



**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE  
NORTH HAMPTON SELECT BOARD MEETING**

**AUGUST 26, 2019 7:00 PM**

**NORTH HAMPTON TOWN HALL**

***DRAFT MINUTES***

SELECT BOARD MEMBERS PRESENT: Chairman Jim Maggiore, Vice-Chairman Larry Miller, Member Kathleen Kilgore

ALSO PRESENT: Town Administrator Bryan Kaenrath

**AGENDA**

Chairman Maggiore welcomed everyone to the August 26, 2019 Select Board Meeting, and called the meeting to order at 7:00 pm, followed by the Pledge of Allegiance. He stated that the Document Management Meeting scheduled for 6:00 pm had to be postponed to a later date.

**Aquarion Water Timeline/Update**

Dan Lawrence, Director of Engineering & Planning at Aquarion Water, provided a summary and a timeline of what they had been doing the last few days to correct the water issues. He said the water was safe to drink according to testing results of 42 samples of water from their distribution system and wells, and all were free from Coliform and E. coli bacteria. He all water is disinfected prior to entering the water system.

Mr. Lawrence said samples are collected weekly from their distribution system allowing 20 hours for analysis, and on Friday they were notified that one of the 10 samples had E. coli bacteria and another had Coliform bacteria. He said the New Hampshire Department of Environmental Services (NHDES) notified them on Saturday morning of the need to issue a "boil water" order. He said a Command Center was set

***Disclaimer –These minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91-A:2, II. They will not be finalized until approved by majority vote of the Select Board.***

*A recording of the meeting can be found at: [http://www.townhallstreams.com/towns/north\\_hampton\\_nh](http://www.townhallstreams.com/towns/north_hampton_nh), and a DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North Hampton, New Hampshire 03862.*

up at their New Hampshire office and they began contacting local and State officials, and met with NHDES to determine the area for the boil order and decided on all three areas served.

Mr. Lawrence said a Code Red, or reverse 911, was launched to Hampton, North Hampton, and Rye, and all local media outlets were contacted. He said manned bottled water stations were set up in Hampton and North Hampton. NHDES required two rounds of clean samples from their distribution system and wells, and said they were notified Saturday that the 21 samples collected on Friday were free of Coliform and E. coli bacteria. Early Sunday NHDES called to say that 21 more samples collected on Saturday were free of both bacteria and allowed them to lift the "boil water" order. He said they again used a Code Red to inform the public.

**Discussion:** Selectwoman Kilgore asked if the procedure for blending water at Mill Road makes the Town more vulnerable. Mr. Lawrence said it did not, and said the 6 sources were blended into one pipe to a treatment facility for disinfection. He said the water samples with Coliform and E. coli bacteria were in the distribution system and they felt it was an isolated incident from the sample or the location.

Selectwoman Kilgore said some residents had not been notified, and Mr. Lawrence said they needed to sign up for Code Red on the Aquarion website. Selectman Miller asked where the two contaminated samples were found, and Mr. Lawrence said at the Hampton Fire Department and Kennedys, which is also in Hampton. Selectman Miller asked if they resampled from the same places and asked how far that was from the source. Mr. Lawrence said they were resampled twice from the same place as well as upstream and downstream samples twice, and said the distance from the source was significant.

Mr. Lawrence said from May until end of summer they increase samples to 40/month and rotate areas, trying to take samples representative of the distribution system. Selectwoman Kilgore asked if they increased treatment of the water during the boil order and Mr. Lawrence said they continued to disinfect the water with Chlorine. Selectwoman Kilgore asked if there were any rebates for people who purchased their own bottled water and Mr. Lawrence said all customers would see a \$20.00 credit on their water bill.

Chairman Maggiore said they were updated as things were happening but he was looking forward to a follow-up meeting so they could coordinate better. He said the Select Board was acting as the Board of Health during the crisis communicating what to put online, and he looked forward to having a process in place for procedures and steps to follow in future.

Mr. Lawrence said disinfection was in place the whole time, and they believed the bacteria were isolated to a location and not system-wide. Selectman Miller said they seem convinced that the testing protocol caused the problem, and Mr. Lawrence said they were convinced but could not prove it. He said the incidents remained isolated and then became clean, and they could not always prevent contamination of samples because they were taken where people are consuming.

Chairman Maggiore suggested the “working draft” provided by Mr. Lawrence be attached to the minutes. He thanked Mr. Lawrence and everyone involved and thanked Jan Facella for working through the weekend to help out. Mr. Lawrence said if people still have questions about the event they should contact Aquarion Water directly.

#### **First Public Comment Session**

Paul Marquis from Hobbs Road said that in his view sending letters to the Governor or State Representatives, should be geared towards how the Bill adversely affects their Town rather than whether good governance is happening at the State level.

Casey O’Kane of Atlantic Avenue said 9.2 Town Facilities Proposal by Selectman Miller was to build a new Library on the Homestead Property and use the old library for Administration, bringing back the Town Campus concept which had lost twice to voters. He said it seems to create confusion with the ongoing efforts of the Library Trustees to fundraise and effectuate their plans. He also said 9.3 Reimbursement of Legal Fees for Selectperson Kilgore would be a chance to address inequities.

#### **Consent Calendar**

- 4.1 Payroll Manifest of August 15, 2019 in the amount of \$73,011.18
- 4.2 Payroll Manifest of August 22, 2019 in the amount of \$72,243.72
- 4.3 Accounts Payable Manifest of August 22, 2019 in the amount of \$1,183,276.06
- 4.4 Veterans’ Tax Credit
- 4.5 Veterans’ Tax Credit
- 4.6 Fire Permits
- 4.7 Exempt Applications for Religious, Charitable or Educational Organizations

**Motion:** To Approve the Consent Calendar as presented.

**Motioned:** Selectman Miller

**Seconded:** Selectwoman Kilgore

**Vote:** Motion approved 3-0

**Correspondence** - None

#### **Committee Updates**

Selectwoman Kilgore stated that the Economic Development Committee (EDC) had not met since the last Select Board Meeting, and the next meeting was scheduled for September 4, 2019 at 5:00 pm. She said they were also working on putting a Workshop together for new members. Selectman Miller asked if the scope of the project area had been expanded, and Selectwoman Kilgore said it had not. Town Administrator Kaenrath said when Jeff Hyland presented the project he did include a portion of Atlantic Avenue but it was never their intent to expand the area.

Chairman Maggiore said the Heritage Commission met to discuss uploading all the materials for the Heritage Commission with the Town’s IT provider PCG. He said they identified CivicPlus to handle the project, and they had been contacted and were waiting for a response. He said there was no update on the Water Commission at this point. Selectwoman Kilgore asked about a meeting that was going to be called and Chairman Maggiore said the discussion could not happen unless a non-public meeting is posted.

Chairman Maggiore said he attended the last Budget Committee meeting and there was a presentation from Little Boar's Head about their Budget. He said they were proposing an increase of \$100 for a Zoning Compliance Officer Stipend, otherwise the budget was the same as last year and was approved by a vote of 7-0. He said it looks like Little Boar's Head overspent last year's Budget, and they could not over-expend. Town Administrator Kaenrath said the Finance Director has been in communication with Little Boar's Head.

Selectman Miller said the next CIP Committee meeting would be held this Thursday at 8:30 am.

**Report of the Town Administrator**

*A copy of the Report of the Town Administrator will be attached to these minutes.*

Town Administrator Bryan Kaenrath said the Town Audit would begin in September with Melanson Heath, and with 45 weeks left in the current fiscal year 86% of the Budget is remaining.

Town Administrator Kaenrath said as far as Town Hall, John Schnitzler had moved on to the west side and they were getting painting quotes before winter. He said there was not much availability but Apple Painting & Restoration, who did work on the Stone Building, were available. He said he hoped to get approval at tonight's meeting and said the quote was for priming with Dura-Last primer plus 2 coats of paint.

Selectman Miller asked if this was something they needed to show the Heritage Commission first. Chairman Maggiore questioned the additional work listed and asked if that was consistent with what they need to have done. Selectman Miller said he thought this was an offer to do if needed. Selectwoman Kilgore asked what was going to be finished next year, and Town Administrator Kaenrath it might all be finished this year and said this quote was for all 3 sides. Chairman Maggiore stated that the Chair of the Heritage Commission said if Mr. Schnitzler finished his work there would be no need for the extra work as the building would be protected.

Donna Etela, Chair of the Heritage Commission, said if Mr. Schnitzler has done all the repair work Apple would not need to include that in their bid. She said she did not want the painter fooling around with what they had just hired an expert to take care of, and said her concern was that "as needed" depended on who thinks it is needed. She said the Heritage Commission hired Mr. Schnitzler to do the work and did not want someone coming in and making money off something that does not need to be done.

Chairman Maggiore said they could cross the additional work off the contract and ask that Apple only do painting. Selectwoman Kilgore said she would also like it clarified that the \$14,925 includes 3 sides. Selectman Miller suggested crossing out the carpentry part and clarifying that the contract included 3 sides, not including the front, and Chairman Maggiore said they could add a not-to-exceed number.

**Motion:** To accept the contract from Apple Painting & Restoration for painting 3 sides of the Town Hall building, not including the front, and removing the general carpentry and repair paragraph, for an amount not-to-exceed \$14,925.

**Motioned:** Selectman Miller

**Seconded:** Selectwoman Kilgore

**Vote:** Motion approved by a vote of 3-0Town

Town Administrator Kaenrath said the next meeting of the Coakley Landfill Group would be held in Portsmouth City Hall at 9:00 am on August 28, 2019. He said for the Philbrick Pond Study they sent a letter to NHDOT at the last meeting about allowing the Town to take this on as a municipal project and were waiting for a response. He said he expected the results of the Wage Range Analysis back from MRI in late September.

Selectman Miller asked if the Select Board should be thinking about populating a Rails to Trails Committee. Chairman Maggiore said he reached out to Scott Bogle, the State and Jeff Latimer for guidance. He said a 501 C-3 was also created at the time for possible donations and volunteer opportunities, and said Jeff Latimer of Gus' Bike Shop was in charge of that. He said he asked Scott to work with Jeff on whether a Town Committee was needed with the 501 C-3 and what the different responsibilities would be for each.

Chairman Maggiore said all parties involved in the Rail to Trail initiative would be doing a walk-through to examine existing conditions, and he expected the Select Board would be invited to attend. Selectwoman Kilgore said the State owns the property and they would have to do any clean-up.

## **NEW BUSINESS**

### **9.1 North Hampton Police Department and North Hampton Business Association Partnership**

Police Chief Kathryn Mone said she was joined by Joseph Mittica and Kirsten Larsen Schultz of the North Hampton Business Association (NHBA), and said they have a long history of partnering with Public Safety. She said there was a "Covert Cruiser" game on their Facebook page, and said the NHBA paid for the mini cruiser which was being seen around Town at different Business Association businesses. She said the game was to guess where the cruiser is and be entered into a drawing for gift cards. She thanked the NHBA for their partnership and encouraged more people to join in and support them.

Joe Mittica said he was President of the NHBA for the past 5 years and ran a business in Town for 9 years. He said this is one of the simplest and best ideas they had taken part in and he had seen a lot of great interaction between townspeople, businesses and the Police Department. He presented a check to the Police Department to pay for the mini cruiser.

Selectwoman Kilgore thanked Police Chief Mone and the Police Department for the creative community outreach, and thanked the NHBA for supporting the community.

### **9.2 Town Facilities Proposal** – Selectman Miller

Selectwoman Kilgore said she would be recusing herself and moving to the back of the room.

Selectman Miller said this was a follow-up to his discussion at the last meeting and some things had been added. He said it was the same idea to build a new North Hampton Public Library on the Homestead Property which opens the opportunity for Town employees to move into the old Library so they could address the conditions in the Fire & Rescue buildings which was the highest priority.

Selectman Miller stated that the focus of the plan was to use the buildings and the land the Town now has, and costs, utility, and time were all factors. He said there was no alternative location for Town employees who must be relocated to allow improvements to the Fire & Police Safety Center, and there was no alternative location for Fire and Police Services. He said the fastest and most economical way to

do this was to build a new stand-alone Public Library on the Homestead Lot and repurpose the old Library for Town employees, who were now located on the 2<sup>nd</sup> floor of the Police Department. He said 2 scale drawings of a new North Hampton Public Library on the Homestead with augmented parking and a septic system were attached.

Selectman Miller said the current plan of the Library Trustees calls for expansion of a building never intended for expansion and includes no additional parking. He said the expansion does not comply with the present and future needs of other Town public facilities and does not comply with Zoning Ordinance setbacks. He said reuse of the Library saves greater than \$1,600,000 and 1-2 years of time, with only one new building required. He said the Select Board should hire an architect to estimate the cost of a 10,500 sq ft one story building to be built on the Homestead Property with parking and septic, and put a Bond Warrant Article for funding on the ballot for March 2020.

Selectman Miller said the new Library would be completed and occupied in 2021 and the old building repurposed as a Town Administration Building. Simultaneously the Select Board should create an RFP to study rebuilding or replacement of the Fire Station. He said the long-term plan for the Town Clerk would be to remain in place and there would be adequate parking for the Clerk and Town employees. The next step would a Bond Bank inquiry and then have a Bond Warrant Article placed on the 2020 March Ballot.

Selectman Miller said page 5 listed the cost differential to the Town between expanding the Library and building new, with a difference of \$1,800,000. He said 2 pages were attached listing the inadequacies of the Fire/Rescue Building, 2 schematic drawings to scale showing (1) the Library in the front of the Homestead Lot with parking behind, and (2) with parking in front and the Library in the back of the lot with all setbacks being met for both schemes. He said he offered this to the Select Board for consideration and felt not taking this seriously would be to miss an opportunity to save money, time, and solve many facilities problems in one go. He said the Town has not passed a Municipal Bond Article to build a municipal building since the Police Station was constructed.

Discussion: Chairman Maggione said the original cost for renovation of the vacated building for ADA Compliance under "build a new library" was \$105,325, and now listed \$250,000 for HVAC. Selectman Miller said there had been a request for a new HVAC system two years ago, and said the duct work and mechanical equipment on the roof was still there. He said the Fire Department HVAC was a different type and he took that, added 5% for 2 years, and reduced the retrofit allowance from \$100 to \$50, leaving the \$15,000 for a furnace for the HVAC.

Chairman Maggione also asked where the Fire & Rescue Department issues listed on page 6 came from, and asked Chief Tully if the information came from MRI. Chief Tully said he did not use MRI but was asked to look and the Fire Building and these were some of the problems he found as an administrator. Chairman Maggione questioned the difference in the number of parking spaces for each schematic location of the Library, and Selectman Miller said the lot was not uniform, entries were from different streets, and fitting in the septic system behind the Library with the parking in front accounted for the difference.

Selectman Miller said he was hoping the Board would say there is really something here that needs looking into due to the amount of money that could be saved, saving 2-3 years of time, and the opportunity to take care of things quickly and have a brand new Library on a piece of land the Town owns. He said he was asking the Select Board to read this through, and ask the Library Trustees one more time if they want to be involved with the Select Board in not trying to waste \$1.8 Mil and several years. He said Fire & Police

could be addressed with this plan, but they could not address any of the other buildings by expanding the Library in place.

Chairman Maggiore asked Town Administrator Kaenrath to circulate this new information to the Library Trustees for their input and ask about setting up a Joint Meeting. Selectman Miller said he would be disappointed if the Trustees were not willing to meet with the Select Board and discuss this, as it is the only piece of Town land left to develop.

### **9.3 Reimbursement of Legal Fees** – Selectwoman Kilgore

Selectwoman Kilgore said she could not make an explanation as she would have to recuse herself. Chairman Maggiore said there was one absolute with recusal and that is if you have a financial interest, you must recuse yourself.

Chairman Maggiore read the correspondence to Town Administrator Kaenrath from Mrs. Kilgore dated August 5, 2019 in full, requesting reimbursement from the Town of North Hampton for legal expenses incurred for an Ethics Complaint.

Mrs. Kilgore said she respectfully requested that Jim Maggiore also recuse himself as he had filed the complaint against her, and that Mr. Miller recuse himself for submitting a formal written statement. Mr. Maggiore said he was getting to that but if he recuses himself they will no longer have a quorum and cannot discuss the matter and they would no longer exist as a Board and the meeting would essentially be over.

Frank Ferraro of Post Road called Point of Order and said the subject was introduced, Mrs. Kilgore recused herself, Mr. Maggiore agreed to recuse, and no further discussion could take place without his recusal as Chair. He said once that is done there is no longer a quorum and the meeting is over and he needed to leave the Chair and could not have any discussion and he could not continue the meeting.

Phil Wilson of Runnymede Drive said his Point of Order is to make the point that only people "in the body", that is the Select Board, can raise a Point of Order and a person from the floor cannot, including himself. He said the Town does have a precedent for what the Select Board does when there is a question that requires a recusal and leaves less than a quorum.

Chairman Maggiore said he assumed they would be able to have this discussion about moving on and did not anticipate the idea that the meeting would be over and they would be unable to continue. He said he would like to propose that at 8:40 pm they take a 5-minute recess to try to figure this out.

The meeting was resumed at 9:00 pm.

Chairman Maggiore said for those tuning in they had an issue about whether they had the ability to continue the meeting based on the need to recuse. He said Mrs. Kilgore has to recuse as she has a financial interest and I was asked to recuse because I brought the complaint. He said he did not recuse but stated that he would.

Chairman Maggiore said they do have an option from NHMA in an article dated 2017 that you do not have to have a quorum to create a quorum as there is an applicable State Statute. He said State Statute RSA

669:63 states that vacancies on the Board of Selectmen shall be filled by appointment by the remaining Selectman.

***NH RSA 669:63 Selectmen.** – Vacancies in the board of selectmen shall be filled by appointment made by the remaining selectmen. Whenever the selectmen fail to make such appointment, the superior court or any justice thereof, on petition of any citizen of the town, and after such notice as the court shall deem reasonable, may appoint a suitable person to fill the vacancy; provided, however, that if the town has adopted the provisions of RSA 669:61, IV, and a petition thereunder is submitted before the submission of a petition under this section, the provisions of RSA 669:61, IV shall apply.*

Chairman Maggiore said if he recused himself Mr. Miller could appoint someone by himself to sit in my stead as Chair. He said the other option would be that he not recuse himself and they move on from this item which was what he preferred. Selectman Miller said he preferred they move on until they find a way to handle this, and said they have responsibilities to other items on the agenda and the people involved. Chairman Maggiore said they would move on to the next item.

Mrs. Kilgore asked where this was going, and Chairman Maggiore said he could not speak to it. Town Administrator Kaenrath asked that they table the issue, seek legal counsel, and put it on the September 9th agenda. Mrs. Kilgore to return to her seat at the table as Selectwoman.

**9.4 Appointment of Select Board Alternate to Ethics Committee and Process to Notify all Relevant Committees of Need to Nominate Alternate Members**

Selectman Miller said presently the Ethics Committee is active and fully staffed and asked that 9.4 be moved to a future agenda as he only intended to discuss the Select Board Alternate to the Ethics Committee. Selectwoman Kilgore said she had amended the agenda item to include other relevant committees.

**Motion:** To move item 9.4 Appointment of Select Board Alternate to Ethics Committee and Process to Notify all Relevant Committees of Need to Nominate Alternate Members to the table to be discussed at the Select Board Meeting on September 9, 2019.

**Motioned:** Selectwoman Kilgore

**Seconded:** Selectman Miller

**Vote:** Motion approved by a vote of 3-0

**9.5 Correspondence to Governor Sununu Regarding Housing Appeals Board** – Chairman Maggiore

Chairman Maggiore said this letter as written now is specific to normal legislative processes not followed. He said the original letter drafted was specific to the impact the Housing Appeals Board would have on local control. He stated that Selectwoman Kilgore was uncomfortable with the language and it was redrafted specific to the process. He said a meeting of the Ad Hoc Committee to consider the State Budget was scheduled for August 29, 2019, and he read the letter in full.

Selectman Miller said Paul Marquis made a good point that they were not addressing the fact that the Housing Appeals Board will adversely affect every Planning Board and Master Plan in the State. He said the House was against this and the Senate slipped it in as a rider, and if they admit their process is wrong it would then at least go to the House for debate. He said once they admit to a governance mistake, then communities could address that every Planning Board should be against this.



**Motion:** To approve the language in the letter dated August 26<sup>th</sup> and authorize the Chair to hand-deliver the letter to the State.

**Motioned:** Chairman Maggiore

**Seconded:** Selectman Miller

**Vote:** Motion approved by a vote of 3-0

#### **9.6 Approval of North Hampton Public Library Trustee Alternate**

Chairman Maggiore read the letter from the Library Trustees to Town Administrator Kaenrath dated August 23<sup>rd</sup> in full, recommending *Emily Creighton* serve as a Library Trustee Alternate.

**Motion:** To approve the appointment of *Emily Creighton* as a Library Trustee Alternate to serve until March 2020.

**Motioned:** Selectwoman Kilgore

**Seconded:** Selectman Miller

**Vote:** Motion approved by a vote of 3-0

#### **Acceptance of the Minutes of Prior Meetings**

#### **Acceptance of the Minutes of the Select Board Meeting of August 12, 2019**

Changes/corrections: Chairman Maggiore corrected the spelling of "Chris Ganadas" to *Chris Ganotis* on lines 88-89.

**Motion:** To approve the Minutes of the Select Board Meeting of August 12, 2019 as amended above.

**Motioned:** Selectwoman Kilgore

**Seconded:** Selectman Miller

**Vote:** Motion approved by vote of 2-0, with 1 abstention

#### **Any Other Item that may Legally come before the Board**

Chairman Maggiore said Town Administrator Kaenrath brought something to the attention of the Select Board that requires the Board to go into Non-Public Session which cannot wait another two weeks. He said they would be going into Non-Public Pursuant to 91-A:3 II (c) after this meeting.

#### **Second Public Comment Session**

Wally Kilgore thanked Town employees, elected officials, and everyone who added extra hands over the weekend during the water crisis, thanked the Fire Chief and the Police Department for their assistance, and stated that they needed to look at streamlining the process for the future.

Phil Wilson of Runnymede Drive addressed the EDC and expanding the project area for the Ironwood Proposal. He said they were not authorized to expand it but provided a diagram at the last meeting that showed it expanded and it would be addressed at the next meeting.

Mr. Wilson also commented on Selectman Miller's proposal, and said he thought it was an important alternative the Board and the townspeople should take seriously. He said the plan is cost-efficient with

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significant savings and comprehensive including the whole area owned by the Town and its municipal facilities. He said the plan preserves flexibility and would relieve the severe limitations of expanding the Library in place, and allow more flexibility for Fire/Police Emergency Services and Town Administration. He said the existing Library was not built to last and expanding it did not make good business sense. He said the plan presented tonight was an efficient use of time and a good logistical savings of time and money.

**Adjournment**

Chairman Maggiore recessed the meeting at 9:29 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary