



TOWN OF NORTH HAMPTON, NEW HAMPSHIRE

SELECT BOARD DRAFT MINUTES
MONDAY, OCTOBER 23, 2017
NOTICE OF PUBLIC MEETING
NORTH HAMPTON TOWN HALL
231 ATLANTIC AVENUE
5:30 O'CLOCK PM

NON PUBLIC SESSION I: 5:30 O'CLOCK P.M.
EXECUTIVE CONFERENCE ROOM
TOWN ADMINISTRATIVE OFFICE
233 ATLANTIC AVENUE

NON PUBLIC SESSION II: 6:00 O'CLOCK P.M.
EXECUTIVE CONFERENCE ROOM
TOWN ADMINISTRATIVE OFFICE
233 ATLANTIC AVENUE

NON PUBLIC SESSION III: 6:30 O'CLOCK P.M.
EXECUTIVE CONFERENCE ROOM
TOWN ADMINISTRATIVE OFFICE
233 ATLANTIC AVENUE

1. 5:30 p.m. Call to Order
2. 5:31 p.m. Non-public Session I Pursuant to RSA 91-A:3, II (a)
3. 6:00 p.m. Non-Public Session II Pursuant to RSA 91-A:3, II (a)
4. 6:30 p.m. Non-Public Session III Pursuant to RSA 91-A:3, II (d)
5. 6:55 p.m. Return to Regular Session and Recess to Town Hall, 231 Atlantic Avenue
6. 7:00 p.m. Reconvening of Public Session at Town Hall and Pledge of Allegiance

Chair Maggiore called the meeting to order at 7:05 PM. Those in attendance were Selectman Miller, Selectwoman Kilgore and Interim Town Administrator Tully.

Chair Maggiore led the Pledge of Allegiance.

7. **First Public Comment Session**

Public Comment is an opportunity for residents to ask questions, request information and make comments on issues facing the Town. Individuals will be given not more than three (3) minutes to speak, and people who have already spoken will be asked to wait until everyone has had the chance to speak once. The total time devoted to this agenda item is fifteen (15) minutes. Individuals who are not able to speak during the First Public Comment Session will be given first opportunity to speak during the Second Public Comment Session at the end of the Meeting.

Casey O’Kane, 45 Atlantic Avenue stated Mrs. Kilgore was appropriate in addressing her comments from the podium at the last meeting and was surprised there was any dissent. Mr. O’Kane stated that Mr. Maggiore was correct in sending a follow up letter stating his letter was as private citizen, and that he was also appropriate for stopping the gentlemen at the last meeting from further personal attacks on Laurel Pohl.

Mr. O’Kane commented that Warrant Article 35 from last year’s election had “no campaign” as Mr. Miller had stated the “town was being sold a bill of goods.”

Mr. O’Kane stated he is still confused as to what the role of the Conservation Commission is and what their authority is vis-a-vis the Select Board.

Selectman Miller stated that question is already laid out by the legislature and there is no need to answer that question.

Mr. O’Kane reviewed what had led up to him getting the citizens petition together and subsequent meetings with the Select Board and Conservation Commission and he is still unable to get an answer as to the relationship between the Select Board and the Conservation Commission.

Selectman Maggiore asked Mr. O’Kane what answers he would like to have from the Select Board in a public meeting.

Mr. O’Kane stated he would like an answer as to what the relationship is between the Select Board and the Conservation Commission, specifically when does the Select Board give precise

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directions to the Conservation Commission on how to conduct its meetings, what legal conclusions to reach and what procedures to follow.

Chair Maggiore stated Mr. O’Kane who have an answer in the next public meeting and it will be an agenda item.

Laurel Pohl, 100 North Road questioned the content of the Select Board draft minutes of October 11, 2017 regarding a “do over” meeting for the Budget Committee. Interim Town Administrator Tully stated it was a typographical error. She further questioned where the attachments were for the October 11, 2017 minutes.

8. Consent Calendar

8.1 Payroll Manifest of 10/12/2017 in the amount of \$78,155.47

8.2 Payroll Manifest of 10/19/2017 in the amount of \$69,913.77

8.3 Accounts Payable Manifest of 10/19/2017 in the amount of \$105,710.78

8.4 Approval of Timber Cut – Yield Tax

Motion by Selectwoman Kilgore to accept the Consent Calendar as posted. Seconded by Selectman Miller. Motion carries 3-0.

Chair Maggiore stated he would like to move discussion of agenda item 14.7 up first on the agenda.

9. Correspondence

9.1 Correspondence from McGovern Subaru

Chair Maggiore stated the letter received from McGovern Subaru of 205 Lafayette Road is asking permission to park a company car on the homestead property on Trick-or-Treat day and allow employees to hand out candy.

The board discussed the Town Policy on the Use of Land and Bulding.

Selectwoman Kilgore stated they need to go through the application process and unfortunately there isn’t enough time for the board to follow through on their processes. All members agreed and asked Interim Town Administrator to follow through and let McGovern Subaru know they would not be able to fulfill their request.

9.2 Correspondence from State of New Hampshire Public Utilities Commission

Chair Maggiore summarized the contents of the correspondence and stated a hard copy would be available at the town office.

9.3 Correspondence from Attorney Matthew Serge

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Chair Maggiore read the correspondence into the record stating the letter is in regard to the Fairpoint tax abatement appeal slated for November 29 through December 5, 2017. The appeal deals with the valuation of poles and conduits.

9.4 Correspondence from North Hampton Business Association

Chair Maggiore read the correspondence into the record regarding an upcoming forum held by the North Hampton Business Association on October 26, 2017 from 5:30PM to 7:30 PM. Chair Maggiore asked Interim Town Administrator Tully to post a Notice of Quorum for the Select Board and to remind all other boards and commission to do the same.

9.5 Correspondence from The Salvation Army

Chair Maggiore stated the letter from the Salvation Army seeks donors throughout the seacoast area to "ring the bell" during the holiday season.

Chair Maggiore stated two additional pieces of correspondence had been received after the Select Board packets were distributed and the first was an update from the New Hampshire Municipal Association noting an error that was found in the Budget book produced by them on page 120, Appendix H and the second was from John Herlihy with an update on the PFC's monitoring done on September 19, 2017. Both pieces of correspondence are available at the town offices.

10. Committee Updates

10.1 Budget Committee

Selectman Miller stated the Budget Committee had met on October 16, 2017 whereby discussion took place regarding correspondence from the New Hampshire Municipal Association on proper procedures for minutes, and also a discussion ensued regarding encumbrances.

Interim Town Administrator Tully stated he had been in contact with another Town Administrator, Town Counsel and Town Finance Director and it was confirmed the town has been following proper procedures and that a contract can be from a quote from a vendor by way of a vote of the Select Board.

Selectwoman Kilgore suggested Interim Town Administrator Tully send this information to Budget Committee chair Jonathan Pinette, and that he also explain this at a budget committee meeting as some members may have questions.

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Laurel Pohl asked to have the Select Board also ask the New Hampshire Municipal Association who gave the training and wrote the book for which she, Mr. Ferraro and others were quoting from.

10.2 Economic Development Committee

Selectwoman Kilgore stated the committee has not met since 10 days ago, and the next meeting will be held on November 1, 2017 at 5PM. She further stated meetings will be held on the first Wednesday of each month at 5PM in the town hall.

Chair Maggiore stated the Select Board had agreed to fund the survey that the Economic Development Committee would like to do as it will be used in conjunction with the visioning of the Master Plan. He further clarified the money for the survey would not be coming from the Planning Board budget as Jim Better had stated in an email.

10.3 Heritage Commission

No updates

10.4 Water Commission

Chair Maggiore stated they had not met since the last Select Board meeting, but had recently received correspondence from the town attorney regarding Wiggins Way stating the case has been moved to December 5, 2017.

10.5 Capital Improvement Committee

Selectwoman Kilgore stated there would be another meeting to approve the minutes from the last CIP meeting.

10.6 Bandstand Committee

Selectwoman Kilgore stated bricks for the Bandstand will be on sale until January 15, 2017.

10.7 275th Anniversary Committee

Chair Maggiore stated the final installment of the 275th Anniversary of the town will be held on November 9, 2017 at the Throwback Brewery, and there are only four tickets available for purchase before the dinner is sold out.

11. **Public Hearing**

11.1 To Consider the Acceptance of Unanticipated Revenue in the Amount of \$37,911.00 awarded to the Town, to support the Radiological Emergency Preparedness Program (REP) in North Hampton for the State of New Hampshire Fiscal Year 2018 (July 1, 2017 – June 30, 2018)

Interim Town Administrator Tully explained these funds were applied for the Emergency Management budget in North Hampton. The funds will be used for Seabrook Station drills as well as Emergency Management training.

Chair Maggiore opened the Public Hearing at 8:00PM and stated he would leave it open.

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197 **12. Report of the Interim Town Administrator**

198 12.1 General Report

199 (The Town Administrator's report will be attached to the DRAFT minutes of this meeting and
200 posted on the Select Board page under Minutes.)

201 Chair Maggiore stated during the August 28, 2017 Select Board meeting, Mrs. Kilgore asked that
202 the Chair step down from obtaining quotes for repairs and or assessments for the Town Hall
203 building and asked that the Town Administrator handle that duty instead. He further stated that
204 he has told the two companies he was in contact with to reach out to Interim Town Administrator
205 Tully. Chair Maggiore stated they are only looking for quotes for the assessment of the building
206 only; not for repair work.

207 Frank Ferraro, Post Road stated there appears to be a scheduling conflict with a meeting of the
208 Select Board and the Budget Committee on November 13, 2017.

209 Interim Town Administrator Tully stated there is a Select Board meeting that night to finalize the
210 budget and budget books would be distributed on November 14, not November 13 as stated on
211 the budget committee schedule.

212
213 **13. Items Left on the Table**

214 13.1 Discussion of Dog Park in North Hampton

215 Pat McLean, Atlantic Avenue stated she proposed the idea of a dog park before the Select Board
216 several weeks ago and has been met with a lot of positive response. She further stated she was
217 before the board to look at forming a committee to look at the feasibility and needs assessment of
218 developing a dog park.

219 Ms. McLean asked the Select Board to appoint people in town that could give advice and give
220 information about town regulations so that there wasn't any time wasted in terms of what would
221 meet town regulations.

222 Ms. McLean stated she looked forward to spearheading this committee.

223 Interim Town Administrator Tully suggested putting a notice of the website and in the Friday
224 Folder asking for volunteers to the Dog Park Committee.

225 Selectwoman Kilgore asked to be sure the notice for committee volunteers is posted for two
226 weeks on the website, and that all of their meetings be held in the town hall.

227 **Motion by Selectman Miller to appoint Pat McLean as the first member of the Dog Park**
228 **Committee. Seconded by Selectwoman Kilgore. Motion carries 3-0.**

229
230 **14. New Business**

231 14.1 Approval of Appointment for Allyson Ryder to the Conservation Commission

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Chair Maggiore read a letter of recommendation from Chair of the Conservation Commission, Lisa Wilson in which Mrs. Wilson asks for the Select Board's approval to appoint Allyson Rider as an alternate to the Conservation Commission with a term to expire in 2020.

Motion by Selectman Miller to approve the appointment of Allyson Ryder as an alternate to the Conservation Commission. Seconded by Selectwoman Kilgore for conversation.

Interim Town Administrator Tully stated the position was not advertised on the web site and he understands that there are more openings. He stated he believed Ms. Ryder saw the "Volunteer Page." He stated he would like to have all openings advertised and done the way the Select Board would like.

Selectman Miller moved to amend his motion with the caveat there are more positions than one available.

Selectwoman Kilgore stated she would like the board to table this item, determine how many are open and advertise it. She further stated she is not comfortable with the caveat piece of Selectman Miller's amended motion.

Selectman Miller called the question.

Chair Maggiore clarified the only motion on the table was to appoint Allyson Ryder as an alternate to the Conservation Commission.

Motion carries 2-1.

14.2 Acceptance and Approval of the Conservation Easement Current Conditions Report
Chair Maggiore stated at the October 10, 2017 Conservation Commission meeting, the Commission reviewed the *Conservation Easement Current Conditions Report* from the Society for the Protection of New Hampshire Forests for the Boise Wildlife Preserve.

Chair Maggiore stated the commission recommends that the Select Board sign the report that is intended to aid in the enforcement of the easement. He further stated the Conservation Commission found no reason to believe the report is not accurate.

Motion by Selectman Miller that the Select Board sign and approve the Conservation Easement Current Conditions Report for the Boise Wildlife Preserve on Woodland Road. Seconded by Selectwoman Kilgore. Motion carries 3-0.

14.3 Discussion Regarding RSA 91-A:3 Right to Know Law

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271 14.3.1 Policy on Recording Meetings
272 14.3.2 Policy on Posting Meetings
273 14.3.3 Policy on Minutes of Meetings
274 Chair Maggiore gave the background information to the agenda item noting that Laurel Pohl had
275 brought it to the board's attention that a budget committee meeting had not been properly posted
276 and what happened during said meeting and the minutes.
277
278 Chair Maggiore stated Interim Town Administrator Tully has scheduled educational training on
279 the Right to Know Law, as well as drafted three policies.
280
281 Interim Town Administrator Tully stated the Policy on Recording Meetings was a policy that he
282 picked up where former Town Administrator Paul Apple had left off, and was for the recording
283 of meetings on Channel 22 and should not be mixed in with the other two proposed 91-A
284 policies.
285
286 Interim Town Administrator Tully stated he set up an educational training on RSA 91-A and the
287 New Hampshire Municipal Association will be presented to all boards and committees on
288 December 7. He further stated it was important to have a set of rules and procedures for any new
289 board or committee chairs.
290
291 Selectwoman Kilgore stated there should be a "train the trainer" on staff to help new chairs.
292
293 Laurel Pohl asked to have the educational session could be recorded. She further explained the
294 reason for having a policy on recording meeting started because of a North Hampton Public
295 Library Trustees meeting that started to be recorded automatically and the trustees were unaware
296 the recording had started.
297
298 Ms. Pohl stated the equipment works whereby every meeting is scheduled for the cameras and
299 start recording all the time. If the board is asking John [Savastano] to stop that process, it will
300 change the way in which he works.
301
302 Ms. Pohl requested a line in the policy noting that anyone could record a meeting.
303
304 Discussion ensued amongst the board whether they wanted to have automatic start times for the
305 recording of meetings or not.
306
307 John Savastano expressed his displeasure and stated he had 40 years of experience in
308 broadcasting and this is a very simple procedure. He stated he has a "little book" with a checklist

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of his procedures and it was based on the remedy to alleviate the proposed “crisis” that happened over the summer.

Selectwoman Kilgore asked if NHMA should review the policy once they have finished the final draft, and Chair Maggiore and Selectman Miller agreed.

Chair Maggiore suggested a copy of the recording of meeting policy draft be given to John Savastano for his comments, and to take this up at a future meeting with the final step sending to NHMA.

Motion by Chair Maggiore to authorize Chief Tully to schedule the Right to Know meeting with the NHMA on December 7, 2017. Seconded by Selectwoman Kilgore. Motion carries 3-0.

Chair Maggiore asked Interim Town Administrator Tully to clarify with NHMA whether the Right to Know workshop is a public meeting or a meeting open to the public. He further asked Mr. Tully to make sure all boards and commission chairs are aware of the meeting.

Selectwoman Kilgore suggested that all chairs be informed that if they cannot make the workshop they should send a designee in their place so that at least one member from each board or committee is in attendance.

Selectman Miller suggested that NHMA review the draft policies for posting meetings and for minutes of meetings.

Chair Maggiore stated the board will follow the same procedure as the recording of meetings policy whereby the board members will review, mark up with their changes, discuss at a future Select Board meeting and then submit to NHMA.

Laurel Pohl asked for clarification on where the meeting agendas are posted and asked to have that information added to the policy.

Chair Maggiore explained legally notices only need to be posted in two locations, however the town posts in seven.

Interim Town Administrator Tully suggested he sit down with Ms. Pohl to review the policies and put them into a new draft to bring before the board.

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347 Laurel Pohl asked for clarity on draft minutes from a final meeting of a board or committee. She
348 stated former Town Administrator Steve Fournier always stated the final meeting of a committee,
349 for example the Capital Improvements Committee, always stay in draft form because no further
350 meetings will be held.

351
352 Frank Ferraro stated that he believed that town should continue to post in all of the locations in
353 currently does even if it means trudging through the snow to do it, because not everyone will have
354 access to view notices that are posted inside the offices before the close of business.

355
356 Frank Ferraro noted a “typo” under the Recording Meetings draft policy under Scope and
357 Application it states the “recording of minutes policy” instead.

358
359 (Secretary’s Note: From 2:08:41 of the DVD, audio is unintelligible until 2:08:45 therefore Mr.
360 Ferraro’s comments on the posting of draft minutes could not be heard.)

361
362 Interim Town Administrator Tully said it is the town’s policy to post draft minutes and once
363 approved post the final minutes.

364
365 Laurel Pohl stated she would like to have her original email sent to the Select Board, with the
366 NHMA’s responses made part of the record.

367
368 14.4 Discussion of Winnicunnet High School ELO Program – John Savastano
369 This item was not discussed.

370
371 14.5 Discussion of Filling Police Department Openings
372 Chief French spoke to the Select Board about filling two internal police positions in the police
373 department using existing personnel.

374
375 Chief French stated he was unable to find any process that has been started and would like to
376 begin the process to fill the Deputy Chief position.

377
378 Chief French stated the minutes from a May Select Board meeting state the Town Administrator
379 was empowered to start the process at that time, and Chief Maddocks stated at the time he had
380 planned to fill the positions from within the department.

381
382 Selectwoman Kilgore stated after Chief Maddocks left, the board discussed putting the Deputy
383 position on hold until a new Police Chief was chosen.

384
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Chief French pointed out the positions became vacant in May and it is now the end of October. He further stated it would be well past the first of the year before there would be a second in command. Chief French stated that is not good for the agency, or the personnel inside the agency who are looking for some movement. He further stated he would like to move forward with filling the deputy position now and hold off on the detective position.

Chief French implored the Select Board to recognize those facts of timing and recognize a process should be started.

Selectman Miller asked Chief French if he felt he had acceptable candidate to fill the position and he stated he did.

Motion by Selectman Miller to empower Chief French to move forward with filling the permanent Deputy position. Seconded by Selectwoman Kilgore.

Selectman Miller stated if someone in the ranks moves up to the deputy position it would create another open position and asked Chief French how they are doing filling the voids at this time.

Chief French stated they currently have an applicant in the hiring process and will be taking the final testing phases and will be enrolling him in the Police Academy in January.

Selectman Miller asked if the process doesn't start soon to fill the deputy position from within, would there be a risk of discouraging someone to stay employed.

Chief French stated the thought had crossed his mind.

Chair Maggiore asked Chief French if there is any possibility of having the deputy position an interim position.

Chief French stated there is already one interim position in the department, and does not think it is of any value to the existing personnel.

Motion carries 3-0.

14.6 Update on Town Administrator Position Process

Interim Chief Tully stated several resumes were received for the position and will be sorted and stacked by the Select Board and then move forward with initial interviews by department head's and a representative from the Planning Board and from there the board had discussed doing some

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type of presentation from the candidates with the Select Board and possibly a member of the public.

Selectwoman Kilgore asked if it would be more appropriate to have the Planning and Zoning Administrator rather than a member of the Planning Board as one of the members of the interview board. Chair Maggiore and Selectman Miller agreed that it was a good suggestion and asked Interim Town Administrator Tully to ask Rick Milner.

Laurel Pohl stated given the current climate of taxes and spending issues, it would be a good idea to have a member of the Budget Committee on the interview committee as well.

14.7 Discussion of Forming a Dog Park Committee
This item was taken up earlier on the agenda.

15. Minutes of Prior Meetings

15.1 Approval of October 11, 2017 Meeting Minutes

Motion by Selectwoman Kilgore to accept the minutes of the October 11, 2017 with the notation of changing the date on line 123 to "16" and to be sure Selectwoman Kilgore's statement regarding the CIP was attached to the minutes. Seconded by Selectman Miller. Motion carries 3-0.

15.2 Approval of October 17, 2017 Workshop Meeting Minutes

Selectwoman Kilgore stated there needed to be a space on line 9 after "e" in Kilgore and before "a" in and. Selectman Miller stated on lines 37 and 42 there were spaces that needed to be added as well. Selectwoman Kilgore also asked to spell out the stipend for the Deputy TA from where it was originally classified in the budget and to move into the Town Administrator line where it is more transparent. Selectwoman Kilgore also asked to put "Finance" in front of the word Director Cornwell as well as adding "DPW" to John Hubbard's title of Director.

Motion by Selectman Miller to approve the October 17, 2017 workshop minutes as amended. Seconded by Selectwoman Kilgore. Motion carries 3-0.

16. Any Other Item that may legally come before the Board

The Board reserves the right to take action on any item relative to the prudential administration of the Town's affairs, which circumstances may require.

Chair Maggiore stated an email was received on October 16, 2017 from Attorney Bennett with an attachment of Aquarion's petition plus attachments for a WICA surcharge increase for 2018. The surcharge increase request was granted by the PUC for this year and will push the WICA rate to 7.08% which is within the cap, however the surcharge for 2019 will exceed the cap and will go to

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8.71%. Chair Maggiore stated a letter was put out to the Water Commission to see if they wish to meet for intervener status.

Chair Maggiore closed the Public Hearing at 9:20PM.

Motion by Chair Maggiore to accept the funds of \$37,911.00. Seconded by Selectwoman Kilgore. Motion carries 3-0.

17. Second Public Comment Session

See Item 8, above.

18. Adjournment

Meeting adjourned at 9:25PM.

Respectfully,

Janet L. Facella

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Michael J. Tully
Interim Town Administrator

Municipal Offices
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Fax: (603) 964-1514



TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
OFFICE of the TOWN ADMINISTRATOR

**TOWN ADMINISTRATOR'S REPORT
OCTOBER 23, 2017 SELECT BOARD MEETING**

REPORTING PERIOD

The reporting period is from October 11, 2017 through October 23, 2017

FINANCE

The expenditure report is posted on the website. See <https://www.northhampton-nh.gov/sites/northhamptonnh/files/uploads/currentexpense10192017.pdf>

FY 18 expenditures are within normal parameters, and there are no alarming trends at this point. The auditors have finished the bulk of their work and I will report to you the findings as soon as we receive the final report. We do not have a timeline yet as to when we may receive it but I did look into the past history. Only once in 7 years has the report been completed in November, once in December and the remainder are January or later.

PRIORITIES

Personnel

Town Administration. I have come up to speed on many of the ongoing issues currently facing the Town and begun actively working on avenues to move forward. I sent out the memo from Paul to each of the Board Members if there are requests or comments please make me aware.

The Police Department. One member of the department is still deployed on active duty for hurricane relief. The department continues with a hiring process and will bring forward a candidate to the Board when appropriate. The department will be participating in the National drug takeback initiative on October 28, 2017. This gives the public the opportunity to rid their homes of expired

or unwanted prescription drugs. The public can bring them to the fire station and dispose of them from 10 am to 2 pm.

The Fire Department. The background investigation continues on a potential firefighter candidate. We have received an update on the ladder truck, Greenwood has run into problems with the fix and we are currently waiting to hear back on a solution which may include a much deeper scope of work to be performed. The cost of the additional work is unknown. I will relay any information I receive on the truck so that a decision can be made.

Building Department. Glen Bosworth has begun his tenure as the Interim Building Inspector until a suitable replacement is found. The job has been advertised for a 30 day period ending on November 3, 2017 and a resume sort will be completed followed by a process to determine the best candidate for the position.

Facilities

Town Hall. Mr. Maggiore is attempting to make contact with a builder which will provide to us a scope of the work to be performed. After the scope is received it will be given to several qualified builders for the submission of quotes which will be forwarded to the Select Board.

The Library. The construction project at the Library is complete and payment has been sent to Ricci Construction. I have requested Ms. Grant to present to the Board the library budget on November 13, 2017.

Projects

Telephone System/Communications. Nothing to report on a replacement for the system though Jan is working on getting the phone lines repaired in the upstairs conference room so we have the availability of a Board member to tele-connect for a meeting on a clear phone line. We expect an onsite visit from First Light this week.

Cell Tower. Nothing new to report.

Regionalization. Work continues on the operational implications of a joint ladder truck. I have spoken to the new Fire Chief in Rye. He stated that he is going to spend the next few months studying the Department and completing a strategic plan for the future. A meeting will be rescheduled when he has a better idea of how the Department runs and its needs.

Aquarion. The hearing at the PUC was scheduled for Thursday October 5, 2017. We received a decision from the PUC which was forwarded to the Board.

Coakley Landfill Group. The proposed meeting with EPA has been rescheduled. As soon as a new date is announced I will ensure that the Town is represented.

Meeting Schedule: The Board has a work session scheduled for October 30, 2017 to further discuss the process for hiring the new Town Administrator. The library has been scheduled to present their budget on November 13, 2017 at the regularly scheduled meeting. November Select Board meetings are scheduled for November 13, 2017 and November 27, 2017.

Finance Policies: Nothing new to report.

FY 2019 Budget Preparation. FY 19 budget preparation is ongoing. The first work session for budget review was completed on October 2, 2017. The Board reviewed public safety budgets on that date and held its second work session on October 17th at 8am for public works as well as administration. The budget should be finalized by November 13, 2017 so that we can get budget books produced and distributed to the budget committee. Ryan Cornwell and I presented the FY17 year end to the Budget Committee on October 16, 2017 as well as a preliminary report for the default budget.

Junkyard Closures and/or New Problems: Nothing new to report.

Trolley Bridge/Philbrick Pond Grant. Field work is on-going on this project. I was able to meet with the Project Manager, Craig Musselman. We reviewed the project and what has been accomplished so far. The camera inspection of the culvert that was conducted at low tide on August 31, 2017 showed partial blockages from rocks at each end. Mr. Musselman is moving forward with the project, will be setting up a meeting with residents this fall and anticipates a presentation to the Select Board in the spring.

Hampton Rod and Gun Club: I have nothing new to report.

Storm-Water Regulations. I have nothing new to report.

Hazard Mitigation Plan. I have nothing new to report.

Recreation Activities. The recreation Department has scheduled CPR classes for residents. The next class is October 25th at 5pm in the Mary Herbert room and they will have another scheduled for November. December 16th will be the annual Santa's breakfast. There will be 3 seatings 8:30, 9:30, and 10:30. Interested families can register online through the Rec Department. In addition the PASA group has 2 more trips planned before the end of the year. Pickity Place, a farm to table restaurant, will be November 16th and the Leddy center for a Christmas Story will be December 6th, this will be the final show at the Leddy Center. Contact the Rec. Department to sign up for either of those trips.

Conservation Easement Deeds. I have nothing new to report

Mutual Aid. I have nothing new to report.

Economic Development. The Committee met on October 4rd and heard from a representative of the UNH Survey Center about a scientific survey of the Town. The survey cost is expected to be

just over \$6000.00 and the Select Board has decided to pay for that survey in the current fiscal year.

Facilities. See, above.

Document Management System. The interns have completed a search application for documents in storage and have scanned a portion of the Town's records. I have nothing further to report.

IT Issues: I have nothing new to report.

Deed Waiver/Modular Home Tax Abatement Policy.

Paul proposed a taxpayer agreement to the owners of 12 Sandpiper Path. I have not had a response yet. The parks in town are under new ownership and new rules come into effect on June 1. These rules will require owners to be current on taxes, regardless of any agreement they may reach with the Town. If these rules are enforced, the number of delinquent tax payers in the parks should decline dramatically in the next year.

You waived deeding on all the properties except the first and the last on the list. The owners of the last property paid, as is their custom. The Tax Deed for the first is in the box for signature.

There are a number of manufactured and modular homes that are in arrears. Tax deeding manufactured housing creates significant risks. First, the Town becomes the delinquent owner's landlord and will be required to expend resources to evict the owner once the tax deed has been recorded. This process, in addition to being expensive, also presents public perception issues. The forced removal of anyone from their home is not a matter to be undertaken in all but the most severe cases.

Additional risks presented in this category include liability for park rent and other charges associated with the location of the unit. The park owners have agreed to waive park rent for properties taken pursuant to Tax Deed. The cost of disposal is also a potential liability for homes that are in poor condition or have no value. Manufactured housing does not hold value in the same way as traditional, stick-built housing.

I have nothing new to report.

Rails to Trails. I have nothing new to report.

Janet Facella

From: Michael Tully
Sent: Wednesday, October 25, 2017 8:32 AM
To: Janet Facella
Subject: FW: North Hampton: What is an illegal meeting?

From: Legal Inquiries [mailto:legalinquiries@nhmunicipal.org]
Sent: Thursday, October 19, 2017 4:32 PM
To: Michael Tully
Subject: North Hampton: What is an illegal meeting?

Good Afternoon Michael:

Minutes must be and should be prepared. As far as content is concerned, the only required content for public meeting minutes is described in RSA 91-A:2, II as follows:

Minutes of all such meetings, including nonpublic sessions, shall include the names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions.

I would not stray from this statutory mandate. The minutes in question should list the names of the North Hampton Budget Committee Members who were present, the names of the persons from SAU #21 who were present and the subject matter discussed. That is all the statute requires. Any other content is surplusage.

Stephen C. Buckley, Esq.
Legal Services Counsel
NH Municipal Association
25 Triangle Park Drive
Concord, NH 03301
Tel: (603) 224-7447
Email: legalinquiries@nhmunicipal.org



From: Michael Tully [mailto:mtully@northhampton-nh.gov]
Sent: Thursday, October 19, 2017 12:36 PM
To: Legal Inquiries <legalinquiries@nhmunicipal.org>
Subject: FW: North Hampton: What is an illegal meeting?

Mr. Buckley,

I have included the email chain below to refresh your memory of the recent issue the Town of North Hampton had in calling a meeting to order without a proper posting. We appreciate your assistance in this matter, though, we have one further question.

Minutes were taken from the beginning of the meeting as well as during the portion when there was not a quorum of the Board. What should occur with these minutes? Should the minutes read that the meeting was called to order, include the conversation which occurred regarding the posting while a quorum was present and end when there is no longer a quorum? There is disagreement on the committee on how this should be handled and what, if any, minutes should be approved. I would appreciate your guidance.

Respectfully,

Michael J. Tully
Interim Town Administrator
Town of North Hampton, NH
mtully@northhampton-nh.gov
(603) 964-8087

From: Laurel Pohl [<mailto:laurelpohl@comcast.net>]
Sent: Thursday, October 05, 2017 4:44 PM
To: Paul Apple; Michael Tully; Pinette, Jonathan; Sununu, James G.; L Miller; Kathleen Kilgore; Jim Maggoire
Subject: Fwd: North Hampton: What is an illegal meeting?

This email constitutes Official Correspondence related to the conduct of official town business. Please do not "reply", "reply all", or "forward" this email or attempt to contravene RSA 91-a to discuss this communication by any method with a quorum of any official body outside of an duly posted town meeting.

Dear Colleagues and Town Officials,

Events at Monday night's Budget Committee Meeting have underscored a serious problem with town governance that I believe must be addressed immediately, corrected and prevented from reoccurring. The concerns expressed at the onset of Monday night's Budget Committee meeting by myself and three other members of the committee, which asserted that the meeting was illegal have been corroborated by the NHMA in the email below.

In order to address, correct and prevent this situation from happening again, I respectfully request that a topic be added to the next Select Board agenda to discuss these suggested topics:

- 1) What happened (convening of an illegal meeting),
- 2) Why convening the meeting constituted several violations of RSA 91 A,
- 3) The consequences of allowing illegal meetings to be convened

4) Steps the Town can take to prevent future violations, including:

- a. offering 91A education and training provided by the NHMA,
- b. establishing policy for meeting notification with clear instruction to cancel and reschedule meetings that have not been properly posted.
- c. disseminating policy and instructions to all other town boards and committees.

Having an NHMA representative or town attorney (with particular expertise in the area of municipal law in general, and with 91-a specifically) present at the meeting is advisable in order to answer questions.

I also respectfully request that a similar topic be added to the next Budget Committee agenda to discuss these suggested topics:

- 1) What happened (convening of an illegal meeting),
- 2) Why convening the meeting constituted several violations of RSA 91 A,
- 3) The consequences of allowing illegal meetings to be convened
- 4) Actions that the Select Board has determined are necessary to undertake to prevent this situation from recurring.

Respectfully,

Laurel

Laurel Pohl
100 North Road
North Hampton, NH 03862
Home: 603-964-8360

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

From: Legal Inquiries <legalinquiries@nhmunicipal.org>
To: "ljpohl@comcast.net" <ljpohl@comcast.net>
Date: October 3, 2017 at 4:11 PM
Subject: North Hampton: What is an illegal meeting?

Good Afternoon Laurel:

A meeting under the Right-to-Know law is defined as “the convening of a quorum of the membership of a public body, ... or the majority of the members of such public body if the rules of that

body define 'quorum' as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, ... for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power...." RSA 91-A:2, I.

Therefore, for a "meeting" to occur, the following must be true:

- A. A quorum of a public body
- B. Convenes so that they can communicate contemporaneously (in-person, telephone, electronic communication, etc.)
- C. To discuss or act upon something over which the public body has supervision, control, jurisdiction, or advisory power.

The failure to provide notice in two places of the date, time and place of the North Hampton Budget Committee meeting would comprise a violation of 91-A:2, II. If the notice of the meeting was published in a newspaper that notice alone would have been sufficient. When the budget committee chair opened the meeting and commenced conducting the business of the budget committee at that time the meeting was being held contrary to RSA 91-A.

Any meeting of a quorum of a public body that was not preceded by proper notice to the public cannot discuss or act upon public business. In that regard, merely receiving a report from the school district would have been improper if there had been a quorum of the budget committee present. It is simply incorrect for the budget committee chair to go forward with a public meeting without proper notice to the public on the basis that no decisions were going to be made.

However, from your description, the North Hampton Budget Committee is comprised of 9 members and at the meeting Monday night only 8 members were present. After the meeting commenced you and 4 other members who were present "unseated" yourselves. Assuming you and the other "unseated" members removed yourselves from all participation in the meeting, at that time there was no longer a quorum of the budget committee present and it would not have been a meeting of a public body subject to the 91-A.

For the purpose of deciding what is a quorum of a public body the better view is that it is a majority of the members of that public body as authorized by vote of town meeting. In the instance of the budget committee, if the North Hampton Town Meeting voted to have a budget committee of nine (9) members, one each from the school board and the select board, and seven (7) members elected at-large, a quorum would always be five (5) members.

When there is a violation of the Right-to-Know law RSA 91-A:8 prescribes the following remedies:

- An aggrieved party may be awarded attorneys fees for having to pursue legal action to enforce the provisions of RSA 91-A if the court finds that the lawsuit was necessary to enforce compliance with 91-A or to address a purposeful violation of the statute. Fees are not awarded unless the court finds that the public body knew or should have known that the conduct engaged in was in violation of this chapter.

- The Court may invalidate an action of the public body taken at a meeting held in violation RSA 91-A if the circumstances justify such invalidation.
- The Court can impose civil penalties of not less than \$250 or not more than \$2,000 if the violation of RSA 91-A was in bad faith.
- The Court can enjoin future violations of the statute and can order the official or public body to undergo remedial training.

With regards to upcoming training NHMA is offering on the Right-to-Law, I cannot provide you a “link” for such a training at this time, but I can provide the attached flyer for a training on December 6, 2017.

Stephen C. Buckley, Legal Services Counsel

NH Municipal Association

25 Triangle Park Drive

Concord NH 03301

Tel: (603) 224-7447 or

1-800-852-3358

Email: legalinquiries@nhmunicipal.org



From: Laurel J Pohl

Sent: Tuesday, October 03, 2017 4:46 AM

To: Legal Inquiries <legalinquiries@nhmunicipal.org>

Subject: What is an illegal meeting?

Hi,

In North Hampton, meetings are typically added to the town's meeting calendar on the town web site as soon as they are known, and the town meeting calendar typically includes the name of the body holding the meeting, the meeting date, time and location. Typically, these **meeting notifications** are not posted anywhere else in town.

The practice to post notifications of meetings, has been to follow up the calendar notification by posting the meeting agenda for each meeting (which typically includes the name of the body holding the meeting and the meeting date, time and location as well as the agenda items), as soon as the agenda is finalized. These agendas are typically posted on the town web site, and often one other place in addition to the town calendar (almost exclusively in the town administrative office) at least 24 hours in advance of the meeting. Meeting agendas are also generally emailed to committee members several days prior to the meeting date.

However, yesterday evening (Monday, 10-2-2017), the Budget Committee was scheduled to meet for one of our regularly scheduled 7 PM meetings -- which are typically held in the evenings on the first and third Mondays of each month during the budget season. Several committee members, including myself, had begun hunting for the meeting agenda and meeting materials yesterday morning, in order to prepare for the meeting. It quickly became apparent that the meeting had not been posted anywhere that could be found. At 9:55 am on the morning of the meeting, the Chariman finally emailed the meeting agenda and materials to the rest of the committee and to the town administrative offices. There apparently were no other attempts to warn the public that there was a Budget Committee meeting scheduled for that evening, other than the one notice that was posted on the town meeting calendar. As you are well aware, posting the second notification of a meeting only 8 hours in advance of the meeting, does not meet the requirements in RSA 91-a for proper notification to the public.

Several members had become concerned whether the meeting had been properly noticed. Immediately prior to the meeting, I asked the Chairman if the meeting had been properly posted. He admitted that he did not send the agenda to the town office until that morning, and admitted that the agenda had not been posted on the town web site until that morning. He also stated that the Town Administrator (Paul Apple) had advised him to hold the meeting anyway, and stated that the committee could meet and was free to discuss town business, but that the committee would not be able to take any votes during the meeting.

In addition, there are 9 members of North Hampton's Budget Committee. One member could not attend last night's meeting, but the remaining eight members were in attendance at the beginning of the meeting. Shortly after the onset of the meeting, I raised a point of procedure to address the issue of a lack of a properly noticed meeting. I asked the Chairman directly if the meeting notice had been properly posted in at least 2 places, at least 24 hours in advance of the meeting. When he admitted that the meeting had not been properly posted, I told him that the meeting was an illegal meeting, and immediately unseated myself from the board. I refused to participate in the meeting, and left the table to sit in the audience. The Chairman argued that he had discussed the situation with our Town Administrator, who had advised him to proceed and the Chairman also stated that he was "going to conduct the meeting as I see fit." After some debate, three additional members of the board also unseated themselves, left the table and refused to participate in the meeting.

I have attached a transcript of the first part of the meeting and a link to the digital recording of the meeting (which you can view over the internet -->
http://www.townhallstreams.com/stream.php?location_id=35&id=13372).

The members that remained seated (the Select Board Representative to the Budget Committee, the Chairman of the Budget Committee, the Vice Chairman of the Budget Committee, and the one remaining regular member) debated whether they had to adjourn the meeting for lack of a quorum. The Select Board Representative stated that "A quorum is a majority out of whoever shows up." and the remaining members of the Budget Committee

concluded that they had a quorum with four of the eight Budget Committee members still in attendance at the meeting. I am aware that a quorum is not the majority of the members who show up and that a quorum is the majority of the full membership of any board or committee. I am also aware that even having four out of eight members present is also not a quorum, simply because it is not a clear majority. But, our Select Board Representative, the Chairman of the Budget Committee, and the Vice Chairman of the Budget Committee apparently are unaware of these facts.

Despite the lack of a quorum and the lack of a properly noticed meeting, the Budget Committee Chair and Vice Chair decided to proceed with the meeting. They allowed the SAU 21 representatives to proceed with a presentation of the local school FYE 2017 budget and default budget for another 25 minutes without a quorum of the board present and seated at the table. There were multiple questions asked of the SAU 21 representatives. The presentation and discussion was, in my opinion, substantive and included: 1) the presentation and questions related to the school budget for the past fiscal year, 2) the method of calculation for the school's default budget 3) a discussion of potential warrant articles that the school is currently planning to put on the March warrant, 4) a discussion of the cost, timing and funding of a major gas line construction project along one of the main arteries in town on behalf of the school, which could be of potential benefit to residences along the path of the proposed gas pipeline.

I would greatly appreciate it if you could you please respond with:

- 1) an expalation of why this meeting was an illegal one and why it did not meet the requirements of 91-a.
- 2) an explanation that clearly indicates that voting is not the only thing barred from occurring during an improperly posted meeting, and a description of what constitutes "conducting town business"
- 3) an explanation of what constitutes a quorum
- 4) a link to training and information available regarding 91-a to town officials who are members of the NHMA, and
- 5) a list of remedies available for repeated violations of RSA 91-a as they pertain to improperly posted meetings.

Thank you.

Laurel Pohl

North Hampton Budget Committee.

Regards,

Laurel

Laurel Pohl

100 North Road

North Hampton, NH 03862

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The Town of North Hampton's employees strive to respond to email in a timely manner. The Town has also invested in significant spam filters to prevent internet fraud. If you have no response to an email you sent to one of our employees within two days, please make sure to call (603-964-8087). Your message may have been caught inadvertently in a spam filter.

Emails to and from town employees may be subject to disclosure to third parties under New Hampshire's Right-to-Know law.