

Town Meeting Minutes
March 10, 2021

Moderator, Mike Morin, opened the meeting at 7:03pm with the pledge of allegiance. The Moderator reminded people to check in with the Supervisors of the Checklist to get a voting card because we count cards, not hands and to silence their cell phones. Mike Morin pointed out exits, and then congratulated those who won and ran unopposed and told them they can be sworn in after tonight's meeting. Any officials who ran opposed can be sworn in after 5pm on Friday.

The Moderator announced the election results from yesterday with Ken Dickie and Doug Staples winning a 3-year seat as Selectmen, Mike Morin then thanked Dave Connolly and TJ Place for their service to the board, Becky Dickie as Town Clerk – Tax Collector, Debra Pate as Treasurer, Joe Pitre as Trustee of Trust Funds, Robert Morgan as Budget Committee member for 3 years, Blanche Tanner as Budget Committee for 2 years, Kathy Seaver as Supervisor of the Checklist. The Moderator then read the School results with Mary Barron winning the 3-year School Board seat, Kathy Seaver School Clerk for 1 year and Angela Cardinal School Treasurer for 1 year and Michael Morin School Moderator for 1 year. Mike Morin then read the results of the zoning articles for the town stating that articles 2, 3 and 4 passed and that article 5, which was for storage containers, failed by a vote of 229 to 248.

Mike Morin then stated that the articles start on page 19 in the Town Report and that he would not be taking the articles in order, he stated that Article 8 is a repurposing of a Capital Reserve Fund which by RSA statute requires a 2/3 vote of the people here tonight and he chooses to start there.

Article 01 Election of Officers

To choose two Selectmen for three years, three Budget Committee members for three years, one Budget Committee member for two years, one Town Clerk – Tax Collector for one year, one Treasurer for one year, one Trustee of the Trust Funds for three years, and one Supervisor of the Checklist for one year.

Article 02 Zoning Amendments

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows (Official Ballot)

Amendment #1: To revise Section 1.00 to clarify when site plan review is required, to establish a Technical Review Committee and list the types of development that Committee will review as part of site plan review, and to permit Planning and Community Development staff to approve, in certain conditions, some changes or expansions in use that do not require site plan review.?

Yes 281 No 197

Article 03 Zoning Amendments

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: (Official Ballot)

Amendment 2

To revise Section 1.00 to clarify the roles of the Director of Planning and Community Development and the Code Enforcement Officer and how their decisions may be appealed?

Yes 342 No 136

Article 04 Zoning Amendments

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: (Official Ballot)

Amendment 3

To amend Section 2.00 (Base Zoning Districts) by revising the codes used in the permitted Land Use Table, clarifying the conditions required for a Special Exception, permitting accessory uses in all districts so long as that accessory use is permitted in the district where it is located and removing the minimum lot area per dwelling unit requirement in the AR District.

Yes 261 No 212

Article 05 Zoning Amendments

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: (Official Ballot)

Amendment 4

To revise Section 3.23 (Storage Units) to clarify the difference between and the requirements for temporary and permanent storage units, to add detail to the definition of a storage container and to clarify the restrictions on them, to provide that temporary storage units existing on-site prior to the date of adoption of this amendment will be considered permanent storage units that do not need a permit but must comply with standards for permanent storage units, to permit one renewal of a temporary permit and then require either removal of the unit or a minor building permit and reclassification as permanent, and to set forth location, fencing, maintenance and setback requirements for permanent storage units.

Yes 229 No 248

Article 08 Repurpose Employee Financial Obligation Fund

To see if the town will vote to change the purpose of the existing – Towns Financial Obligations Capital Reserve Fund created to pay out vacation, sick and other leave for long-term employees upon leaving employment, with the Town to the Employee Financial Obligation Capital Reserve Fund to pay out vacation, sick and other leave for any eligible employee upon leaving employment with the Town and further to name the Selectmen as agents to expend from the said fund (2/3 vote required).

Selectmen Recommend: Yes (4-0)

Total in the fund as of December 2020: \$5,430.36

Mike Morin, announced that he was going to make this a ballot vote. Steve Henry motioned to accept Article 8 as read, seconded by Jody Connolly. The Moderator then asked for discussion on the article and asked the selectboard if anyone wanted to speak. Being no takers, he opened discussion up to the floor. Tim Brown stated that he believed there needed to be a motion to change the vote to a ballot vote versus the Moderator saying we are going to have a ballot vote. Mike Morin explained that he spoke with Bud Fitch at the Secretary of State's office and was told that it is the Moderator's discretion how

votes are handled. The Moderator stated that if 5 signatures are handed to him during discussion, it mandates a ballot vote, but other than that, it is up to the Moderator to decide how votes will be handled during the meeting. Tim Brown then made a motion to overrule the Moderator and do a vote by hand stating that the crowd was small enough to do a sufficient hand count and not be here all night especially with covid. Mike Morin stated that the vote did not have to stay open for an hour that it is just a straight up ballot vote. Tim Brown reminded the Moderator that there was a motion on the floor, so the Moderator acknowledged the motion and asked for a second, it was seconded by Bruce Bridges. Being no further discussion, the motion was approved by a show of cards vote to override the Moderator.

Mike Morin asked if there was discussion to the original article, Tim Brown motioned to approve the article as written, the Moderator asked if Mr. Brown would care to withdraw his question so we could go right to the vote, Tim Brown withdrew his question and moved to call the question, duly seconded. With no discussion, the motion to call the question was approved with a show of cards vote. Mike Morin told Tim Brown that if he had waited 5 seconds, he would have gone right to the vote. Article 8 was approved by a show of cards vote of 100% to the affirmative.

Article 21 Fireworks Ordinance (by petition)

BY PETITION: To see if the Town will vote to adopt a Fireworks Ordinance as follows: Any property owner seeking to display Class C “Common” Fireworks, as defined by RSA 160-C:1,11, within the Town of Farmington, shall obtain a written Class C firework permit from the Fire Chief or his authorized designee. Only the permit holder may display or possess fireworks under the authority of the issued permit.

Fireworks displays shall be limited to the hours of 11:00 am and 10:00 pm unless the Fire Chief on the permit makes a written exception.

According to the Office of the State Fire Marshall – Fireworks Enforcement and Safety Unit, illegal explosives devices are not fireworks. Illegal explosive devices are commonly known as M-80’s, M-250’s, M-500, Cherry Bombs, Quarter Sticks, and Blockbusters. These devices and other like construction are federally banned by the Child Safety Act and should never be referred to as fireworks.

Procedure to obtain a permit from the Farmington Fire Department:

1. The applicant shall appear in person, provide a photo ID, and be at least 21 years of age.
2. The applicant shall provide proof that he/she is the property owner, or the applicant has written permission from the property owner.
3. The applicant shall provide a sketch showing where the fireworks will be ignited in relation to other structures, overhead utilities, woodlands, and property boundaries.
4. Fireworks shall be ignited a minimum of 75 feet from any structure, overhead utilities, woodlands, or property boundaries.

Any complaint received by the Town of Farmington regarding a permitted Class C Fireworks display shall be investigated by the Farmington Police Department and/or the Farmington Fire Department. Failure

to comply with any provision of this ordinance may result in a written warning, a fine of \$100 per occurrence, revocation of the permit, and denial of future permit applications. (By petition)

Selectmen Recommend: No (1-3)

Article 23 Noise Ordinance (by petition)

BY PETITION: To see if the Town will vote to adopt a Noise Ordinance as follows: Pursuant to the authority conferred by Chapter 31, Section 39, New Hampshire Revised Statutes Annotated (RSA 31:39) the Board of Selectmen of the Town of Farmington adopt the following ordinance:

It shall be unlawful for any person to make, continue or cause to be made, any unreasonable loud noise, or any noise which either annoys or disturbs the comfort, repose, health, peace, or safety of others within the Town of Farmington between the hours of 10:00 pm and 7:00 pm.

Upon involvement of the Farmington Police Department, the responding Police Office will have the right to use his or her discretion in defining the word unreasonable. Violations will result in the following: (A) First Offense: Written Warning (B) Second Offense: \$100.00 fine (C) Third Offense and Subsequent Violations: \$250.00 fine.

Exemptions from this ordinance shall include the following: Noise resulting from an authorized vehicle when responding to an emergency call, noises resulting from maintenance work as performed by the Town, State or Public Utilities, private and public snow removal operations. (By petition)

Selectmen Recommend: No (0-4)

The Moderator then addressed 2 petition articles that were submitted and then heavily changed and resubmitted. He stated that Article 21 & 23, which are the original petition articles for Fireworks and Noise ordinances, would be joined and tabled. Mike Morin then asked for a motion to table those 2 articles. A motion to table the articles was made by Kayla Morin-Riordan, seconded by Penny Morin. Being no further discussion, the motion to table Article 21 and 23 was approved by a show of cards vote.

Article 06 Operating Budget

To see if the Town will vote to raise and appropriate, the Budget Committee recommended sum of \$7,102,483 for General Municipal Operations. This article does not include appropriations contained in special or individual articles addressed separately.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)

Estimated Tax Impact: .47

Sylvia Arcouette motioned to accept Article 6 as read, seconded by Elizabeth Johnson. Seeing there was no discussion, the Moderator called for a vote. Article 6 was approved by a show of cards vote.

Article 07 Bridges and Road Design CRF

To see if the Town will vote to raise and appropriate the sum of \$100,000 to be added to the Bridges and Road Design Capital Reserve Fund, previously established. This may be used to pay 20% of the required funding from NH State Bridge Aid.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .18
Total in the fund as of December 2020: \$24,827.76

Ann Titus made a motion to accept Article 7 as read Alex Morin seconded the motion. Calling for discussion, Randy Orvis motioned to amend the article to increase the amount by \$150,000 to a total of \$250,000. He thinks \$100,000 is not enough for the condition of the bridges we have in town. He stated that we need to put more money away so we can fix the bridges before the new temporary bridge's 15-year life span is spent because there are 3 other potential bridges that need to be addressed. The motion to increase was seconded by Penny Morin. Discussion on the amendment followed. Town Counsel, Kerri Ann Roman asked what the tax impact would be for the increase in money for this article and after discussion, the consensus is the tax impact will increase by \$.27. Howard Champagne said he disagreed and said to follow what the Board of Selectmen and Budget Committee recommended as he trusts their judgement. Penny Morin stated that the bridges are awful and knowing that the temporary bridge will have speed bumps this summer is disheartening. She asked what is in the fund? \$24000 is about what is in there. Paula Proulx spoke to say that there are engineers looking at the other bridges and they are hoping possibly those could be repaired and not have to be replaced. Bridge Aid can be used to repair or replace. Kayla Morin-Riordan asked what the estimated cost is for the new bridge and will we have the 20% this year if state money becomes available, Kayla also asked if we would be back here next year looking to put the same amount away and Paula Proulx stated that it could be several years because we have a few bridges to address. Steve Henry said he thought we were given a number last year when the residents were asked to decide between a new bridge and a temporary bridge. Neil Johnson said the range given was from \$1 –\$ 3 million and that if Bridge Aid comes available the town portion will be found so that it can be taken advantage of. Penny Morin followed up by asking if repairs and new construction would come from the same fund and Neil Johnson told her the fund would be used for both. The amendment failed by a show of cards vote. The original article was voted on and was approved by a show of cards vote.

Article 09 Add to Highway Dept Motorized Equipment CRF

To see if the Town will vote to raise and appropriate the sum of \$5,000 to be added to the Highway Department Motorized Equipment Capital Reserve Fund, previously established. This is to assist the town with the replacement of Highway Equipment. This sum to come from unassigned fund balance. No amount to be raised from taxation. (Majority vote required)

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .00

A motion was made by Jody Connolly to approve Article 9 as read, seconded by Bruce Bridges. Seeing no discussion, Article 9 was approved by show of cards vote.

Article 10 Reevaluation CRF

To see if the Town will vote to raise and appropriate the sum of \$20,000 to be added to the Town Reevaluation Capital Reserve Fund previously established. This sum to come from unassigned fund balance. No amount to be raised from taxation. (Majority vote required)

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$18,432.75

A motion was made by Sylvia Arcouette to approve Article 10 as read, seconded by Bruce Bridges. Seeing no discussion, the Moderator called for a vote and Article 10 was approved by a show of cards vote.

Article 11 Landfill Closure Fund CRF

To see if the Town will vote to raise and appropriate the sum of \$31,429 for the purpose of testing groundwater at the closed landfill and to authorize the withdrawal of said sum from the Landfill Closure Fund Capital Reserve Fund previously established. No amount to be raised from the 2021 Taxation Year.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$99,992.54

A motion to approve Article 11 as read was made by Joe Pitre, seconded Jody Connolly. Seeing no discussion, Article 11 was approved by a show of cards vote.

Article 12 Equipment Purchases and Repair

To see if the Town will vote to raise and appropriate the sum of \$3,000 to be added to the Equipment Purchases and Repair Capital Reserve Fund, previously established to purchase and repair equipment. This sum to come from unassigned fund balance. No amount to be raised from taxation. (Majority vote required)

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$3,001.36

A motion was made by Bruce Bridges, seconded by Sylvia Arcouette. Seeing no discussion, Article 12 was approved a by show of cards vote.

Article 13 Self-Contained Breathing Apparatus

To see if the town will vote to raise and appropriate the sum of \$15,000 to be added to the Self-Contained Breathing Apparatus CRF previously established. This sum to come from the unassigned fund balance. No amount to be raised from the 2021 Taxation Year.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$46,301.58

A motion to approve Article 13 as read was made by Bruce Bridges, seconded by Ann Titus. Seeing no discussion, Article 13 was approved a by show of cards vote.

Article 14 Replacement of HVAC units at Municipal Office

To see if the town will vote to raise and appropriate the sum of \$5,000 to be added to the Replacement of HVAC Capital Reserve Fund previously established to replace the HVAC units at the Municipal Office. This sum to come from unassigned fund balance. No amount to be raised from taxation. (Majority vote required)

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)

Estimated Tax Impact for 2021: .00

Total in the fund as of December 2020: \$5,002.27

Gerry Vachon made a motion to accept Article 14 as read, seconded by Bruce Bridges. Being no discussion, Article 14 was approved by a show of cards vote.

Article 15 Farmington Cable TV SRF

To see if the Town will vote to raise and appropriate the sum of \$100,000 for staff payroll, cable TV programming, equipment, and/or repairs associated with Farmington Cable TV, with said funds to come from the Community Television Special Revenue Fund created for this purpose. No amount to be raised from the 2021 Taxation Year.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)

Estimated Tax Impact for 2021: .00

Total in the fund as of December 2020: \$123,537.51

A motion to accept Article 15 as read was made by Bruce Bridges and seconded by Sylvia Arcouette. Paula Proulx shared that the number is higher because they are looking to get new equipment to be able to start streaming meetings live next year. With no further discussion, Article 15 was approved by a show of card vote.

Article 16 Building Inspector Position SRF

To see if the Town will vote to raise and appropriate the sum of \$80,000 to pay for the Building Inspector and authorize the withdrawal of said sum from the Building Inspector Position Special Revenue Fund previously established for this purpose. No amount to be raised by taxation.

Selectmen Recommend: Yes (4-0) Budget Committee Recommend: Yes (8-0)

Estimated Tax Impact: .00

Total in the fund as of December 2020: \$28,130.40

A motion was made by Sylvia Arcouette to accept Article 16 as read, seconded by Bruce Bridges. Being no discussion, Article 16 was approved by a show of cards vote.

Article 17 Emergency Medical Motorized Equipment CRF

To see if the town will vote to appoint the Board of Selectmen as agents to expend from the Emergency Motorized Equipment CRF previously established in 1997. (Majority vote required)

Selectmen Recommend: Yes (4-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$1,380.71

A motion was made by Deb Reed to accept Article 17 as read, seconded by Jody Connolly. Being no discussion, Article 17 was approved by a show of cards vote.

Article 18 Recreation Equipment CRF

To see if the town will vote to appoint the Board of Selectmen as agents to expend from the Recreation Equipment CRF previously established in 2003. (Majority vote required)

Selectmen Recommend: Yes (4-0)
Estimated Tax Impact for 2021: .00
Total in the fund as of December 2020: \$20,628.40

A motion was made by Bruce Bridges to accept Article 18 as read, seconded by Sylvia Arcouette. Being no discussion, Article 18 was approved by a show of cards vote.

Article 19 Change the Veteran's Tax Credit (by petition)

To see if the Town will vote to increase the optional veteran's tax credit from the current amount of \$500 to \$750, which is the maximum allowed by NH State Statute RSA 72:28. (By petition)

Selectmen Recommend: No (0-4) Budget Committee Recommend: Yes (5-3)
Estimated Tax Impact for 2021: .13

Gerry Vachon made a motion to accept Article 19 as read, seconded by Rick Pelkey. Being no discussion, Article 19 was approved by a show of cards vote.

Article 20 Fireworks Ordinance (by petition)

BY PETITION: Authority: This chapter is adopted pursuant to the authority of NH RSA 160-C:6, Permissible Fireworks, Local Option.

Definitions:

Definitions of terms pertaining to fireworks as used in this chapter are defined by NH RSA 160-B:1 and NH, RSA 160-C:1, and all applicable chapters.

Permit Required; prohibited displays; exceptions.

A. Any person wishing to discharge consumer fireworks shall obtain a written firework permit from the Board of Selectmen or their authorized designee. A permit shall be obtained before any discharge of consumer fireworks is to occur and shall be in such person's possession at all times during the display.

B. Consumer fireworks are prohibited from being displayed from public or private property or beaches unless expressly authorized by the Board of Selectmen or its authorized designee. Consumer fireworks are prohibited on public property.

C. Display fireworks are prohibited unless the applicant has demonstrated compliance with all applicable provisions of RSA 160-B.

Permit application process.

- A. The applicant shall appear in person before the Fire Chief, or his/her authorized designee, at the Farmington Public Safety Building, 160 Main Street Farmington NH, between the hours of 8:00 am and 4:00 PM (weekdays, excluding designated holidays), at least 7 days prior to the display.
- B. The applicant shall provide valid photo identification at the time of the application.
- C. The applicant shall be at least 21 years of age or older.
- D. Any permit holder found to be impaired by the consumption of alcohol and/or use of any drugs is subject to the revocation of the permit.
- E. The permit holder must be present at all times during the display of consumer fireworks.
- F. The permit shall be valid only for the date issued.
- G. Permits will be only issued for days when the fire danger is class one, two, or class three (as determined by the New Hampshire Division of Forests and Lands, Bureau of Forest Protection). Use of consumer fireworks is prohibited on class four and class five fire danger days or at times when the National Weather Service has issued a red flag warning.
- H. A fee of \$10.00 will be paid to the Town of Farmington for the application process.
- I. Prior to the permit being issued, the Farmington Fire Chief or his/her designee shall conduct a site inspection. If the location is not suitable for the safe display of consumer fireworks, the permit shall be denied. The Fire Department will forward the application and recommendation to the Board of Selectmen for permit approval.
- J. A sketch shall be furnished by the applicant showing locations of the display, buildings, property boundaries, and utilities.
- K. The applicant and/or permit holder must provide proof of ownership or written consent of the private property owner where the display of consumer fireworks will occur.
- L. Consumer fireworks shall only be ignited a minimum distance away of 75 feet from any structure, utility, property boundary, woodland, or public way.
- M. Consumer fireworks shall only be used in accordance with the manufacture's recommendations and warnings.
- N. All refuse from the display of consumer fireworks shall be contained on the property from which they are ignited, i.e., the location on the consumer fireworks permit request.
- O. The permit holder shall have sufficient means of fire extinguishment readily accessible.

Enforcement; violations and penalties.

- A. The Fire Chief, or his/her authorized designee, reserves the right to inspect the permitted location and consumer fireworks to be discharged at any time during the period for which the permit is issued. Failure to allow such an inspection shall result in the immediate revocation of the permit.

B. Failure to comply with any provisions of this chapter shall result in a fine or penalty as follows:

1. First offense: \$50.00.

2. Second offense within 1 year of a prior offense (365 days): \$100.00

3. First offense after Board of Selectmen issues permits: \$500.00 and revocation of the permit, and the violator shall be prohibited from obtaining any further consumer fireworks permits for a period of 3 years.

C. Any complaint received by the Town of Farmington as the result of an issued permit shall be grounds for the revocation of the issued permit following an investigation conducted by the enforcement authority.

D. The applicant shall be responsible for reimbursing the Town of Farmington for all costs associated with the mitigation of any fire or other emergency resulting from the applicant's misuse of consumer fireworks.

E. The Fire Chief, or his/her authorized designee, or any sworn Police Officer of the Town of Farmington shall have the authority to issue citations for violations of this chapter and ordinance and revoke the permit.

F. Any complaint received by the Town of Farmington regarding consumer fireworks shall be investigated by the Farmington Fire and/or Farmington Police Department. If found to be in violation of the state law or local ordinance or deemed unsafe to the public by the enforcement authorities, the permit shall be subject to revocation and/or fine.

G. No consumer fireworks shall be discharged in a manner that the debris cannot be contained on the owner of the approved site.

H. No consumer fireworks shall be discharged between the hours of 11:00 P.M. and 10:00 A.M. unless the Fire Chief grants written authorization.

I. Nothing in this chapter shall preclude any sworn law enforcement or fire officer from enforcing any section of NH RSA 160-B or NH RSA 160-C or any other applicable laws. (By petition)

Selectmen Recommend: No (1-4)

A motion was made by Bruce Bridges to accept Article 20 as read and seconded by Jody Connolly. The Moderator invited the petitioner to come up to address the article. Jamie Meyer said that fireworks in the downtown area have been an increasing issue year after year. The proposed ordinance is not designed to take fireworks away from people but we want to make a safer community for everyone. They are dangerous and in November she saw one fail that went through the parking lot to the post office. It's a very dangerous situation. Richard Rizzi, pastor First Baptist Church, said that fireworks have been aimed at his church and if one had gotten into the bell tower, they would have lost a building that was built in 1856. Jodi Connolly has had issues and said she will sue if people damage her house. Sharon Turner reiterated that they are not trying to prevent fireworks, just want to prevent danger and damage by losing lives or historic homes or buildings in town. Right now there is nothing anyone can do to stop people. Neil Johnson feels the ordinance is too strict, he looked at the map and feels that only a handful of properties would qualify. Neil is proposing an amendment to restrict the article to the village district

area, seconded by Bruce Bridges. The Moderator asked if someone from the planning board could give him what the boundaries of the Village district would be? Steven Henry explained the downtown area as Main St, Mechanic St, Civic St, Central St to the bridge, Main St to the bridge by Crowleys. Sharon Turner thinks this is going to add confusion to this article. There is no reason that people can't get a permit, it is not too much to ask. Kerri Ann Roman said there needs to be specific language to define the area that will be affected by the ordinance. Terri Riordan stated that neighbors make their own fireworks terrorizing pets, elderly and they are dangerous. It is very disheartening that there is nothing that can be done to protect the elderly, animals, and children. Paul Turner would like to see it include the whole town area that has water service not just the Village District area because it is too small. Mary Barron brought up her phone with a picture of the Village Center. Neil Johnson looked at the map and asked to modify the terminology to Urban Residential and Village Center area. Jamie Meyer, the petitioner, disagrees with the amendment, she wants it to include everyone. Deb Cantwell spoke against the amendment. She lives on Ten Rod Rd with 101 acres and she wants everyone to have to get a permit that gives the Fire Department an opportunity to turn down permits depending on weather. Bruce Bridges asked if there was a time frame. He was told there is, and the restriction is from 11pm – 10am. There was a motion to call the question by Penny Morin, seconded by Jodi Connolly. Mike Morin read the amended article as This ordinance applies to the Village Center and Urban Residential Districts only. The amendment failed by a show of cards vote.

The Moderator opened discussion back up on the original article as read. Grace Canata lives downtown and says fireworks go off at all hours of the night along with hooting and hollering which makes you believe there is alcohol involved and that makes it more dangerous. Kayla Morin-Riordan made a motion to amend by striking paragraph H which is the fee for the permit for fireworks. Kayla explained that there is no fee for a fire permit, so there should not be for the fireworks permit. Kerri Ann Roman, Town Council, explained that the Board of Selectmen are in control of fees, not the people of the town. If there is no fee, the board could add one and if there is a fee, the board could remove it if they so choose. Fire Chief, James Reinert explained that we fall under the state for fire permits that is why no fee for them. A vote was taken on the amendment to remove the fee. The amendment was approved with a vote of 36 yes to 24 no.

The Moderator asked if there was any discussion on the amended article. Tim Brown explained that there are state laws for disorderly conduct and with this new ordinance, it would be a lesser penalty and be tying up time of the Fire Chief and Police Chief and their staff giving out and enforcing these permits when people could just report the illegal behavior and let them deal with those instances. Jamie Meyer said she has done research and the state says it is up to the towns to create ordinances and set in place the regulations for fireworks. Jodi Connolly said she has called the police before and been told by our officers that there is nothing they can do because we have no ordinance in place. Steve Henry asked police chief and town council about what Mr. Brown said about his opinion on the state law vs this ordinance. Chief Drury said Mr. Brown is correct that the police can be dispatched under disorderly conduct statute. They went on 152 disturbances 18 were fireworks and 48 were noise related and they prosecuted 10. They try to work with people to try to educate them and want them to enjoy their lives but be safe around historical buildings. He wants to do as the people want him to do. Kerri Ann said the state only regulates class B fireworks(display) vs class C fireworks(consumer). Tim Brown asked Kerri Ann if it was her opinion that shooting off fireworks at 2am is not disturbing the peace or disorderly conduct. Kerri Ann said it may depend on the circumstance. Penny Morin asked both Chief Drury and Chief Reinert

if they think the ordinance will benefit the town. Chief Drury thinks it will benefit especially the Village Center. Chief Reinert said safety is the main objective and it can help in the downtown and the outskirts. Jamie Meyer spoke to surrounding towns having similar ordinances and most towns limit or disallow them altogether. Rachel Bowden asked if Chief Drury was consulted in the writing of the ordinance. The chief was at the Selectman's meeting and used a couple of other towns' ordinances to help rewrite an ordinance that is prosecutable. Gabe Tarrants stated that we must have a fire permit for burning on the ground, why do we not have to have a permit to have a fire in the sky that is less controllable. A permit puts a name and address to where the fireworks are coming from and it helps pinpoint an origin. Sharon Turner wanted to reiterate the purpose for this ordinance is not to promote prosecution, it is geared towards safety and responsibility. Alex Morin motioned to call the question. Douglas Staples stated he wants to change the 75 ft to 40 ft. but Alex Morin already called the question. The motion to call the question was approved by a show of cards vote.

A petition for a ballot vote had been presented to the Moderator. He called out the names to be sure there were 5 in attendance. The Moderator explained the procedure to maintain social distancing. After he called for one last chance to vote, he then asked the Supervisors of the Checklist to count the votes. While waiting for the outcome, the Moderator moved on to Article 22. After a count of votes by the Supervisors, Article 20 was approved with a count of 42 yes and 27 no.

Article 22 Noise Ordinance (by petition)

BY PETITION: This chapter is adopted pursuant to the authority of NH RSA 31:39(n) Powers and Duties of Towns.

Definitions:

As used in this article, the following terms shall have the meanings indicated:

ANNOY – To disturb or irritate, especially by continued or repeated acts; To bother with unpleasant deeds; To do something to upset or anger someone; To be troublesome; A feeling of discomfort or vexation caused by what one dislikes;

DISTURB – The unsettling of proper order, through one's actions, in a public space; or the unsettling of proper order heard from one's actions occurring in a private place. This can include creating loud noise by fighting or challenging to fight, disturbing others by loud and unreasonable noise, or using offensive words or insults likely to incite violence by a person of average sensibilities.

"Annoy" and/or "Disturb" shall include any noise occasioned by anyone (1) or more of the following actions of the operator of any vehicle:

Misuse of power exceeding tire traction limits in acceleration, sometimes known as "laying down rubber." (See Misuse of Power Ordinance) Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency. Rapid acceleration by means of quick upshifting of transmission gears with either a clutch and manual transmission or automatic transmission. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch and manual transmission or automatic transmission. Racing of engines by manipulation of the accelerator, gas pedal, carburetor, or gear selection, whether the vehicle is either in motion or standing still. The blowing of any

horn except as a warning signal or the use of any other noisemaking device, whether the vehicle is either in motion or standing still.

STREET – includes a crosswalk, intersecting way, or other public highways, all as defined by RSA 259:1, as amended.

VEHICLE – Includes a car, bus, highway building equipment, motorcycle, motor truck, motor vehicle, semitrailer, sidecar, tractor, trailer, or any other vehicle, all as defined by RSA 259:1, as amended.

NOISE RESTRICTED

In accordance with the concepts set forth below, it shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessarily loud noise or any noise which either annoys, disturbs, injures or is likely to endanger the comfort, repose, health, peace, or safety of others within the Town of Farmington limits. For the purpose of this section, persons shall include the owner, tenant, or other people in control of a private residence who permits or allows guests to engage in loud or unreasonable noises that can be heard in a public or other private place or who fail to take the necessary steps and precautions to prevent guests or other persons on the property from engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other devices which reproduces or amplifies any sound.

Specific prohibitions:

A. Prohibited noise/time restrictions.

a. Between 10:00 pm. And 7:00 am., created by loading, unloading, opening, closing or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters, or similar objects.

b. Between 10:00 pm and 7:00 am created by:

i. The operation or use of construction vehicles, to include but not be limited to bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front-end loaders, and log skidders.

ii. The operation or use of tools or construction equipment, to include but not be limited to cement mixers, hammers, staple or nail guns, power tools (i.e. saws, drills, grinders, and sanders), chain saws, lawnmowers, electric hedge trimmers, lawn equipment, and jackhammers.

iii. The operation or use of agricultural equipment, including but not be limited to tenders, balers, and tractors if sound can be heard outside the agricultural setting or farm.

c. Between 10:00 pm and 7:00 am. Engaging in conduct that creates loud and unreasonable noises that would affect a person of average sensibilities, including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or any other device which reproduces or amplifies sound or fireworks (as set forth in the fireworks ordinance).

d. The repeated use of exploding targets anytime, so as to cause an annoyance or alarm to a person of average sensibilities.

e. Evidence of a specific complaint or complainant is not necessary to establish a violation of this ordinance but is recommended. A police officer can confirm the violation of this ordinance originating

from an anonymous complainant as long as it was called into dispatch or the police station and said officer can then confirm violations of the noise ordinance as long as the officer witnesses the act(s).

Exemptions:

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices, and emergency pressure-relief valves.
- B. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- C. Noises resulting from emergency maintenance work as performed to an emergency call or acting in time of emergency. To include snow removal projects, plowing, and or maintenance of private or public ways. Loss of power due to a storm where a generator is needed. Utility work to restore power or other emergency work.
- D. Municipal maintenance work where the abutters to the worksite have been given prior notice of the project.
- E. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town.
- F. Snowblowers and other types of private or commercial snow-removal equipment or plowing operations.
- G. Parades and public gatherings for which the Town of Farmington has issued a permit.
- H. Bells, chimes, or carillons while being used for religious purposes or in conjunction with religious services and those bells, chimes or carillons that are presently installed and in use for any purpose.

Application for a special permit.

Application for a permit for relief from the noise level designated in this Article on the basis of undue hardship may be made to the Town of Farmington Board of Selectmen or their designee. Any permit granted by the Town shall set forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement.

Violations and penalties.

Any person who violates the provisions of this Article shall be subject to a written warning or a \$50.00 fine for the first offense \$100.00 for any subsequent offense of this code and may be subject to revocation of permit and denial of future permit applications. (By petition)

Selectmen Recommend: No (0-5)

A motion was made to accept Article 22 as read by Penny Morin, seconded by Sylvia Arcouette. Mike Morin invited the petitioner to speak, Jamie Meyer explained that noise is different for all and many noises are very offensive. M80s and cherry bombs are not considered fireworks, they are explosives and are going off all hours of the night, people downtown are screaming and yelling all hours of the night. Randy Orvis made a motion to change 7am to 6am so working people can start working if they need to.

Dumpster drivers come to empty dumpsters; work needs to happen. Grace Canata explains that a lot of noise is coming from Main St at the old Fire Station parking lot with people running up and down the stairs yelling, doing donuts with their cars, she states it is only going to get worse. Douglas Staples said that defining offensive noise is vague. We are headed down a slippery slope, if someone drives by my house and wakes me up, am I going to call the cops and tell them they offended me? Jeremy Squires asked the Moderator what the amendment was. The Moderator said the amendment was to change the hours of the ordinance from the proposed 10pm to 7am to now be 10pm to 6am. Jeremy then stated that having a fireworks ordinance in effect from 11pm to 10 am and now adding a noise ordinance from 10pm to 6am does that make sense? Kathy King lives on Ten Rod Rd and says that 10pm is early for a special occasion or weekend, she would like it to be amended to midnight. The Moderator asked Randy Orvis if he would accept midnight as a friendly amendment and Randy agreed. After discussion on what days to change, the amendment is now midnight to 6am 7 days a week. Virginia Bumford asked if it was going to be 7 days a week, then why have it? She said we need to have Sunday night through Thursday night be earlier and Friday/Saturday night, midnight would be fine. The Moderator asked Randy Orvis if he would accept a friendly amendment to change to midnight for just Friday and Saturday night, but he refused to accept. Dana Therrien then spoke as a mom with a child in elementary school and said that allowing the noise until midnight 7 days a week is a bit much. Jeremy Squires made a recommendation to reveal the results of the vote on Article 20 before going forward so they know if the fireworks ordinance would be enforced. The Moderator announced that Article 20 was approved with a vote of 42 yes and 27 no. Tim Brown said he had a question for council, "If state law designates the power to regulate noise by ordinance to the selectmen, is this article advisory, because aren't we taking that authority away from the selectmen by enacting an ordinance?" Kerri Ann Roman responded, "No, RSA 31:39 gives Town Meeting also the authority to adopt a noise ordinance." Tim Brown asked if there is still an amendment on the floor, the Moderator stated that there is, and that the amendment is to change the ordinance quiet time to be from midnight to 6am 7 days a week. Being no further discussion, the amendment was voted on and too close, so the Moderator asked for a count from the Supervisors of the Checklist. The amendment was approved with a vote of 41 Yes and 23 No.

Discussion continues for Article 22 as amended. Doug Staples motioned to amend to exempt businesses from this ordinance, seconded by Alex Morin. Ann Titus says she is pro-business, but businesses are not being respectful, shooting off fireworks after hours and alcohol is involved. She is concerned that there are no businesses here to speak on their own behalf and they should have a say in the ordinance. Doug Staples reminded us that the fireworks ordinance already passed, so if it is businesses allowing fireworks, that is already taken care of and he is more concerned with businesses being able to operate all 3 shifts if they choose to do so. Kayla Morin-Riordan asked for clarification if exempting business is necessary as it is stated in the article that stated "For the purpose of this section, persons shall include the owner, tenant, or other people in control of a private residence who permits or allows guests to engage in loud or unreasonable noises that can be heard in a public or other private place or who fail to take the necessary steps and precautions to prevent guests or other persons on the property from engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other devices which reproduces or amplifies any sound." Legal agreed with Kayla. Kayla requested that the amendment be removed from the floor. The Moderator asked if Mr. Staples would remove his amendment from the floor? Doug Staples asked if that would cover a residence that runs a business from their home. Town Council stated that as written, a 5am delivery to a business at a private residence would not be covered. Steve Henry asked if a business

could go to a private residence to cut up a tree that went down, is that going to be allowed? Kayla Morin-Riordan stated that it is covered under Exemptions; Letter C "Noises resulting from emergency maintenance work as performed to an emergency call or acting in time of emergency. To include snow removal projects, plowing, and or maintenance of private or public ways. Loss of power due to a storm where a generator is needed. Utility work to restore power or other emergency work." Legal agreed again. Debra Cantwell asked what kind of noises will be covered? Steve Henry answered her saying just a dog barking is enough, Debra countered with she hopes it is for noises that are not just everyday noises. Jamie Meyer reiterated that emergency situations are allowed. Megan Henry is concerned that the descriptions are very vague and asked if legal could comment on how this could be upheld. Howard Champagne spoke to construction and farmers wanting to start early to beat the heat and during snowstorms wanting to use tractors at 4am, he wants everyone to really think before voting yes on this one. The Moderator asked Kerri Ann Roman to answer Megan Henry's concerns about being able to enforce this ordinance and she stated that it will be up to the discretion of the officer responding. So, Megan Henry said if you call and one officer will enforce but another would not, luck of the draw is just not right. Sharon Turner stated that the key word is unreasonable noise, she believes that our officers will not punish people for doing what needs to be done. The key word again is unreasonable noise. Chief Drury spoke to the fact that what annoys one will not annoy another, emergency snow removal and a tractor at 5am are already covered under the exemptions. He said the officer will decide what is reasonable. They will give a warning and possible a penalty if the offenders are not being reasonable. Martha Horgan spoke up to say that a farm is across the street from them, and it is noisy, it was not there when they bought their property, but they live with it. She said some people work nights and need to get things done when they get home before going to bed for the day. This ordinance is way too vague to be able to enforce. A motion to call the question was made by Sylvia Arcouette, seconded by Jody Connolly. The moderator told her that there were 2 people in line and after they speak, they would take a vote on calling the question. Steve Henry said that even though people get along now, this ordinance is a tool for bickering neighbors to get back at each other and tie up police officers with an ordinance that is so vague a judge will not be able to make a ruling on a sound that is no longer there for them to hear. Doug Staples wanted to make a motion to exempt the agricultural part from the ordinance. The Moderator told Mr. Staples that there is a motion on the floor to call the question so his amendment cannot be entertained at this time. The motion to call the question was approved by a show of cards vote.

The Moderator moved to vote on the amendment but before voting on the amendment, Kerri Ann Roman told the Moderator to state the exact wording that will be voted on and where it is going. Mike Morin said, "At the end of Article 22 in the section on Exemptions, add the letter I Exempt Businesses from the noise ordinance. The motion to amend the article was approved by a show of cards vote.

Discussion ensued on the amended article; Doug Staples motioned to exempt agricultural from the ordinance to protect people with livestock. Jamie Meyer explained that livestock in the downtown area that are noisy at all hours is not pleasant. Dana Therrien stated that this ordinance is more geared towards the people downtown running around without shirts on yelling and screaming in the middle of the night and waking up her child. It is dangerous to her health and her son's health. Adam Talon explained that livestock are going to make noise, it's what they do and you can't just tell them to be quiet. Kayla Morin-Riordan pointed out that by removing Agricultural from the article, it would pertain to just equipment as livestock were not mentioned in the article specifically. Steve Henry reiterated that it

says noise and livestock make noise, like a rooster crowing and they are loud. Randy Orvis is asking about letter D. What is the definition of repeated use? Is it twice, three times, five times and over what period? It is not clear. A motion to call the question was made by Penny Morin, seconded by Virginia Bumford. The motion was approved to call the question by a show of cards vote. The Moderator explained that the amendment is to remove sentence iii under Specific Prohibitions:

“Specific prohibitions:

A. Prohibited noise/time restrictions

iii. The operation or use of agricultural equipment, including but not be limited to tenders, balers, and tractors if sound can be heard outside the agricultural setting or farm.”

The amendment was approved by a show of cards vote to strike the language of statement iii under A. Prohibited noise/time restrictions from Article 22.

Doug Staples motioned to have livestock to be exempted. The Moderator explained that were already covered. Doug Staples then said people do not have to have a farm to have livestock and he would like them protected too. The Moderator asked Kerri Ann Roman for her opinion and she agreed that they need to be considered separately. Doug then asked to include livestock separately. Kayla Morin-Riordan motioned to call the question; duly seconded. Seeing no discussion; the Moderator started to take a vote, Council again reminded Mike Morin to add specific language to add the letter J. Livestock under exemptions. The motion was approved by a show of cards vote to add letter J. Livestock.

The Moderator asked for discussion on the amended article. Sylvia Arcouette motioned to call the question, duly seconded. A list of names was given to the Moderator for a ballot vote. Mike Morin read the names and then explained the process. After everyone were given a chance to vote and a last call made, Mike Morin closed the vote and asked the Supervisors to count the votes and then moved on to article 24 while waiting for results. The count for the vote for Article 22 failed, by a vote of 27 yes and 39 no.

Article 24 Acceptance of Smith Court (by petition)

**To see if the Town of Farmington will officially accept Smith Court Road as a Town-Owned road.
(By petition)**

Selectmen Recommend: No (0-4)

A motion was made to accept Article 24 as read by Virginia Bumford, seconded by Tom Riordan. The Moderator asked if the Petitioner was here to speak, Terry Riordan, then presented a nice history of Smith Court explaining that in 1961, ironically it was warrant article 24 then and it had a conditional clause that if accepted it would be called Smith Court and it has been called that since. In 2019 and 2020 the residents on Smith Court received letters from Town Administrator, Arthur Capello, that stated they would no longer maintain Smith Court as they found out there is no record of the vote of Article 24 from 1961. Steve Henry asked why the Selectmen voted 0-4 not in support of this article. Selectmen chair Paula Proulx said she voted against because of the missing minutes, it was a matter of housekeeping. Howard Champagne stated that this road is not up to standards and he is wondering if the town is opening itself up to lawsuits. Kerri Ann Roman explained that if the town accepts the road the town is responsible to keep it safe and passable, the town could decide to widen the road if they wanted to, but

do not have to. Tim Brown made a motion to amend the article adding to accept Smith Court as a town owned road as it was proposed in the 1961 warrant because the results of said vote is unavailable. Seeing no discussion, a vote was made to accept the amendment to Article 24. The motion was approved by a show of cards vote. The Moderator then asked for discussion on the amended Article 24. Seeing no discussion, the Moderator asked if the petitioner still wanted a ballot vote. The petitioner waived the request for a ballot vote. Article 24, as amended, was approved by a show of cards vote.

The Moderator then read the results of Article 22 which failed by a vote of 27 yes 39 no.

The Moderator asked the audience to observe a moment of silence for Ron Chagnon and Dave Vachon who both passed away this year and gave a lot to our community.

Article 25 All other business

To allow the Town to conduct any other business that may come before this body.

Penny Morin made a motion to adjourn, and it was duly seconded. Mike Morin closed the meeting at 9:39 pm.

Respectfully submitted,

Rebecca J. Dickie, Town Clerk-Tax Collector