

May 12 Selectmen Meeting: W. Helm Proposals

SelectBoard,

Please see my comments below for the record, many of which I made at the SelectBoard meeting May, 12th. Preceding the comments on Mr. Helm's proposals are my responses to various remarks made during the Meeting of May 12th.

I have added a summary at the end highlighting a key recommendation for your consideration that should facilitate a smooth transition to the end state governance structure and two specific requests that I believe should be pursued in the area of legal review. For the latter, I believe that any organization's leadership (in this case the Town and the SelectBoard) should always ensure that initiatives are in compliance with the intent and letter of the law and various regulations.

In those sections that address Mr. Helm's proposals, I have listed a series of questions which were either asked by me, or by another, or were addressed by Mr. Helm; I leave them in this note as a reference. An exception are the questions in #3; for that proposal, I was not able to get to that section before the meeting was adjourned and, unfortunately, I have a Board commitment out of Town this week so I will not be able to attend the follow-up meeting.

The note is lengthy, but I do hope you can find the time to review it.

Respectfully,

Colin Beasley

May 12th Meeting Remarks

In response to some of the SelectBoard remarks during the meeting, the goal is to ensure that comments about approach, performance and accomplishments are factually accurate both to ensure the volunteer efforts and time are not diminished or dismissed, and that the public is being properly informed. The following is intended to provide clarifications "for the record":

- Ms. Kidder referenced that the BFC failed in its mission to identify an alternative site for the Police Station. Please note: the BFC was never tasked with that assignment until after the Community Forum in late 2021. When I came on board to the BFC, I was educated in depth about the ongoing discussions within the town about the Police Station and was provided both the Mires Report (which did not address the Police Station from a functional perspective) and the Harriman Report which was a complicated report of multiple options

and multiple re-visits (I assume as the result of the SelectBoards Feedback) and its final proposal was to build the Police Station at the McEnrue site, demolish the Buker Building and put a courtyard in between. The first task the BFC was given regarding the Police Station was to evaluate in greater detail whether the existing facility could accommodate the police requirements outlined in the Harriman report. The number of meetings to deliver on this task was formidable and I suspect represent a high percent of the 75 meetings cited by Ms. Kidder

- Regarding Ms. Kitter's comment that our formation and work was a strain on the Department Heads because of the time requested of them, the BFC met with all the Department Heads early on to build the comprehensive inventory of building and department needs. That demand on their time has not been replicated since then, the BFC has been very flexible with respect to the Department Heads schedule. *Rhetorically, I would suggest that we ask each Department Head their view of the BFC's demand on their time; however, I understand that might put them 'on the spot' and make them uncomfortable, so I would ask the SelectBoard to consider how else they would expect to secure comprehensive data on the status of the various facilities and buildings in the Town without such meetings?*
- Regarding Ms. Kidders comment about the productivity of the BFC (accomplishing only a Whipple Hall recommendation) with a reference to 75 meetings, that is addressed in in my comments on Mr. Helm's fourth proposal. Suffice it to say here, that list shows the volunteer commitment of time and energy yielded material accomplishments that should provide both short- and long-term benefits to the Town.
- Regarding Mr. Helm's comment that the BFC causes delays and rework of subcommittee work, the SelectBoard should consider the value of receiving a comprehensive analysis of data and schedules as input to their decision process as opposed to receiving incomplete information, making decisions that would need to be recalibrated or reviewed when further information surfaces. *Project after project that is started without all the steps mapped out fail as a result of poor planning, poor data and either ill-informed or uninformed decisions.* In support of the comment, Mr. Helm referenced the BFC's work on the Police Station Site Review Subcommittee, citing that it has had the report since Mid-March and it should be in front of the SelectBoard by now. The facts are:
 - The Police Station Site Review Subcommittee first met on November 30, 2021 and delivered its report to the BFC on March25, 2022 after meeting 9 times over the 4 months performing a lot of work between meetings.
 - The BFC has met 3 times, twice in April and once in May (with one more meeting planned in May) with the intent to deliver its report to the SelectBoard in June, addressing the Subcommittee's report with some concentration on Attachment E of that report and to provide the SelectBoard with a roadmap of actions and anticipated interdependencies and timelines for those actions.

- Completing a project of this size is not as simple as the SelectBoard making a “go” decision. Committee discussions and expert opinions engaged in large construction projects suggest a strong correlation of success with the appropriate approach to such an initiative. Understanding the land development issues and costs should be considered the first step in making a commitment. In parallel, addressing the design and build requirements and the time frame for that effort will be important to managing expectations. Critical to the design phase will be managing that schedule against the already very busy schedule of the Police Chief (or whomever the Police Chief assigns) as the Design effort will likely go through multiple iterations and will require direct Police Department involvement. At some point in time, community communications about the outcome of the work, addressing community concerns, questions and challenges about those plans, and providing resolution as to the disposition of the Buker building will need to be factored into the project planning timeline. The BFC is working to develop within its report the full list of dependencies and initiatives across a timeline that will assist the SelectBoard in defining when to approach the Town with the appropriate information in a Warrant Article.
- Regarding Mr. Helm’s comment that the current BFC structure decreases its effectiveness, I can only point to the accomplishments noted above and in response to his fourth proposal and to Mr. Helm’s comments about the success of the BFC (while he noted the exception of the Police Station). The SelectBoard should consider the importance of leveraging the expertise of its volunteers across common challenges and that major investments within the town should be fully vetted.

While some SelectBoard members may not be happy with the BFC work, the committee is comprised of very dedicated citizens committing material personal time for the benefit of the town. If the SelectBoard wants to encourage inclusiveness (vs. divisiveness), at the very least, that work and those citizens should be respected; The number of meetings and hours spent volunteering should be commended, not criticized; their work and volunteerism should be celebrated, not dismissed. Moreover, the SelectBoard should engage with a committee or with the chair of a committee if it isn’t happy with the pace of the work, rather than come over the top and look to dissolve the group. Collaboration and compromises are best realized when those who volunteer their time are not criticized and / or dismissed. While I understand that may not be the intent behind the SelectBoards comments or the proposals put forth by Mr. Helm, sometimes “perception is reality”.

Mr. Helm's Proposals

1.) Selectmen not on committees other than Budget and Planning

Questions For Bill:

- Please provide the community with the reason or reasons for this limitation?
- How would the SelectBoard gather information about what the committees are working on?

Comments:

I think the suggested changes will decouple the SelectBoard from the various committees where dedicated citizens are volunteering their time for the betterment of New London. Any proposed changes should pursue greater coordination between committees as well as between the committees and the SelectBoard, not less. Having committees structured in silos would only yield less coordinated initiatives; I think more community progress can be made through a collective learning process and a coordinated approach to our challenges. The obvious connectivity between committees is the SelectBoard. Independence of the Town Board is not accomplished by creating separation between the Committees and the SelectBoard; rather it is establishing a governance process where information is being collected, deliberated upon and informing the decisions, all in a public, transparent manner. Delegating tasks to the volunteer experts within the Town increase the scope of work that the SelectBoard can accomplish. Good governance should determine how to best leverage those committee of experts and define how to best collect that information. It should also be noted that whether a SelectBoard member appears at a committee meeting as a citizen or a formal Selectboard ex officio member, that person will be looked upon as a representative of the SelectBoard. Perception is reality...

I acknowledge the value of periodically assessing the committee structure (including CIP). The SelectBoard should look for governance changes that engage them more with the committees and to explore alternatives for greater collaboration between the committees and the SelectBoard. Rather than adopting this proposal, perhaps it might be more beneficial to the community if the SelectBoard adopt a motion to establish an advisory panel of volunteers from the various committees (perhaps committee chairs) to discuss and explore alternatives and, if appropriate, to develop recommendations along with transition suggestions, perhaps to be reviewed by the CAC for their input prior to a presentation to the SelectBoard. The object should be to study governance changes that would promote both community involvement and the Selectmen's participation and leadership in that process.

One exception, in addition to a review of process, the law should be looked at regarding Budget Committee participation. I formally request that legal counsel be requested to look at the Committee's participation to ensure the Town is in compliance with the law.

2.) Budget Committee members not on other committees

Questions for Bill:

- Why do you want to institute this policy?
- What do you think is the downside to having folks on the Budget Committee who are informed about what and where the community is going?

Comments:

Other than where the statute limits a person's participation in multiple committees (for example, Planning Board member participation in other committees), I encourage the SelectBoard **not** to discourage community participation. Rather, the SelectBoard should welcome community participation and seek greater participation in the various committees in a manner that cross pollinates the committees and brings committee participation into the budgeting process, to the extent people have the time and willingness. Having a more informed Budget Committee is far more beneficial to the town than not.

I recognize the SelectBoard has the authority to create committees and appoint citizens to those committees and clearly can accomplish the goal under this scenario by not reappointing a Budget Committee member when he or she reapplies when their term ends. What should be confirmed is whether a SelectBoard can terminate an already appointed person solely because that person has been elected to the Budget Committee.

Given New Hampshire's status as a "**No Home Rule**" state, I am not sure the SelectBoard has the authority to impose limits on the Budget Committee. Legislation has shown its intent in such limits through the statute around the Planning Board and showed no such intent around the Budget Committee except for specific language around Department Heads and "other associated agency" not being on the Budget Committee.

So, there exist two legal questions: one regarding the No Home Rule and the second regarding whether the Budget Committee members meet the standard of participation. For the first, if Mr. Helm chooses to drop the proposal as he intimated on the 12th, then it is a moot question. The second legal question should be addressed.

If Mr. Helm wants to leave this second proposal in play, then I would ask that, before the SelectBoard considers a vote on the motion, it table this suggestion and solicit legal counsel input as to whether there is any application of the No Home Rule.

Regardless of the outcome of the Mr. Helm's proposal, there is a need to have reviewed the Department Heads and "other associated Agency" provisions of the Statute relative to

the current Budget Committee membership; this should be reviewed with legal counsel in the NHMA. For reference, the language from the NHMA follows:

From the NHMA: “INCOMPATIBILITY WITH OTHER OFFICES RSA 32:15, V states that “[n]o selectman, town manager, member of the school board, village district commissioner, full-time employee, or part-time department head of the town, school district or village district or other associated agency shall serve as a member-at-large.” Therefore, department heads cannot serve as members-at-large on the budget committee, even if they are part-time employees. RSA 32:15, V. “Department head” is not defined in the law and is, therefore, a gray area. To avoid problems related to conflicts of interest, any employee responsible for submitting some portion of a budget should be treated as a department head. A related issue is that of the ex-officio members voting upon the budget presented by their respective boards. In other words, should the selectperson on the budget committee vote on the budget that the select board has recommended to the budget committee? Yes. The statute clearly contemplates this by requiring an ex-officio member and prohibiting any other member of that board from serving as a member-at-large. The system is set up so that there is a representative from each governing body of all affected political subdivisions, and those ex-officio members are expected to vote.”

I also recognize the SelectBoard can accomplish the same result by Mr. Helm’s fourth proposal. By dissolving the BFC, Mr. Helm effectively accomplishes this second proposal for the 2 members of the Budget Committee that are on the BFC. The fact that Mr. Helm suggested during the meeting that he might be willing to not pursue this second proposal and his recognition that the CIP process requires a Town Meeting vote, reduces the discussion, for all intents and purposes to the elimination of the BFC (effectively, we are left with Proposal 1, 3 and 4, of which 3 and 4 are mostly focused on the BFC; the Waste Management Committee has generally been inactive for over a year). It would be a misguided precedent if the SelectBoard were to take action against a committee of volunteers because they don’t deliver the kind of data that supports a preconceived decision of one or two SelectBoard members. While the SelectBoard may not intend for the proposals to be perceived as an anti-BFC initiative, this is a case where the discussion falls into the “perception is reality” category. Rather, the SelectBoard should establish a governance process that brings in all the facts and competing opinions; that process would build community inclusiveness. Establishing a governance process that discourages open dialogue, conflicting opinions or shies away from delivering all the facts material to a discussion can be perceived as an example of divisiveness (“my way or the highway” as they say).

4.) Dissolve Building and Facilities and Solid Waste management committees as currently constituted.

Because Mr. Helm's third proposal relates to, if not is dependent on his fourth proposal, I will review the fourth one first.

Questions for Bill:

- Can you explain to the community why you would want to dissolve the 2 committees, addressing each independently?
- Can you explain what work the 2 committees are doing that is not important or, if it is important, how you propose to address that work going forward?

Comments:

Considering the successful work of the BFC to date, and the agenda that currently is being addressed by the BFC, it would be disappointing if the SelectBoard dissolves the group. It is a very skilled-diverse group of dedicated volunteers whose goal has been to provide to the SelectBoard the facts underlying those issues and responsibilities it has been assigned. Let's review its accomplishments to date (the following list is evidence of and contrary to Ms. Kidder's suggestion that the BFC has only one accomplishment):

- From the recent Annual Report, the BFC shared with the Town its work on:
 - Detailed inventory of all Town properties whose replacement values are in the millions of dollars to assess the going forward needs of both the property and the organizations using those assets.
 - Established a subcommittee to evaluate Whipple Hall as directed by the SelectBoard and came up with a detailed plan to modernize the facility as a more effective meeting location for the town as well as identified necessary capital improvements.
 - Assessed the needs of the Town's space in the Academy building with the conclusion that, while there could be space rearrangements within the building to accommodate the various departments there, there was no need for additional space to meet the departments' needs.
 - Identified the issue of storage for both paper and non-paper items, recommending record digitization for paper (which is commencing) and further analysis of the non-paper storage requirements across all departments within the Town; The Town Administrator owns the action item to begin the non-paper storage inventory. The outcome of this work would provide data on the future non-paper storage requirements, critical input to the information already gleaned around the DPW storage requirements which will facilitate the BFC's analysis of building storage requirements within the Town. Note, this has been an outstanding issue since 2015 or 2016.

- Worked with Bob Harrington on his Department needs at the Sewer, DPW and Transfer Station sites, some of which are directly related to the storage issue noted above.
- Documented a Buildings and Facility Investment Report highlighting all of its findings, developing estimates where possible for bringing closure to those findings and making recommendations as to the order of those investments.
- Recommended to the SelectBoard that the Town utilize the state Fire Marshal to issue building permits and perform building inspections of commercial and multi-family projects, which the SelectBoard adopted.
- Performed considerable work on the Police Station Issue.
 - Buker Analysis
 - Stahlman Analysis (Note: both the location and the building structure are no longer deemed preferable in the most recent Police Station discussions, but, at the time, the alternative required BFC time and energy).
 - Community Forum Preparation and Participation

Note: Mr. Helm, pre-election to the SelectBoard, remarked at a BFC meeting that the BFC has done a good job other than on the police station issue. With regard to the police station work, through all of its research and analyses, the BFC has brought facts and analysis to that issue that heretofore were not available to the Town and are important inputs to any decision process.

Currently, the BFC is working on, among other items:

- Whipple Hall's modernization and infrastructure work as represented in the approved Warrant Article at the March Town Meeting;
- Continuing to work with Bob Harrington on the Transfer Station issues and the facility management process (including Project Management and software requirements) to enable the Town to more proactively address building and facility needs, schedule the work necessary to maintain those assets, and effectively and proactively understand the work and associated costs necessary for those locations, and;
- The Police Station Site Review Subcommittee. For this initiative, the BFC saw merit in broader participation and requested both the PD and the Planning Board to join this most recent effort; a citizen also joined the subcommittee.

3.) Consider establishing time-limited, small advisory “panels” (2021 Fiscal Policy), such as:

- Whipple
- Project management
- Trash and solid waste
- Future uses of Buker

Questions For Bill:

- Why are you proposing to eliminate a committee only to replace it with some number of advisory panels?
- How will the advisory panels be established and over what period of time?
- What would you propose for the work efforts currently underway within the BFC after it has been dissolved and before the advisory panels have been established?
- What process would you use between panels to ensure that the learnings and decisions of one are shared with the other if such synergies are important to share (which the BFC would suggest there is)?
- Do we have more volunteers than we have volunteer positions? For the BFC, I believe we have not received a significant number of applications based on what has been shared with me.

Comments:

The above questions are at the heart of ‘unintended consequences’. It would appear from the examples that Mr. Helm is principally focusing on work that is currently or would likely go to the BFC. and the Selectmen should consider how they would transition all those efforts before pulling the trigger to dissolve the BFC. Moreover, the Selectmen should consider the transition period so the work underway doesn’t lay fallow; understanding the timeline for establishing advisory panels, seeking volunteers, appointing said volunteers and getting those volunteers up on the learning curve should be factored into the SelectBoards thinking and planning.

I ask the Selectboard to consider the effectiveness of dissolving one committee to establish multiple Advisory Panels to do the same work, much of which is very related from a skills-needed perspective. *Organization design is clearly optimized when the work of a few can be leveraged across multiple challenges. Establishing silo advisory panels will diminish the synergies that currently exist with a skilled-diverse group looking across all building and facility issues.*

Again, I appeal to the SelectBoard to look for a governance process that engages the volunteers and committees in a manner that can assist the SelectBoard with the expertise and professional experiences that can help you manage the growth and challenges of the Town.

Summary Recommendations

- Recognizing the value of periodically reviewing a governance process and structure, I recommend the SelectBoard establish an Advisory Panel of volunteers from the various committees (perhaps committee chairs) to discuss and explore alternatives and, if appropriate, to develop recommendations along with transition suggestions, perhaps to be reviewed by the CAC for their input prior to a presentation to the SelectBoard. The object should be to study governance changes that would promote both community involvement and the Selectmen's participation and leadership in that process. This could / should include the analysis of the item noted in Mr. Helm's fifth proposal (Revisit (with Planning Board) formation of separate CIP committee), as the governance process around the Town's CIP may / could be impacted by other committees as well (e.g., BFC, Energy, Recreation, etc.); Determining an inclusive CIP process can only benefit the Town.
- Consult with legal counsel on the application of the No Home Rule principle to how the Selectmen take action about limits to the participation of existing Budget Committee members currently on other committees.
- Consult with legal counsel as to the standing of each Budget Committee member as it relates to RSA 32:15, V