

BOARD OF SELECTMEN

December 28, 2017

MEMORIAL BUILDING

2:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Selectmen present: Leigh Calloway, Chairman; Tamara Butcher; Dick Hendl

Others: David Brooks, Whit Smith, Cynthia Anderson, Tim Julian and Arthur Bobruff

Leigh called the meeting to order at 2:00pm

Leigh stated that first off he wanted to state that had he been on top of things this meeting would've taken place two weeks ago. It just didn't occur that there would be an issue. And now this is the very last day to hold the meeting and the very last day to accept payments. For that Leigh is holding himself accountable.

Dick has volunteered, if the Board of Selectmen decides to accept prepayments, to come in and open the office on Friday, Saturday and Sunday.

Leigh stated we are here to decide whether to exercise an option that gives us the authority in RSA 80:52-a, which was read aloud.

TITLE V TAXATION

CHAPTER 80 COLLECTION OF TAXES

Miscellaneous Provisions

Section 80:52-a

80:52-a Prepayment. – Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing board may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property may, at any time before notice of the amount of taxes assessed against said property has been received, make payments on account of such taxes as will be due and the collector shall receive such payments and give a receipt therefor and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and the collector shall pay over all sums so received to the town treasurer under the provisions of RSA 41:35. No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.

Source. 1963, 36:1. 1973, 544:8. 1989, 155:1. 1998, 244:1, eff. Aug. 24, 1998.

Leigh turned the floor over to Cynthia Anderson, Town Clerk & Tax Collector.

Cynthia proceeded to read through emails she has been receiving throughout the morning.

Bernard Campbell, lawyer who represents the NH state tax collectors association, offers no opinion on whether the prepayments would qualify for a IRS tax deduction in 2018. He cautions tax collectors to not venture an opinion but tell people to consult their own tax advisor.

Prepayments are simply that, and they are not tax payments. A very important point. A second email from the President of the NH Tax Collector's Association has taken the stand that towns should keep doing what they have always been doing. If your town or selectmen have not authorized you to take prepayments then don't do it. If you have accepted prepayments in the past then just keep on doing what you've been doing. Cynthia shared other issues that have been coming up is that there have been several instances where people have made prepayments in towns where it is allowed have already requested refunds in 2018. Some of the questions shared from the NH tax collectors association are the following:

- If you do the refund, does the town have to refund it? Then it becomes a question because of the potential tax deduction the property owner got in 2017 for all taxes paid in advance. Is this an issue for the town and considered a deception to the IRS tax laws?

- Can the town refuse refunds on intentional refunds? Is there an RSA that allows for such refusal? This is being looked in to legally.

- If you do not have your assessments out yet for 2018 and you don't have a tax bill you should not be accepting tax payments. Leigh asked who stated that. All of this information is from the NH tax collectors association.

Cynthia raised her personal concern that, as of last Thursday, she had received several calls in regards to accepting prepayments. And the answer to all those inquiries was no, because that was the answer at the time, and still is. How will those taxpayers feel if RSA 80:52-a is now allowed and they miss out because we are unable to contact everyone. Cynthia stated that she was personally thinks this is a poor idea.

Tamara stated that she agrees with Cynthia and all of the opinions she's shared one hundred percent. It would be impossible to inform everyone that has inquired regarding this issue. They are not prepaying taxes because we do not know what their taxes are going to be.

Cynthia added another comment from the lawyer of the tax collector's association "the municipality is not a bank or an investment company where someone can simply park their money".

Dick believes the overriding consideration many people have been told that we do not accept pre payments, which we don't. And there would be no way to contact everyone if this policy were to change. We are not here to discuss beyond the RSA but there are many other reasons why the individual tax payer could get in to hot water and the town should not be aiding and abetting that. Tim Julian asked to hear some of the other reasons. According to Dick, the IRS has said that unless you have a bill that you can't claim the amount on your taxes, even if you pay early. Secondly, as a tax advisor, most people here stand a good chance of triggering the AMT (alternative minimum tax). Tim also added that for those people that request refunds in January that sounds like fraud.

Whit, as a tax advisor as well, agrees with what Dick has said, with one exception. The deduction is not dependent on receiving a bill it's whether or not there is an assessment. Tamara states our Town's assessments do not occur until April 1st. But Whit said you can deem an assessment to occur at any time. Leigh said that the Town is not going to do that.

David Brooks feels the most important comments that have been shared by Cynthia are that there have been several members of town have already been told and to change it at this late date it would be viewed as being jaded.

Leigh shared that before he walked through the door he felt, yes, there will be some folks in town that will be unhappy, but does that mean we make everyone unhappy. After hearing the argument he is feeling conflicted. The BOS is not here to determine eligibility. If someone wants to prepay their taxes that is their business. We don't need a reason.

Leigh asked David Brooks to repeat his statement that caused him to be conflicted. David reiterated that without proper notice, it would be unfair to the residents of the town in general. Cynthia said that even if she volunteered to be in the office Friday, Saturday and Sunday that doesn't mean that all the residents will hear of this. There are a lot of residents that live out of the area that wouldn't have the opportunity to mail in the money.

Leigh said according to the letter of the law we can say that we are accepting prepayments and that might make a few people happy. But it will make a lot of others unhappy because, as David says, it will look like preferential treatment. Whit shares that this information flips his position.

Tim shares that the BOS are representatives of the people. What would be best in the interest of the people?

Leigh said the reason we are here is because the Board needed to face up to this so that next Spring they can say that they sat down and talked about this and came to the decision for better or for worse. Asked the selectmen or the crowd if there are any other thoughts.

Art Bobruff stated that as far as the town being notified, this meeting was posted with one item to the agenda. Either nobody gets a chance to play Russian roulette with the IRS or those that choose to, might. Everyone suffers or the majority suffers. Leigh is concerned with the perception of the people who will miss out. According to Art, they don't lose anything either way.

Dick added that the amount of effort it would take to notify everyone is impossible.

Cynthia said that this is not about hurt feelings, it's about whether this is fair or not. The timing couldn't be worse.

Leigh shared point being if we go ahead and approve prepayment what other cans of worms are we opening up. Is it really in our best interest of the town? The towns that are already accepting

prepayments already have the procedures in place for this. There will be a level of unfairness no matter what decision the Board makes. Leigh shares that his mind has been changed by the discussion.

David Brooks added that the Board of Selectmen can show a good-faith effort for discussing the matter regardless of the outcome. According to Cynthia this issue has been discussed in the past and one reason it didn't pass was the problems other towns have had.

Whit has also added that he has changed his position, but as a republican they have not thought through the social and financial ramifications. And it's going to affect little towns like ours.

Leigh said that there is no motion or second to be made because no decision is being made to adhere to the RSA. We are simply maintaining the status quo. Move to adjourn the meeting made by Dick, seconded by Tamara and unanimously passed.

The meeting was adjourned at 2:40 p.m.

Submitted by,

Jill Hastings
Deputy Administrative Assistant