

Attachment from Candia Selectmen's Meeting on 10/22/2018

Check Date	2018 GRANTS - 3rd QTR From	Check Number	Check Amount	DOES THIS NEED TO BE NOTICED? Grant	RSA 31:95-BIII(a) Account Number
7/24/2018	State of New Hampshire	2795991	34,767.79	Highway Block Grant BLK FY19 QTR1	01-3353-00-000

There were  
no donations  
3rd QTR 2018  
10/22

# State of New Hampshire

Vendor Payments

Check Number: 2795991

STATEMENT OF REMITTANCE

VOUCHER NUMBER	INVOICE NUMBER	DESCRIPTION	CONTACT INFORMATION	DATE	AMOUNT
537072	HIGHWAY BLK FY19 QTR1	Block Grant Aid JUL payment	(603) 271-3466	07/01/18	34,767.79
	Highway Block Grant Aid JUL payment-A \$4104.41	0663.38 Highway Block Grant Aid JUL			

01-3353-00-000

If you have further payment questions, reference the contact information provided next to the line item in question.

Page 1 of 1

**TOTAL**

**34,767.79**

### INFORMATIONAL MESSAGE

#### Questions On Your Payment?

Please use the contact information provided above in the fourth column from the left.

REMOVE DOCUMENT ALONG THIS PERFORATION

State of New Hampshire  
Office of State Treasurer  
25 Capitol Street - Rm. 121  
Concord, NH 03301

## State of New Hampshire

Vendor Payments

Bank of America  
Concord, NH  
51-44 / 119

07/24/18

**2795991**

PAY EXACTLY *Thirty Four Thousand Seven Hundred Sixty Seven and 79/100 Dollars*

**\$ \*\*\*\*34,767.79**

PAY TO THE ORDER OF  
TOWN OF CANDIA  
TREASURER  
74 HIGH ST  
CANDIA NH 03034

VOID AFTER 365 DAYS

*William E. Dwyer*  
Authorized Signature

⑈0279599⑈ ⑆011900445⑆ 000000011123⑈

**Andrea Bickum**

---

**From:** jonuse@aol.com  
**Sent:** Monday, October 15, 2018 12:49 PM  
**To:** Andrea Bickum  
**Subject:** Resignation: Rudy Cartier

OCT 15 2018

Rudy,

Please be advised that do to the fact, "I Ken Kustra am in the process of selling my house and moving to a new location."

I am submitting my resignation from the Candia Planning Board effective Oct.18,2018.

Thank you,  
Ken Kustra

**Andria Hansen**

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**From:** Michael P. Courtney [mcourtney@upton-hatfield.com]  
**Sent:** Wednesday, October 17, 2018 2:53 PM  
**To:** Andria Hansen  
**Subject:** Fairpoint Appeals  
**Attachments:** 2018-10-04 Letter to All Town Counsel re Settlement Offer.pdf; MPC Lt BOS re [date and stay of 2017 Appeals.pdf

Good afternoon Andria,

Fairpoint has made several offers to settle the tax abatement appeals with the municipalities we represent. Fairpoint has calculated the total refund due by applying the Superior Court's Order. In the case of Candia, Fairpoint has calculated the refund due as "essentially \$0". Because of this, Fairpoint has asked if the town would agree to a voluntary non-suit of this case where no refund is issued and both parties bear their own costs and fees. I certainly think this is reasonable.

Please let me know if you have any questions. If the selectmen agree to this offer, I will notify Fairpoint.

Thanks,

MICHAEL P. COURTNEY

UPTON-HATFIELD, LLP

10 Centre Street  
P.O. Box 1090  
Concord, NH 03302-1090  
T: 603-224-7791  
F: 603-224-0320  
mcourtney@uptonhatfield.com  
www.uptonhatfield.com

LOOK  
PLEASE READ  
C.R.  
SY  
BR  
10/22 - BOS mtg?

STATEMENT OF CONFIDENTIALITY

This e-mail, and any attachments, is intended only for use by the addressee and may contain legally privileged or confidential information. If you are not the intended recipient of this e-mail, any dissemination, distribution or copying of this e-mail, and any attachments, is prohibited. If you have received this e-mail in error, please immediately notify me by telephone, permanently delete the original and any copy of the e-mail.

Russell F. Hilliard  
James F. Raymond  
Barton L. Mayer  
Heather M. Burns  
Lauren Simon Irwin  
Justin C. Richardson  
Michael S. McGrath\*  
Jeanne S. Saffan\*\*  
Peter W. Leberman  
Sabrina C. Beavens\*\*\*  
Susan Aileen Lowry  
Nathan C. Midolo\*\*\*\*  
Michael P. Courtney\*  
Brooke Lovett Shilo



Serving New Hampshire since 1908

*Of Counsel*  
Douglas S. Hatfield  
Gary B. Richardson  
John F. Teague  
Charles W. Grau  
Thomas W. Morse  
Norman H. Makechnie  
Jeffrey R. Crocker

\* Also admitted in MA  
\*\* Also admitted in MA & NY  
\*\*\* Also admitted in FL  
\*\*\*\* Also admitted in MN

October 12, 2018

Board of Selectmen  
Town of Candia  
74 High Street  
Candia, NH 03934-2741

Re: Northern New England Telephone ("FairPoint") Cases

Dear Board of Selectmen:

FairPoint's counsel has notified us that it recently filed 2017 tax year appeals against our municipalities in various Superior Courts. As has occurred in years past, FairPoint has asked that we accept service on behalf of the municipalities. We have agreed to accept service and believe doing so now is the proper course. Please note that by accepting service the municipalities are not forfeiting the right to raise any jurisdictional claims or equitable defenses.

In turn, the Chief Justice of the Superior Court has transferred and consolidated these appeals to Judge McNamara of the Merrimack Superior Court. Consistent with past practice, the Chief Justice has stayed these 2017 tax year cases.

With respect to the 2011 tax year test cases, Judge McNamara has denied the municipalities' Motion for Reconsideration and we anticipate the test case municipalities will file an appeal to the New Hampshire Supreme Court. In the meantime, FairPoint has approached us with an invitation to review with you an offer to settle. In the coming weeks, we anticipate that FairPoint will provide us with an offer to settle that is tailored to each Town. At that time, we will contact you directly to discuss whether to accept, reject or counter. To date, a majority of our Towns have entered into settlement agreements with FairPoint.

10 Centre Street, PO Box 1090, Concord, NH 03302-1090  
Concord - Hillsborough - Jaffrey - Peterborough - Portsmouth

52.05

October 12, 2018

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In the meantime, if there are any questions please do not hesitate to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to read 'MPC', written in a cursive style.

Michael P. Courtney

[mcourtney@uptonhatfield.com](mailto:mcourtney@uptonhatfield.com)

MPC/cab  
Enclosure(s)

October 4, 2018

VIA EMAIL

Town Counsel

**Re: Pole Tax Abatement Litigation for Tax Years 2011 to 2017; Confidential and Not Subject to Public Disclosure**

Dear Counsel:

Please accept this letter as a communication subject to New Hampshire Rule of Evidence 408 on behalf of Northern New England Telephone Operations LLC d/b/a Consolidated Communications – NNE (formerly d/b/a FairPoint Communications – NNE) (hereinafter “Consolidated Communications”).

As you know, Judge McNamara recently issued “test case” decisions in pole, conduit and right-of-way actions filed against the Towns of Hanover, Durham and Belmont. The three test cases were brought forward by the trial court to address common valuation issues shared among the pending cases. The trial court provided a considered analysis of the issues and established valuation methodologies forming the bases for potential settlements of pending cases.

An appeal of the trial court decision is expected. Consolidated Communications is cognizant that some of your clients will await the outcome of the appeal before considering settlement. This process likely will take a considerable amount of time. However, Consolidated Communications hopes many municipalities will view the trial court decision as an opportunity to resolve their respective disputes over pole/conduit/and use of rights of way on reasonable terms considering the year-over-year litigation costs and above-market interest (6% per annum) accruing on tax refunds ultimately paid.

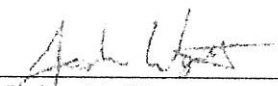
For those who may desire to settle, Consolidated Communications is prepared to resolve its claims concerning poles, conduit and use of public rights of way by applying the valuation methodologies adopted by the trial court and discounting the calculated refund and interest by 10%. Enclosed please find a sample calculation illustrating a hypothetical settlement refund calculation (note that this sample calculation assumes no *ultra vires* issues, which if present would affect the right of way refund calculation). If a municipality is interested, please contact us promptly so we can provide a firm settlement offer—with quantification. Your clients may also directly contact Tim St. Onge (at 603-518-3516 or [tstonge@cptax.com](mailto:tstonge@cptax.com)) or Kevin O’Quinn (at 603-656-1692 or [Kevin.O’Quinn@consolidated.com](mailto:Kevin.O’Quinn@consolidated.com)) to secure a firm, quantified settlement offer.

Please understand this is an offer to settle, but one that is not effective unless and until quantified for a particular municipality. Respectfully, Consolidated Communications aims to identify interested municipalities by November 15, 2018, after which the terms outlined above may no longer be offered.

Very truly yours,

DEVINE, MILLIMET AND BRANCH, P.A.

PRIMMER PIPER EGGLESTON & CRAMER PC

By:   
Joshua M. Wyatt

By:   
Paul J. Phillips

Enclosure

Attachment from Candia Selectmen's Meeting on 10/22/2018

Consolidated Communicaitons Hypothetical Settlement Refund Calculation

Tax Year	Court-Accepted Methodology Pole Value	Court-Accepted Methodology Conduit Value	ROW Value	Court-Accepted Methodology Pole, Conduit & ROW Value	Median Equalization Ratio	Equalized Court-Accepted Pole, Conduit & ROW Value	Town Assessment	Difference	2011 Tax Rate	Refund	Interest	Total Refund
2011	\$1,000,000	\$500,000	\$250,000	\$1,750,000	90.00%	\$1,575,000	\$3,000,000	\$1,425,000	21.10	\$30,068	\$10,824	\$40,892
										10% Discount		\$4,089
										Refund		\$36,803



**2005 TOWN WARRANT**

THE POLLS WILL BE OPEN FROM 6:00 A.M. TO 7:00 P.M.

TO THE INHABITANTS OF THE TOWN OF CANDIA, IN THE COUNTY OF ROCKINGHAM, IN SAID STATE, QUALIFIED TO VOTE ON TOWN AFFAIRS:

You are hereby notified to meet at Moore School Auditorium in said Candia, on Tuesday, the Eighth of March next, at six of the clock in the forenoon, to act upon the following subjects:

**ARTICLE 1:** To choose the following Town Officers for the year ensuing:

- One Selectman for 3 years
- One Town Clerk for 3 years
- One Road Agent for 3 years
- One Trustee of Trust Funds for 3 years
- One Library Trustee for 3 years
- One Superintendent of Cemeteries for 1 year
- Two Planning Board Members for 3 years

**BALLOT QUESTION:** Are you in favor of increasing the Board of Selectmen to 5 members?

**ARTICLE 3:** To see if the Town will vote to adopt the following changes in the Candia Zoning Ordinances to be voted by official ballot:

The following amendments were submitted by the Planning Board.

**ZONING AMENDMENT #1** Are you in favor of amending Article VI, Section 6.02 by amending the frontage requirements for residential lots from a minimum of 200' to a minimum of 250'. (The Planning Board voted 4 in favor, 3 opposed to recommend this amendment.)

**ZONING AMENDMENT #2** Are you in favor of amending Article XIII, Section 13.04E-6, Accessory Dwelling Units, to delete the phrase "...or located in an accessory building that exists on March 15, 2003, located on the same lot as the main dwelling." (The Planning Board was unanimous in its vote to recommend this amendment.)

**ZONING AMENDMENT #3** Are you in favor of Amending Article VI to add Section 6.04A as follows:

3. Add Section 6.04 A-Utility Buildings Allowed Within The Reduced Setback
  - a. Utility buildings must have removable foundation bases such as wood piers, concrete pads, precast blocks, granite blocks or the like.
  - b. Building size is not to exceed 120 square feet in dimension.
  - c. The sideline and rear setbacks may be no less than 10', and only one utility building will be permitted per lot within the reduced sideline and rear setbacks.
  - d. Front line setback shall remain at 50' or else must not exceed the current setback on lots of record where the main building existed prior to zoning being established.
  - e. Utility buildings must be 12' or less in height.
  - f. Utility buildings must not have permanent utility support such as electrical meters, plumbing, or heating systems.
  - g. Utility sheds should have a closed wall construction design with a closing door in order to maintain the aesthetic view to abutting lots.

Amend Section 6.01B to include utility building exemption.

2010 Town Warrant

## ARTICLES CONTINUED

**ARTICLE 26:**

To see if the Town will vote to raise and appropriate the sum of Thirty-Five Thousand Dollars (\$35,000.00) to be deposited in the Fire Apparatus Capital Reserve Fund, established under RSA 35:1 at the March 1991 Town Meeting, for the future purchase of fire apparatus and equipment with the Selectmen appointed as agents. Not recommended by the Budget Committee. Not recommended by the Board of Selectmen.

YES  302  
NO  497

**ARTICLE 27:**

To see if the Town will vote to raise and appropriate the sum of Fifteen Thousand Dollars (\$15,000.00) to allow the Town to sponsor a Household Hazardous Waste Day for Candia residents. The event is to be scheduled for the fall, and is to allow residents the opportunity to properly and safely dispose of household hazardous materials that the Recycling Center does not normally accept. Recommended by the Budget Committee. Recommended by the Board of Selectmen.

YES  585  
NO  221

**ARTICLE 28:**

To see if the Town will vote to raise and appropriate the sum of Four Thousand Dollars (\$4,000.00) for the Fitts Museum. Said funds to be expended under the direction of the Trustees of the Fitts Museum. Recommended by the Budget Committee. Recommended by the Board of Selectmen.

YES  524  
NO  272

**ARTICLE 29:**

To see if the Town will vote to raise and appropriate the sum of Three Thousand Three Hundred and Thirty-Four Dollars (\$3,334.00) and to further establish a budget line and accept a Paid Call Compensation system based on points for the purpose of providing compensation for the active members of the Town of Candia Fire-Rescue Department, to be effective 12/1/2010. [This amount is equal to 1/12th the proposed annual maximum budget amount of Forty Thousand Dollars (\$40,000), and includes all payroll taxes. Not recommended by the Budget Committee. Recommended by the Board of Selectmen.

YES  362  
NO  427

**ARTICLE 30:**

To see if the Town will vote to raise and appropriate the sum of One Thousand Five Hundred Dollars and no cents (\$1,500) and to place said funds in the expendable general fund trust fund known as the Playground Maintenance Fund, established pursuant to RSA 31:19-a at the March, 1998 Town Meeting. The purpose of this fund is for replacement of the surface of the playground and upkeep of equipment. Not recommended by the Budget Committee. Recommended by the Board of Selectmen.

YES  524  
NO  279

**ARTICLE 31:**

To see if the Town will vote to raise and appropriate the sum of Twenty Four Thousand Dollars (\$24,000) for a portion of the operating expenses of the Candia Youth Athletic Association. Said funds are to be expended under the direction of the Candia Youth Athletic Association Board of Directors in accordance with approved budgets. Not recommended by the Budget Committee. Not recommended by the Board of Selectmen.

YES  319  
NO  482

**ARTICLE 32:**

To see if ....

YES  83  
NO  201

**ARTICLE 33:**

Are you in favor of decreasing the Board of Selectmen to 3 Members? (Submitted by petition)

YES  309  
NO  426

**ARTICLE 34:**

To see if the Town will vote to raise and appropriate the sum of Fifteen Thousand Dollars (\$15,000) for the construction of a recycling "swap" shop at the Recycling Center. (Submitted by petition.)

YES  415  
NO  352

**ARTICLE 35:**

To see if ....

YES  62  
NO  212

**ARTICLE 36:**

# TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

## CHAPTER 41 CHOICE AND DUTIES OF TOWN OFFICERS

### Selectmen

#### Section 41:8-c

**41:8-c Public Hearing.** – When a petition is submitted under RSA 41:8-b or RSA 41:8-d, the selectmen shall within 10 days designate a place and a time for a public hearing thereon. Said hearing shall be held not later than the Thursday before the annual meeting to discuss the proposed change in the size of the board of selectmen.

**Source.** 1967, 325:1. 1983, 180:1. 1987, 299:2, eff. July 24, 1987.

**TITLE III  
TOWNS, CITIES, VILLAGE DISTRICTS,  
AND UNINCORPORATED PLACES**

**CHAPTER 41  
CHOICE AND DUTIES OF TOWN OFFICERS**

**Selectmen**

**Section 41:8-d**

**41:8-d Revocation.** – A town which has voted to enlarge its board of selectmen may rescind its action in the manner described in RSA 41:8-b, except that the question shall read: "Are you in favor of decreasing the board of selectmen to 3 members?"

**Source.** 1967, 325:1. 1979, 410:8. 1983, 180:2. 1990, 192:2, eff. June 26, 1990.

# TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

## CHAPTER 41 CHOICE AND DUTIES OF TOWN OFFICERS

### Selectmen

#### Section 41:8-e

**41:8-e Effective Date and Manner of Increase or Decrease.** – If a town votes to enlarge or to decrease its board of selectmen the change does not take effect in either case until the first annual meeting following the meeting at which the questions were acted upon. If the town votes to enlarge the board to 5 members, at the first annual meeting following the meeting when the action was taken the town shall elect 2 members for a 3-year term and one member for a one-year term. At the next succeeding annual meeting 2 members shall be elected for a 3-year term, at the next following annual meeting one member shall be elected for a 3-year term, and at succeeding annual meetings members shall be elected to fill the vacancies regularly occurring. If a town votes to decrease its board to 3 members, at the annual meeting following the meeting at which it so voted, the terms of office of all members of the board of selectmen shall end and the town shall elect 3 members of the board of selectmen, one for one year, one for 2 years, one for 3 years and at all succeeding annual meetings shall elect a member to the board for a 3-year term.

**Source.** 1967, 325:1, eff. Sept. 1, 1967.

*Other Business?*

**Andria Hansen**

---

**From:** allyoungs@comcast.net  
**Sent:** Wednesday, October 10, 2018 2:49 PM  
**To:** Andria Hansen  
**Subject:** Fwd: Candia Skate park

Sent from Xfinity Connect Application

-----Original Message-----

From: [sandrab.leavitt@gmail.com](mailto:sandrab.leavitt@gmail.com)  
To: [syoung@candianh.org](mailto:syoung@candianh.org)  
Sent: 2018-10-09 3:56:14 PM  
Subject: Candia Skate park

Hi Sue,

I wanted to run something by you since you are the Chair of the Selectman Board and the person appointed to Parks and Rec in Candia. Roger and I took a tour last week of the Skate park. We were with a Skateboarder who frequents the park. It has come to our attention that two and possibly three of the concrete ramps are in need of repair. What has happened over the last 8 years is that the asphalt that the ramps are on has settled. Now the ramps have uneven transition areas. It is concerning because it could cause an inexperienced skateboarder to fall after skating over these areas.

It doesn't seem that it would be that difficult to repair these areas . But then again I am not sure. My question is : would the town of Candia be willing to cover the cost to repair the ramps in need? Thank you for for assistance with this matter.

Sandy and Roger Leavitt



October 19, 2018

Chief Michael McGillen, Lt. Scott Gallagher, and Board of Selectman,

After 24 years of police service and careful consideration I have decided to retire from full time law enforcement. Please accept this letter as my formal resignation as of November 11, 2018. My last payroll shift will be November 10, 2018. It has been my honor and privilege to serve with some of the best employees I have ever met, and some of the bravest individuals I will ever know.

Sincerely, Corporal Daniel Brian Gray

A handwritten signature in black ink, appearing to read "Daniel Brian Gray".