote to put the fire engine on the warrant, then the Board would not be having this discussion. He commented that the Board should have left the fire engine off the warrant; after the election, the Board could have easily used the ARPA funds to purchase the fire engine without question. Mr. Brown reminded Mr. Lambert that the Board started working on the warrants in November, and the government provided no guidance on whether towns could purchase a fire engine with the ARPA funds. In December, the Select Board sent a letter to the State Contractor and asked if the town was permitted to purchase a new fire engine with the ARPA funds. The response did not provide an answer for the Select Board. Mr. Brown pointed out that the Budget Committee needed the warrants from the town to review them. The Select Board was required to write the warrant the way they did because they did not have the information that they have now.

Chairman Webber commented that members of the Budget Committee might be upset that the Board is having this discussion. Still, the Board intends to be transparent and to make a decision regarding the ARPA funds that are in the best interest of the community.

5. Community Member (email) -

Selectman Queenan stated that she received an email from a resident, and Ms. Queenan read the email into the minutes. The email read, "There has been a discussion that the Selectmen will be using ARPA funds to purchase the fire truck that was rejected by the voters. Can you do this without the ok of the voters? Someone said that we have already received \$500,000 of the \$900,000 we are to receive. Where is the money now? Are we earning interest?"

The Selectmen agreed that they were currently discussing the possibility of purchasing a fire engine using ARPA funds. Mr. Brown answered where the funds were being held earlier in the meeting, and the funds are receiving interest.

The second question was whether the town has DUNS and SAM numbers. Mr. Brown stated that the town does have DUNS and SAM numbers, which are equivalent to a Federal Identification Number.

Public Input Closed at 8:02 pm.

**F. Business (cont.):**

**2. Purchase New Fire Engine with ARPA Funds Discussion (cont.):**

Chairman Webber stated that the Board was back to whether they wanted to have a Public Hearing to address the uses of the ARPA funds to purchase a fire truck or have the CIP draw up a plan for the usage of the funds.

The Board discussed what they wanted to do regarding the ARPA funds.

**Motion:** (Selectman K. Lynch / Selectman R. Lascelles) Motion to send it to the CIP.

**Discussion:** None

**Vote:** (5-0-0) The motion carried.

**3. Appointments:**

- a. Laura E. Mills, Deputy Town Clerk/Tax Collector (term exp. 3/13/23)
- b. Michael Falzone, Trustee of the Trust Funds (term exp. 3/13/23)
- c. Karen Psaledas, Deputy Treasurer (term exp. 3/31/24)
- d. Mike Boschi, Recreation Commission Reg Member (term exp. 3/31/25)
- e. Judy Brennen, Recreation Commission Reg Member (term exp. 3/31/25)
- f. Laura Gandia, ZBA Full Member (term exp. 3/31/25)
- g. Albert Guilbeault, ZBA Full Member (term exp. 3/31/25)
- h. Jayson Brennen, Conservation Commission Full Member (term exp. 3/31/25)
- i. Diane Plansky, Conservation Commission Full Member (term exp. 3/31/25)
- j. Kate Stevens, Planning Board Full Member (term exp. 3/31/25)
- k. Ronald Stevens, Planning Board Full Member (term exp. 3/31/25)
- l. Curtis Sampson, Planning Board Full Member (term exp. 3/31/25)
- m. Alan Sandler, Alternate Library Trustee (term exp. 3/31/23)

**Motion:** (Selectman K. Lynch / Selectman K. Queenan) Motion to approve the appointments, as mentioned.

**Discussion:** None

**Vote:** (4-0-0) The motion carried.

**5. Committee Members Not Seeking Reappointment:**

- a. Mark Falardeau, ZBA Alternate Member (term exp. 3/31/22)
- b. Mark Benoit, ZBA Alternate Member (term exp. 3/31/22)
- c. Harry Menzigan, Heritage Commission Full Member (term exp. 3/31/22)

Chairman Webber asked for a motion to accept their not seeking reappointment, as mentioned.

**Motion:** (Selectman R. Leary / Selectman K. Queenan) Yes

**Discussion:** None

**Vote:** (4-0-0) The motion carried.

Chairman Webber asked Town Administrator Brown to send thank you notes to those not seeking reappointment.

**6. Town Administrator Report:**

Town Administrator Troy Brown reviewed several items with the Select Board.

**a. Boulderdash Trail Bridge Construction**

Mr. Brown commented that he received communication from Jayson Brennen and Matt Lepore. They are working on trail systems within the town, and they will be working on Boulderdash in the white trail. They are working on improving the stream crossing process, minor trail reloads, and relocation to get it out of the wet areas.

**b. Albuquerque Ave. Speed Complaints**

Mr. Brown mentioned that there had been complaints regarding speed and traffic violations on Albuquerque Ave. Selectman Leary suggested that the Litchfield Police Department be informed of the issues. Town Administrator Brown said he would talk to Road Agent Brown and see if the signage on Albuquerque Ave. is meeting the standards.

**c. Water Use Reporting**

The town has received emails from residents complaining about the Pennichuck water rates and the water quality. Mr. Brown forwarded some of the correspondence that the town had received to the attorney who handled the Pennichuck Water case. The attorneys will put together a response to the questions.

**7. Selectman's Report:**

**a. Chairman Steve Webber**

**1. Rec Commission**

The Rec Commission meets on Tuesday, April 12, at 7:30 pm.

**2. School Facilities Improvement Committee**

The School Facilities Improvement Committee will have a meeting on April 6.

**b. Vice-Chairman Robert Leary**

**1. Budget Committee**

The Budget Committee met on Thursday, March 24, at 7 pm. The Committee voted to make John David Son the Chair and Kate Stevens the Vice-Chair. The Budget Committee also assigned members to represent specific Committees.

**c. Selectman Rich Lascelles**

**1. Emergency Management Team**

Nothing to report.

**2. Heritage Commission**

The Heritage Commission will meet sometime in April.

**d. Selectman Kevin Lynch**

**1. Conservation Commission**

Nothing to report.

**e. Selectman Kim Queenan**

**1. Planning Board**

The Planning Board is scheduled to meet on April 5. They will also work with Jay Minkarah about setting up a workshop regarding the issues of speed and calming measures on Albuquerque Ave.

**2. Capital Improvement Planning Committee (CIPC)**

The Capital Improvement Planning Committee is scheduled to meet on April 4.

3. **Nashua Regional Planning Commission (NRPC)**

The NRPC had its quarterly Commissioners meeting on March 16. There will be an update at the next Select Board meeting.

**G. Items Removed From Consent:**

1. None

**H. Non-Public:**

Chairman Steven Webber mentioned that the Board would be entering Non-Public Session under RSA §91-A:3. II(a) - Dismissal, Promotion, or Compensation of Any Public Employee. He asked for a motion to enter Non-Public at 8:20 pm.

**Motion:** (Selectman R. Lascelles / Selectman K. Queenan) So moved.

**Discussion:** None

**Roll Call:**

1. Selectman S. Webber - Yes
2. Selectman R. Leary - Yes
3. Selectman R. Lascelles - Yes
4. Selectman K. Lynch - Yes
5. Selectman K. Queenan - Yes

**Vote:** (5-0-0) The motion carried.

**I. Reconvene:**

**Motion:** (Selectman R. Leary / Selectman K. Lynch) motioned to adjourn the Non-Public Session at 10:22 pm.

**Discussion:** None

**Vote:** (5-0-0) The motion carried.

**J. Adjournment:**

**Motion:** (Selectman R. Leary / Selectman K. Lynch) motioned to adjourn the Public Session at 10:22 pm.

**Discussion:** None

**Vote:** (5-0-0) The motion carried.

Respectfully Submitted,  
Matthew Sullivan  
BOS Recording Secretary

Approved by the Board of Selectmen:

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Steven J. Webber, Chairman

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F. Robert Leary, Sr., Vice Chairman

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Richard W. Lascelles

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Kevin A. Lynch

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Kimberly M. Queenan