

**TOWN OF BEDFORD
TOWN COUNCIL MEETING MINUTES
January 12, 2022
10 Meetinghouse Road**

1. ROLL CALL: A meeting of the Bedford Town Council was held on Wednesday, January 12, 2022, 10 Meetinghouse Road. Participating were Dave Gilbert (Chair), Bill Carter (Vice Chair) and Councilors Sue Thomas, Denise Ricciardi, Bill Duschatko, and Lori Radke. Also present was Town Manager Rick Sawyer.

Chairman Gilbert opened the meeting at 7:00 PM.

2. PLEDGE OF ALLEGIANCE – Led by Chairman Gilbert.

3. PUBLIC COMMENTS

Jay Nash, 33 Seton Drive, mentioned the agenda item of putting the Town budget on the ballot. He thanked the Councilors for responding to his emails taking his calls. He is asking the Town Council to enable Bedford citizens to make this decision. To find a way to put on the ballot the choice for Bedford citizens to vote on whether or not they would like to have the Town budget on the ballot or keep it the way it is. He asked them and future Council members to take the leadership role in the Town and not make a decision whether they want to change the budget or not, but to find the process that allows the registered voters of Bedford to make that decision. He's not asking them to do it one way or another; it's to carry the ball forward in the process of discussing and allowing Bedford residents the opportunity to change the way that votes are recorded on the Town budget. He wanted to know if they can take a leadership role in bringing this initiative to the ballot.

4. PUBLIC HEARING

a. First public hearing on the proposed 2022 budget

MOTION by Councilor Radke that the Bedford Town Council open the public hearing. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 6-0.

MOTION by Councilor Radke that the Bedford Town Council close the public hearing. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 6-0.

Mr. Sawyer noted that there was a second public hearing in two weeks.

Councilor Duschatko thought it was important that every resident understood that the purpose of the public hearings was to get their ideas and thoughts on the budget before it gets handled any other way. To have no one show up makes it difficult to deal with their inputs and facts. He received a couple of emails from people, which he appreciated and hopes they show up in person at the next public hearing and express their ideas and their sentiments. It's a very important process that they go through and they have a chance to get their voices heard now. Chairman Gilbert agreed. He would like to see more people

come out. He's been on the Council for six years and he can count on one hand every time they have a public hearing how many people show up and it's kind of discouraging. Councilor Radke stated that she put something on the Community of Bedford Facebook page hoping it would generate conversation and was shocked that there was only one comment. She thought they had to figure out a way to engage the community on this, because they need to be educated. Councilor Carter stated that they got an email from Karen Simmons. Chairman Gilbert stated that there were a number of emails that came through. Councilor Carter stated that Ms. Simmons asked if they could read it into the record and Chairman Gilbert stated no, they need to be here in public.

5. NEW BUSINESS

a. Update from the NH PFAS Commission – Second Interim Report

Chris Bandazian stated that Emma Paradis wasn't able to be there. She's been serving as a representative from Bedford and was very active in the Communications Subcommittee of the Commission and has been boots on the ground in terms of maintaining some community communication and getting feedback. He appreciated the job that she's done and will sorely miss her. He hoped that the Council would appoint somebody soon to take her place. Chairman Gilbert stated that they would advertise and ask for citizens to step up and do their regular process of getting someone appointed. Then it has to go to the State. Mr. Sawyer thought it was the Speaker of the House that made those appointments. Mr. Bandazian stated that it's a House Bill, so he thought so. Mr. Sawyer stated that he would make sure they have it figured out for the next meeting. Anyone is interested in the Commission appointment should give his office a call.

Mr. Bandazian stated that the Commission was formed about 2½ years ago. The Commission exists for a period of five years ending with a 2024 November 1st report. This past November 1st was their 2nd annual report. He thought it was very challenging getting anything done at the State House, because of the pandemic and the inability to meet because of public meeting laws. He stated that one of the things that was promised was a community meeting following the cancer incident study in Merrimack, which showed a limited, but significant number of blood samplings that were done; a statistically significant increase above the norm of renal and kidney cancers. There are three more phases of that study to be done, but it is a concern that there is an increased incidence in cancer from whatever course and PFAS is one of the possible common denominators. He thanked Councilor Murphy for her service who was on the Council in 2016. They were meeting with then Governor Hassan and talking about beginning the study with the State epidemiologist. This is the conclusion of the first phase of work and thanked her for being involved. As they look forward and have concerns about whether PFAS is responsible for cancer, unfortunately the Cabot Preserve loop is the one that is served by wells 4 and 5 and those were the most highly contaminated. Greenfield Farms was developed at a time before the State issued an air permit to Saint Gobain and they don't know how high those levels were back then. Fortunately they haven't heard of any catastrophic health issues, but he thought it was something to be concerned about and something the Commission is still studying. One of his conclusions at the end of year two was that at the end of year five, they are going to be no closer to the end of knowing answers to the questions that they have to answer. One of his key focuses going forward is to make sure the State agencies, the Department of Health and Human Services and Department of Environmental Services, have identified what they need to look into, have the systems in

place, and have the resources that they need, because this is going to be going on for decades. Mr. Bandazian stated that the community presentation that's supposed to be given in January is still a mystery. Mr. Sawyer stated that they were looking three dates, but they have not confirmed any of those three dates. They are doing a combined virtual presentation with all of the residents of Bedford, Merrimack, and Londonderry.

Mr. Bandazian stated that one piece of information coming up soon is the hydro geologic study. The draft has been submitted to DES, DES is reviewing it, and it should be available next month as a final draft. That will help them understand where the chemicals have come from, especially north of 101. It's difficult to extrapolate a fingerprint from the limited information that the current testing generates. There is a repeatedly delayed meeting of the Department of Environmental Services agencies from different states that their folks will be attending. They will be collaborating and hopefully bringing back some good science and recommendations. It should happen in March, but COVID has caused some delays. He is expecting in the next few months that they will have good concrete new information.

Mr. Bandazian stated that under the consent decree there is a work plan that Saint Gobain is required to follow and they have hired Golder Associates to conduct that work. They are twice a month submitting updates that are available through the DES OneStop site. One of the things that came up recently is they have been retesting wells. The PFAS limit is 12, so wells that have been tested that have come back just below that or in the 10-12 level have been retested. In December in the report, they indicated that they sampled 121 wells, 56 went down, 18 stayed the same, and 47 went up. He is waiting for the data, because they want to know if those were wells that are they in Bedford, where they are and what are does it show. They have a meeting on Friday and he's going to ask that question. If he doesn't get an answer he's not giving up. One of the questions is where is where is this stuff migrating to, especially as they bring some wells out of service.

Mr. Bandazian showed a map on the screen (attached at end of minutes) that showed the consent decree area, the outer boundary of the consent decree area, the area that already had public water or public water was added to, and properties that have not been tested yet. Mr. Bandazian stated that they were told by DES that all testing in that area would be complete at the end of December and it's not and that is a huge disappointment. The red dots were well tests that did not meet the EPA advisory in 2016 of 70/ppt. The yellow dots where the testing has been done. Golder Associations has been following a proximity model so if they get a positive test in one well, they'll test the adjacent properties. He thought the response rate in Bedford has gotten better. The light brown areas are areas that should be tested that aren't. The pink areas are getting bottled water or are identified as properties that are eligible for bottled water. The dark brown areas are areas they have determined for one reason or another are ineligible, because the property owner has not responded for a long period of time, it's conservation land, or it's not residential land. They have a long way to go to complete testing. On the south side of 101 he's afraid they are going to delay a resolution through extending public drinking water until they are done and it's obvious that there's no other option. It's much more difficult to extend public drinking water on the north side of 101 than on the south side of 101. The Town has applied for a grant to help people pay for point-of-service systems, point-of-entry systems. Mr. Sawyer stated that they were meeting on that today and before the meeting everything looked very positive that they would get both that grant as well as the water line grant for Bedford Center Road. The State awarded themselves a

reimbursement program up to \$1,500 for a point of use systems. Stay tuned for information on how to apply for that. Assuming the Town gets the grant, you can apply for one or the other, and you can't get both. Mr. Bandazian stated that on the north side of 101 it might be the only practical solution for people.

Mr. Bandazian stated that the regenerative thermal oxidizer was installed in Merrimack and went on line over the summer. There was a revelation that there was a bypass and worried if that was something that the State missed or there wasn't good communication. It was a disappointment when there was stack testing to find out that that had questions that were not asked such as when is the bypass used, is it used during production, or is it there only for safety purposes. It did seem to be effective in a stack testing. One of the things that they've proposed in their environmental section is to amend the real estate disclosures that get made. Those carry no liability; there is not duty or fraud that they commit if they don't report septic system problems. Anyone who is in real estate, transactions the last 25 years or so, knows they have to fill out a statement about the insulation, problems with the septic system, or problems with the drinking water. It should be noted or a buyer should be aware of. No penalty for doing it. Right now the State is required to notify everybody within 500 feet of a contaminated well. The State deems that's important, but hasn't deemed that's important for real estate disclosures, so they've proposed to broaden that, not just for PFAS, but for all contaminations. That will be before the Legislature hopefully in the next session.

Councilor Carter stated that when they first started this he was getting emails that he was the Council rep and wanted to know if he was still on that email list, because it didn't seem like he was. Mr. Bandazian assumed that he wasn't. Mr. Sawyer clarified that they were just better about copying him in the past than they have been recently. Mr. Bandazian stated that he would be more conscientious about that.

Mr. Sawyer stated that the State said they would pay for well tests north of 101. So far he didn't know anyone who had been denied. People should be persistent, go on their website and request the test. Councilor Carter stated that he was denied at first and then a couple of weeks later he got an email that they would like to set up a time.

Mr. Sawyer wanted to know if the Commission had heard any more about the 'low hanging fruit' in the Saint Gobain area for homes that are along the water line or adjacent, nearby to a water line. Mr. Bandazian stated that he hadn't. He didn't see any progress; Ledgewood, Brick Mill were obvious places to extend water and the side roads off of Jenkins. Mr. Sawyer stated that there were even homes on County Road that have the water line that runs right in front of their home already, but aren't connected that exceed the limits. It would be obvious, easy 'low hanging fruit' connections to get done. They've been waiting for any kind of answers as to what might happen with that. Mr. Bandazian stated that he will be pushing. Chairman Gilbert wanted to clarify that residents can go to the DHHS State website and look to ask for a test. Mr. Bandazian stated that it would be DES. He stated that they can also go to the Town Manager's page on the Town website.

Councilor Ricciardi stated that she's called and spoken many times with DHHS and DES and even called the contact she has for Saint Gobain in NY. She is being told that they are trying to renegotiate some of the things and so they have a pause button until they can move further. It's on her calendar to keep pushing that button. Mr. Bandazian stated that if there is renegotiating going on, it's about expanding that outer boundary. They've

said ‘no’, so he didn’t know what that negotiation would be. It was a pretty flat out ‘no’. Councilor Ricciardi stated that there weren’t at liberty to discuss, but it was definitely in that area with the ‘low hanging fruit’. Mr. Bandazian stated that it’s not getting cheaper whether it’s Saint Gobain or the Federal government that pays for it; it’s not getting any cheaper delay infrastructure projects. Actually, it’s cheaper for Saint Gobain to provide bottled water than to pay for extending water lines. Mr. Sawyer stated that the people are frustrated and it’s important that let the residents know that the Town hears you and is just as frustrated in not having some of these answers and it’s coming on three years that some people have been on bottled water. They will continue to try and it’s important that Senator Ricciardi is here and continues to call. That’s a big help for them and he appreciated it. Hopefully they will have some answers in early 2022, but unfortunately they don’t have any more information than what has been shared publically. Mr. Bandazian stated that when the soil study is out and can be assessed, he thought it may be time for the Town to work with Londonderry, Litchfield, and Merrimack and jointly retain some environmental experts with the thought to potential litigation, because he didn’t see there was a financial incentive for Saint Gobain to do anything other than buy bottled water for people and that’s not acceptable.

b. Discussion of amending the budget approval process

Chairman Gilbert explained that the Council has been asked through a series of emails and public comment at their last meeting to consider changing the way in which the budget is approved from Budgetary Town Meeting to official ballot more commonly known as SB2. The Town attorney has confirmed that movement to an official ballot form of government would be done through the Charter Revision process.

Councilor Radke explained the process she went through to better understand why she believes that this would be a revision and also did research that showed that Bedford is a Town Council form of government, not a Budgetary Town Meeting form of government.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES
CHAPTER 40
GOVERNMENT OF TOWN MEETING
Optional Form of Meeting-Official Ballot Referenda
Section 40:14
40:14 Method of Adopting Official Ballot Referendum Form of Meeting. –

VIII. For any town which has adopted a charter under RSA 49-D:3, the method of adoption shall be the manner of **amending the charter** as provided under **RSA 49-B**.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES
CHAPTER 49-B
HOME RULE-MUNICIPAL CHARTERS
Amendment of Municipal Charter
Section 49-B:4-f

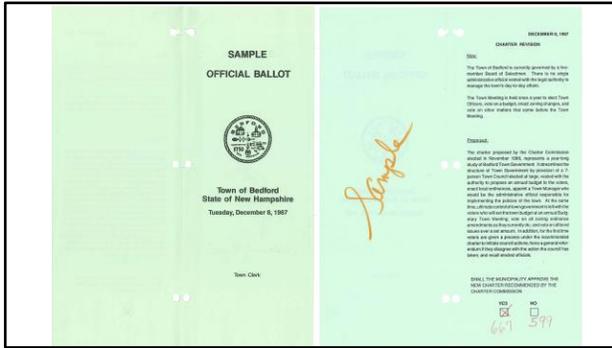
49-B:4-f Definition of Amendment. – For purposes of this chapter, an "amendment" to a municipal charter shall mean any change to an existing charter that **does not** constitute a revision under **RSA 49-B:4-d**.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES
CHAPTER 49-B
HOME RULE-MUNICIPAL CHARTERS
Revision of Municipal Charter
Section 49-B:4-d

49-B:4-d Definition of Revision. –
For purposes of this chapter, a "revision" to a municipal charter shall mean any change to an existing charter that results in a change in the municipality's form of government to any of the following forms:
I. Traditional town meeting.
II. Official ballot town meeting.
III. Town council.
IV. Official ballot town council.
V. Budgetary town meeting.
VI. Representative town meeting.
VII. City under mayor-alderman plan.
VIII. City under council-manager plan.
IX. Any other form hereafter expressly authorized by statute.

VI. Specific Provisions for Charters in Towns
RSA Chapter 49-D implements the home rule powers enumerated in NH Constitution, Pt. I, Art. 39 for towns. A town may adopt a charter pursuant to RSA Chapter 49-B which abolishes the open town meeting and vests all legislative authority in a town council, or, in the alternative, vests authority to make appropriations in a budgetary town meeting. A town charter may reserve voting on land use ordinances and approval of bond issues under RSA Chapter 33 to the voters. A town charter must create a legislative body, provide for the election or selection of a chair of the elected body, and provide for the appointment of a chief administrative officer. RSA 49-D.3.
RSA Chapter 49-D:3 provides for five (5) legislative body governmental structures that may be adopted:

1. Town Council. RSA 49-D:3, I
2. Official Ballot Town Council. RSA 49-D:3, I-a
3. Budgetary Town Meeting. RSA 49-D:3, II
4. Official Ballot Town Meeting. RSA 49-D:3, II-a
5. Representative Town Meeting. RSA 49-D:3, III

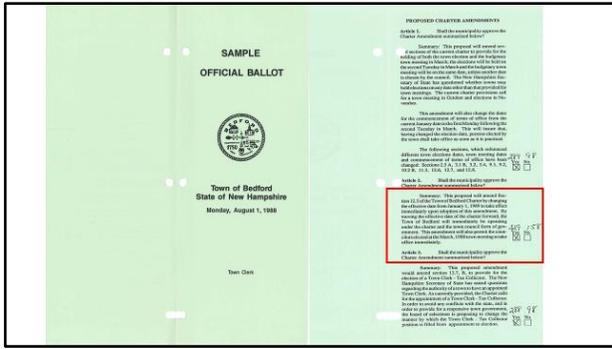


The Town of Bedford is currently governed by a five member Board of Selectmen. There is no single administrative official vested with the legal authority to manage the town's day-to-day affairs.

The Town Meeting is held once a year to elect Town Officers, vote on a budget, enact zoning changes, and vote on other matters that come before the Town Meeting.

Proposed:

The charter proposed by the Charter Commission elected in November 1986, represents a year-long study of Bedford Town Government. It streamlines the structure of Town Government by provision of a 7 person Town Council elected at large, vested with the authority to propose an annual budget to the voters, enact local ordinances, appoint a Town Manager who would be the administrative official responsible for implementing the policies of the town. At the same time, ultimate control of town government is left with the voters who will set the town budget at an annual Budgetary Town Meeting; vote on all zoning ordinance amendments as they currently do; and vote on all bond issues over a set amount. In addition, for the first time voters are given a process under the recommended charter to initiate council actions; force a general referendum if they disagree with the action the council has taken; and recall elected officials.



Summary: This proposal will amend Section 12.5 of the Town of Bedford Charter by changing the effective date from January 1, 1989 to take effect immediately upon adoption of this amendment. By moving the effective date of the charter forward, the Town of Bedford will immediately be operating under the charter and the **town council form of government**. This amendment will also allow councilors selected at the March 1988 Town Meeting to take office immediately.

Chairman Gilbert wanted Councilor Radke to explain the steps they need to take if they decide to do this.

Councilor Radke stated that if they move forward to open the Charter, they would need to put a question on the ballot in 2023 to see if the Town wants to have a Charter Commission and at the same time they can have people run for the Charter Commission. Mr. Sawyer explained that if the question is anything other than moving to official ballot, it has to be the 2-step process where they ask the question if they want to do it and if the answer is yes, they have a special election within 30-60 days to elect the 9 people that would be on the Charter Commission. They would spend the next 9 months or so deciding if that's a good thing to do or not. By October 15, they would have to give a preliminary report saying yes, it's a good thing, they are going to keep on going and issue a final report by January. If at the preliminary report in October they say it's not a good thing, then it's over at that point and it doesn't ever make it to the ballot. Councilor Radke thought it was about time that they open the Charter. She thought they should wait until they get a new Council elected in a couple of months and then maybe during their retreat make that a topic of discussion. It's not just an official ballot. There are other ways of handling the budget and she thought they should look at all of them.

Councilor Thomas stated that if this is path that was taken, next year there would be a question on the ballot and electing the members. The year after, the Commission says if they want to change it and if that passes, the year after would be the first time the budget could be voted on. In 2024 they would vote to change the Charter and then 2025 would be the first time the budget would be voted on the ballot. Councilor Duschatko stated that there are other choices, and it would still be 2025. Councilor Thomas agreed with Councilor Radke that they should look at all the options.

c. Appointment to Conservation Commission

MOTION by Councilor Carter that the Bedford Town Council appoint Gregory Handy as a regular member of the Conservation Commission with a term to expire in 2023. Seconded by Councilor Thomas. Vote taken – Motion Passed – 6-0.

d. Acceptance of resignation of Councilor Murphy and declaring a vacancy

Chairman Gilbert explained that on December 7th Councilor Murphy sent a letter to the Council indicating her resignation from the Council. She did this before the sign up period for the next election, so that another person could sign up and run for the last two years of her term.

MOTION by Councilor Radke that the Bedford Town Council accept the resignation of Councilor Murphy. Seconded by Councilor Ricciardi. Vote taken – Motion Passed – 6-0.

Mr. Sawyer indicated that he needed the Council to officially declare a vacancy.

MOTION by Chairman Gilbert that they are declaring a vacancy. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 6-0.

e. Other New Business

6. OLD BUSINESS

a. Other Old Business – None

7. APPROVAL OF MINUTES

a. Town Council Budget Workshop – November 13, 2021

MOTION by Councilor Carter that the Bedford Town Council approve the minutes of the November 13, 2021 Budget Workshop. Seconded by Councilor Thomas. Vote taken – Motion Passed – 6-0.

b. Public Session – December 15, 2021

MOTION by Councilor Carter that the Bedford Town Council approve the minutes of the December 15, 2021 Public Session. Seconded by Councilor Thomas. Vote taken – Motion Passed – 6-0.

c. Non-Public Session – December 15, 2021

MOTION by Councilor Carter that the Bedford Town Council approve the minutes of the December 15, 2021 Non-Public Session. Seconded by Councilor Duschatko. Vote taken – Motion Passed – 5-0-1 (Thomas abstained).

8. TOWN MANAGER REPORT

- 1) COVID-19 Pandemic – Bedford currently has 277 COVID-19 positive cases. Bedford has had a total of 3,844 cases and 59.7% fully vaccinated residents. If you have had a Pfizer shot and looking for a booster, the Fire Department is holding and has been holding booster clinics every Wednesday in January. You can also get Pfizer for your first or second dose. Sign up in advance through the Fire Department. He thanked the Fire Department for putting those clinics on.
- 2) The registration period for open elected positions is January 19 - January 28, 2022.
Open Town Elected Positions:
 - Two Town Council positions (3-year terms)
 - One Town Council position (2-year term)
 - One Library Trustee (3-year term)
 - One Trustee of the Trust Fund (3-year term)
 - One Supervisor of the Checklist (6-year term)
 - One Town Moderator (2-year term)Open School District Positions:
 - One School Board position (3-year terms)
 - One School District Moderator (3-year term)
 - One School District Clerk (3-year term)
 - One School District Treasurer (3-year term)Any Bedford registered voter wishing to file for Office must do so by contacting Town Clerk Sally Kellar at 472-3550. The Town Clerk will be available during office hours at the Town Office Building, 24 North Amherst Road and until 5 PM on the last day of filing. As per RSA 669:19 candidates who file on the last day of the filing period shall do so in person before the Town Clerk.
- 3) PFAS Contamination –If you have received a request for well testing from Golder Associates or the State, respond as soon as possible. Within the decent decree the letter will come from Golder. If it's outside the decent decree, the letter would come from the NH DES. If you have any questions, please call the Town Manager's office.
- 5) January 16 – Snowflake Shuffle road race, 9:30AM. The race will be conducted on Constitution Drive, Route 101, Liberty Hill Road, and Pilgrim Drive.
- 6) January 17th – The Town Office Building, Library, and Transfer Station will be closed for Martin Luther King, Jr. Civil Rights Day.
- 7) January 24th - The Planning Board will hold its 2nd and final public hearing on 3 proposed zoning amendments on at 7 PM.
- 8) February 9th – School District Budget Deliberative Session, 7:00 PM, High School.
- 9) The Bedford Winter Parking Ban began on November 1st, which requires no parking on public roads between midnight and 8 AM.

Mr. Sawyer thanked the DPW workers. Most of them had to work Christmas weekend for the storms and there have been several storms since that have kept them away from their families for extended periods of time. Their work is greatly appreciated.

9. COUNCILOR COMMENTS AND COMMITTEE UPDATES

Councilor Radke thanked the Fire Department. She took advantage of their clinic last Wednesday and she was impressed with the set up and how they handled the people coming in. She thanked Kelleigh Murphy for her years of service. She was sad to see her go. She was an integral part of their group and wished her luck in her future endeavors.

Councilor Carter stated that if anyone is interested in the Conservation Commission's Trails Stewardship Program, please get a hold of the Planning Department to sign up. They are getting a team together to take care of all of the trails. He mentioned that the Marston property sale had been completed and it's a great asset to the Town of Bedford to save and preserve a total of 115 acres. The 2022 Spring Cub Clean-up Day will be April 16th, 9:00 – 1:00.

Councilor Duschatko stated that the Planning Board approved an architectural change to the Lexus Dealership off Kilton Road. It was designed to make the store more accessible. They held their first public hearing for the three zoning amendments. He gave his best wishes to Kelleigh Murphy and his appreciation for all her hard work over the years as a Town Councilor.

Councilor Ricciardi gave a shout out to the DPW for doing an outstanding job with the roads even though they are short-staffed. She will miss working with Kelleigh Murphy. It was a hard decision for her to make, but applauded her for doing the right thing for herself and her family. She thanked her for the years of service and will miss working with her.

Councilor Thomas stated that they had an Energy Commission meeting in December. The main discussion was the Assistant Planning Director was there talking about some of the proposed zoning amendment for solar. She thanked Kelleigh for everything and good luck in the future. She will be missed.

Chairman Gilbert stated that the EFJH has cancelled their Snow Ball in February primarily due to COVID concerns. They are looking to do that either in the fall or next year. They are going to do the burning of the greens. Chief Hunter and his firemen will be at the Farm on Saturday and they are going to burn Christmas Trees. He thanked the Boy Scouts for collecting them and bringing to the Farm. They do feed some of them to the goats. He also thanked Kelleigh Murphy for her service. He's been on the Council for 6 years and he and she ran together the first time and it's been good working with her. He understands what she had to do and they support her.

10. NON-PUBLIC – RSA 91-A:3 II (d)

MOTION by Councilor Carter that the Bedford Town Council go into non-public session per RSA 91-A:3 II (d) Consideration of the acquisition, sale or lease of real or personal property. Seconded by Councilor Radke.

Roll call vote: Radke-aye, Carter-aye, Duschatko-aye, Ricciardi-aye, Thomas-aye, Gilbert-aye.

The public meeting ended at 8:04 PM.

Respectfully submitted,

Dawn Boufford