



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

SEPTEMBER 9, 2019 7:00 PM

NORTH HAMPTON TOWN HALL

Approved December 9, 2019

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

ALSO PRESENT: Town Administrator Bryan Kaenrath, Fire Chief Michael J. Tully, Recreation Director Joe Manzi

AGENDA

Chairman Maggiore welcomed everyone to the September 9, 2019 Select Board Meeting, and called the meeting to order at 7:00 pm, followed by the Pledge of Allegiance. He said they opened the meeting at 5:30 with a Non-Public Session, and recessed to a Workshop on Document Management with Ricoh at 6:00 pm.

Chairman Maggiore stated that after the August 26, 2019 meeting a Non-Public Session was held in which a unanimous motion was made asking the Town Administrator to act upon it and the minutes were sealed. He said for the Non-Public this evening there was also a unanimous motion and the Town Administrator will act on its intent, and asked for a motion to seal the minutes.

Motion: To seal the Minutes of the Non-Public Session of September 9, 2019 under RSA 91-A:3 II (a, c).

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

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, and a DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North Hampton, New Hampshire 03862.

First Public Comment Session

George Chauncey of Hobbs Road asked the Select Board if they would hire a professional person, with a legal background, who knows how to write an Ethics Code. He said the current Code was terribly flawed and unfair to anyone who is a defendant. He said it allows the Complainant to read his charges and the panel then determines whether or not to take jurisdiction. He said both sides need to be heard before deliberations, and they needed a good set of Rules & Procedures for the Ethics Committee.

Frank Ferraro of Post Road said on August 15th the Town received a memo from Town Counsel regarding the role of the Select Board with regard to the Public Library. He said in his summary, Counsel stated that the planning, design, and construction of Library buildings lies exclusively with the Library Trustees. He said the Select Board should have included a copy of this memo as correspondence in the August 26th Select Board packet, should not have continued to discuss a new Library, and Selectman Miller should not be continuing to present his plan to Town committees, but should present it as a private citizen. He asked that the memo be included in full in the minutes of this meeting.

Consent Calendar

- 5.1 Payroll Manifest of August 29, 2019 in the amount of \$71,343.98
- 5.2 Payroll Manifest of September 5, 2019 in the amount of \$75,994.75
- 5.3 Accounts Payable Manifest of September 5, 2019 in the amount of \$146,999.64

Motion: To accept the Consent Calendar as presented in the packet.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

Correspondence

Correspondence from Town of Hampton

Chairman Maggiore said correspondence was received August 27, 2019 from Hampton Town Manager Frederick W. Welch, and he read the letter in full. The letter urged the Town of North Hampton to adopt the *Energy Innovation and Carbon Dividend Act of 2019 HR 763*, as adopted by the Town of Hampton, and enclosed a copy of the resolution for their review and reference. Chairman Maggiore said a complete copy of the resolution was included in the packet.

Discussion: Selectman Miller said it needed to be rewritten for North Hampton. Selectwoman Kilgore agreed but asked that the letter be put on as an agenda item for the next meeting as the letter was just received today. Selectman Miller asked that the Town Administrator prepare the document for North Hampton and add the item to the next Select Board Meeting.

Committee Updates

Selectwoman Kilgore said the *Economic Development Committee* met September 4, 2019. She said John Nyhan from the Hampton Chamber of Commerce was to speak about a Regional EDC but was unavailable and would be rescheduled. She said the EDC reviewed the dates and times proposed by Jeff Hyland from Ironwood and they decided the original timeline does not work and made a proposal for an adjusted schedule. She said they discussed the scope of the Village Plan and the consensus was to tell Jeff Hyland they were only looking at the IBR from Cedar to Hobbs, and not extending down Atlantic Avenue. She said

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they discussed a preliminary draft of Rules & Procedures which she and Jeff Hillier would be working on for a November presentation. She said the next EDC Meeting would be September 26, 2019 for a Workshop orienting new members.

Chairman Maggiore said there were no meetings for the *Heritage Commission* or the *Water Commission*.

Selectman Miller said the next *Budget Committee Meeting* was scheduled for Monday, September 16, 2019 at 5:00 pm in Town Hall.

Selectman Miller said the *CIP Committee* met the last Thursday of August and the next meeting would be September 20, 2019.

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 Audit would begin later this month with Melanson Heath and with 45 weeks left in the current fiscal year they have 84% of the Budget remaining. He said John Schnitzler has completed 99% of his work on Town Hall and they have a painting contract with Apple Painting & Restoration for 3 sides of the building.

Town Administrator Kaenrath said a deal was reached by the State on Rails to Trails and there would be a meeting September 24, 2019 to discuss next steps. He said a lot of paving had been done and the old pavement on the Homestead Lot was removed and the irrigation system would be installed. He said there was still no word from NHDOT about municipally managing the Philbrick Pond project.

Town Administrator Kaenrath said they just concluded their last Document Management Presentation with Ricoh, and should set up a workshop to discuss next steps. He said with regard to Wage Range, Carol Granfield of MRI (Municipal Resources Inc.) would go over the results at the September 23, 2019 meeting.

Questions: Chairman Maggiore asked how the Wage Range results would be presented. Town Administrator Kaenrath said it may be in non-public as they would be discussing employee salaries, positions, and classifications, but that was not yet determined. Chairman Maggiore asked about the Beach and said they were waiting for an engineer at the State level to take a look, and they needed to follow up about options for naturally-occurring beaches.

NEW BUSINESS

10.2 Eagle Scout Project Approval - Recreation Director Joe Manzi & Henry Pallatroni

Recreation Director Joe Manzi introduced Henry Pallatroni, IV to talk about an Eagle Scout project he wanted to introduce to the Board.

Henry Pallatroni said he was there to present his idea for his Eagle Scout Project, and said the project must benefit the community or church. He said he was looking to install 2 sets of aluminum bleachers in Dearborn Park at the baseball fields, 4 rows 7.5 feet long, which would seat up to 20 people. He said he was also looking to do some landscaping to place the bleachers on a bed of bluestone rock.

Questions: Chairman Maggiore said he was proposing one on the first-base side of the softball field and one on the third-base side of the Tee-Ball field. Selectman Miller asked how the project was being funded, and Henry said he was planning two fund-raisers initially. Selectman Miller asked for the timeframe for accomplishment of the project, and Henry said by fall. Selectwoman Kilgore asked if he would be doing the installation and he said he would be guiding other scouts in the trop.

Selectwoman Kilgore asked if anyone had spoken with Primex, the Town insurance, to make sure they would be covered for this. Recreation Director Manzi said he wanted to come here first and take Select Board recommendations. He said the suggestion is consistent with improvements being made in Dearborn Park and will increase the use of the facilities.

Selectman Miller asked about seeking donations and Henry said he was planning to seek donations of stone for the landscaping part. Selectwoman Kilgore asked if he would be able to accept donations if residents wished to donate to the project and he said he would. She thanked Henry for coming to the Select Board to make the Town part of his achievement as an Eagle Scout.

Motion: To approve the proposed Eagle Scout Service Project named Bleachers Construction as presented tonight by Henry Pallatroni, IV.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

10.1 Fundraising and Scholarships – Recreation Director Joe Manzi

Recreation Director Joe Manzi said he wanted to ask the Board to create a specific line in the Recreation Revolving Account that addresses special events and scholarships provided for families in need for summer camp. He said this year they provided \$150 in scholarships, and hoped to earmark funds specifically to be able to fund-raise and take donations for special events that don't generate revenue.

Selectman Miller asked if he was looking for how to account for the income, and Recreation Director Manzi said yes, and also to be transparent that X amount of dollars was raised through fund-raisers and donations for X amount of scholarships to show where the donations were going. Selectwoman Kilgore asked if he had spoken with Ryan Cornwell, and said that was a good place to start on how to go about this.

Chairman Maggiore said he spoke to NHMA and he might have to modify the fund so residents would know this amount is going for this purpose. Selectwoman Kilgore said she liked the idea but said he may need a Warrant Article. Recreation Director Manzi asked about serving alcohol for any fund-raising events not on Town property. Selectman Miller said if they do it in a public place and follow the laws that should be fine, and Selectwoman Kilgore said if it is off-site with proper licensing it should not be an issue.

Recreation Director Manzi said he send a letter to the Town Administrator this week about his updating the Employee Parks & Recreation pay scale. Chairman Maggiore said it was not noted on the Agenda and probably not the right time to discuss it.

Selectwoman Kilgore asked if, before announcing the next New Business item, they wanted to move the item to the end of the meeting. Chairman Maggiore said his intent in discussions with Town Administrator

Kaenrath about process was for him to summarize the Town Counsel's opinion on how they can proceed. Town Administrator Kaenrath said he thought they could do it now without incident.

Selectwoman Kilgore recused herself and moved to the public area.

10.3 Reimbursement of Legal Fees – Selectwoman Kilgore

Town Administrator Kaenrath said he would read a few brief sections from the memo from Steve Bennett. He said the first section is about the process and the second more on the merits of indemnification and reimbursement.

Town Administrator Kaenrath read from the Town Council opinion that in this case: *Selectpersons Kilgore and Maggiore were both parties to the Ethics Complaint giving rise to Selectperson Kilgore's request for indemnification. Selectman Miller was also the subject of similar allegations of sexism by Selectperson Kilgore, which he denied, and he provided a letter of support. A person is disqualified as a juror in a matter if he had anything to gain or lose as a result of the outcome, assisted a party to the action, expressed their opinion on the matter or is prejudiced to any degree regarding the case, per RSA 500-A:12.*

Town Administrator Kaenrath continued that under the circumstances all 3 Selectpersons should recuse themselves from the request for attorney's fees as all participated in the Complainant process. When an entire Select Board is disqualified, RSA-43:8 authorizes the Superior Court to appoint the new board for that case, consisting of qualified persons who previously held that position or qualified persons from another town who have held that position. He said Town Counsel found the case to be an anomaly and more study would be needed on how to proceed. He said a potential motion could be made without recusal of any members of the Board.

Chairman Maggiore asked if everyone was clear on the process and procedure to move forward. Selectman Miller said it would then be 3 prior Select Board members, and Town Administrator Kaenrath said there is one that may have to recuse himself because of his participation on the Ethics Committee. He said some details are lacking as this is extremely rare. Mrs. Kilgore said as a member of the public she would encourage them to take the next step. Selectman Miller said there was a question he might ask as a citizen and asked Mrs. Kilgore to read the last paragraph of item 2 in the letter.

Mrs. Kilgore read that section of the letter which said "under the circumstances a decision by the Select Board to deny the request for indemnification would be reasonable, and they could fairly conclude that the Ethics Complaint did not constitute a claim, suit, demand, or judgement based on allegations of negligence or other acts resulting in accidental injury to person or property. The circumstances would also support a finding that the statements made by Selectperson Kilgore giving rise to the ethics complaint were not within the scope of the Selectperson's office."

Chairman Maggiore said he understood that Mrs. Kilgore can rejoin the Board and they can take up the motion and still be compliant. Town Administrator Kaenrath said it was up to Mrs. Kilgore if she wanted to rejoin the Board for the vote. He said all Board members were under recusal here and asked for a motion that: "A petition be filed with the Superior Court pursuant to RSA-43:8 requesting the Court appoint a board to consider Selectperson Kilgore's request for indemnification and reimbursement." He said this was just on the process of moving forward and to put the matter in the hands of the Superior Court.

Motion: That a petition be filed with the Superior Court pursuant to RSA-43:8 requesting the Court appoint a board to consider Selectperson Kilgore's request for indemnification and reimbursement.

Motioned: Selectman Miller

Seconded: Chairman Maggiore

Vote: Motion approved 3-0 (*Mrs. Kilgore returned to her seat on the Board for the vote.*)

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

Chairman Maggiore said the seating of the Ethics Committee was set by original charge approved by Warrant Article, and only 1 alternate was currently seated from the Planning Board. He asked if they needed alternates from other committees and how they wanted to proceed. He said Section 7.03 of the Standing Ethics Committee talks about the establishment of the committee, its purposes and organization, but does not talk about Alternates.

Selectman Miller said to be clear he asked for an Alternate from this Board not for other committees. Selectwoman Kilgore said she amended it, and if it is not in the Ethics Rules & Procedures they would have to address it by Warrant Article. Chairman Maggiore also said this does not speak to an Alternate, so they would need to change the establishment of the Committee through Warrant Article.

Selectman Miller said he disagreed as the purpose of the Committee is to the adjudication of problems and if you have no participants you have no Committee. Town Administrator Kaenrath said they also have an Alternate already seated. Chairman Maggiore said he would go to NHMA for their opinion and table the item.

10.5 Review of Emergency Operations Procedures – Chief Tully

Chairman Maggiore said Chief Tully serves as the Emergency Management Director and he asked him to walk through the process of what happens if there is an emergency so people understand the different roles for individuals in a strictly followed procedure.

Chief Michael Tully said not every emergency is handled the same and spoke about the operations of the Emergency Operations Center and when it is opened. He said it was a coordination with the Police Chief depending on the type of emergency and the aspects involved. He said in an emergency he generally speaks to the Town Administrator and the Police Chief to determine if the Emergency Operations Center needs to be opened, and the Finance Director is important in long-terms situations to administer emergency costs.

Chief Tully said if the Emergency Operations Center is activated the Fire Department has a call down list for different emergencies, and said they practice on a biannual basis. He said they may not need a member of the Select Board but have the Town Administrator making sure they are apprised of actions taken and who also acts as the Public Information Officer (PIO). He said Fire and Police personnel practice together and have a backup for each position.

10.6 Approval of Select Board Goals

Chairman Maggiore said every year the Select Board goes over goals with each department and lists their goals on a whiteboard, and said Selectwoman Kilgore has put the information into a spreadsheet.

Selectwoman Kilgore said the goals were broken out by department/function area and put in a document to officially approve and refer back to as they move through the year. Selectman Miller said he believed they needed a part-time Building Inspector/Code Enforcement Officer, as not much code enforcement was being done, and wanted to add that to the list. Selectwoman Kilgore said it was already a standing position in the budget and they just needed to fill that position.

Town Administrator Kaenrath said they had left it unfilled for a trial period and said he had spoken to Travis frequently about the workload. Selectman Miller said he would like to see the 20-hour position filled, and said he would like to see Travis get more training. Town Administrator Kaenrath said the position was already there and just needed to be filled, but Selectman Miller said he wanted it to be a goal. The Select Board agreed to add the goal to fill the part-time Building Inspector/Code Enforcement Officer position to their goals by consensus.

Motion: To approve the Select Board Goals as amended above.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved as amended 3-0

10.7 Review of Organizational Chart

Selectwoman Kilgore said she worked with Town Administrator Kaenrath on this chart and also with Paul Apple. She said it lays out the organization of the Town with the legislative body, elected body, appointed commissions and committees, and Town employees and shows the chain of command. She felt the information was important and should be posted on the website, and Chairman Maggiore said it should also go out to everyone listed.

Town Administrator Kaenrath made a correction that Michael Tully was the Deputy Town Administrator, and Jan Facella was technically not another Assistant Town Administrator but was Human Resources/Administration and Welfare Director. Chairman Maggiore asked if the names for those three administrators should be removed as they will change. Selectwoman Kilgore agreed to make those changes to the Organizational Chart.

10.8 Review of Appropriate Town Email Use

Selectwoman Kilgore said with the email security breach they had last year the Board has moved to using Town emails for Town business and not use personal emails. She asked if that should include other boards and committees as well and asked Town Administrator Kaenrath if they had the capacity. Town Administrator Kaenrath said it would involve more users which would be more expensive and getting compliance would be tough.

Selectman Miller questioned the cost and whether people would use the emails. Town Administrator Kaenrath said as far as IT expenses, expanding to the government cloud is already substantially increasing the per-user fee. He said he could get the numbers and would talk to PCG (Portsmouth Computer Group).

10.9 Update on Library Building Plans

Selectwoman Kilgore recused herself from the discussion and moved to the public area.

Selectman Miller said he would be giving his proposal to the Budget Committee on September 16th and the Library Trustees would be presenting their proposal. He said the CIP Committee listened to his proposal and decided not to recommend the Library Expansion. He said his eventual goal is to get to the Fire Station and build as little as possible to get something done.

Selectman Miller said he spoke with a contractor about the Fire Station who said building over the existing structure was economically not possible, and recommended the Fire Department temporarily move operations and the old building be completely demolished. He said the purpose here is to get something to pass on the ballot and do what is best for the Town.

Selectman Miller said expanding the Library in place would have to go to the Planning Board, and pointed out that the distance between the newly constructed Library and the Town Clerk's office would be 12 feet, including a handicapped ramp. He said that will leave two buildings crowded on a sub-standard lot, and asked if they really wanted to spend \$2.6 Mil do that with no parking when they can go to the Homestead property.

Chairman Maggiore asked if there was any update on a possible joint meeting, and Town Administrator Kaenrath said the joint meeting would be held on September 23, 2019 at 6:00 pm.

10.10 Eversource Energy Savings Proposal – Chief Tully

Chief Tully said he presented this energy audit report 6 months ago, but the Board wanted to think it over. He said he went back to Eversource and AECOM, who would be doing the work, and they found the numbers were too generous and they would no longer stand behind the proposal. He said the numbers for the Recycling Center did not have enough of a payout and he asked them to take the Recycling Center out and add other Town Buildings.

Chief Tully said the new numbers included a breakdown of the Fire Department, the Police Department building, the Stone Building, and the Highway Department. He said as an example, the Fire Department would involve an investment of \$3,400 with payback in 1.9 years. He said it was a 50/50 match with Eversource, with AECOM doing the work, and the Town would pay half and Eversource would pay the rest. He said the total investment for the Town was \$11,700.

Selectman Miller asked about a timeframe for the offer and Chief Tully said they did not put a date on it but he would like to have it done this fall. He said they could do it out of the Building Maintenance Capital Reserve Fund and transfer any money left over back at the end of the year. Selectwoman Kilgore said the price tag is \$23,442.14. Chief Tully said they could pick and choose as it was broken down by building.

Chairman Maggiore asked if it made sense now to move ahead with the Highway and Stone Buildings, as they were currently in discussion about what to do with Police, Town Administration, and Fire. Chief Tully said he did not see replacement of those buildings happening before payback in savings on all the buildings. Selectman Miller asked Chief Tully if he had talked to other department managers about this and Chief Tully said he had spoken to John Hubbard but had not gone into depth about the price.

Selectman Miller asked the amount currently available in the Building Maintenance Fund, and Town Administrator Kaenrath said there was approximately \$200,000 to \$250,000 in the Capital Reserve Fund.

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Selectwoman Kilgore said funds were earmarked for the Fire Department boiler which was completed, and Town Administrator Kaenrath said the work on Town Hall was also a bit under budget.

Motion: To move forward on the Energy Savings Proposal from Eversource NH Small Commercial Turnkey Program not to exceed \$23,442.14.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Discussion: Chief Tully said \$23,442.14 was the total price and the Town was only responsible for half and Eversource would pay the other \$11,721.07. He said he would like a little leeway on the figure as things could have been missed in the walkthrough.

Motion: To move forward on the Energy Savings Proposal from Eversource NH Small Commercial Turnkey Program not to exceed \$14,000.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

Selectwoman Kilgore asked if they should have included that the funds would be taken out of the Building Maintenance Reserve Fund, and Chairman Maggiore said they needed a motion to reconsider their last motion.

Motion: To reconsider the last motion.

Motioned: Selectwoman Kilgore

Seconded: Chairman Maggiore

Vote: Motion approved 3-0

Motion: To accept the Energy Savings Proposal from Eversource NH Small Commercial Turnkey Program not to exceed \$14,000, to be paid from the Building Maintenance Capital Reserve Fund.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved as amended 3-0

ACCEPTANCE OF MINUTES OF PRIOR MEETINGS

Acceptance of the Minutes of the Select Board Meeting of August 26, 2019

Selectwoman Kilgore said she had some changes and requested a full transcription of the tape from 1:39:55 to 2:07:49 involving her agenda item requesting indemnification. Chairman Maggiore said that the minutes were a reflection of what happened and were not verbatim. Selectwoman Kilgore said there were things missing, and said her response to Chairman Maggiore about recusal was not included and her moving to the public was not noted. Chairman Maggiore said she could summarize her changes and table the minutes until the next meeting on September 26th, and Selectman Miller agreed.

Any Other Item that may Legally come before the Board

Chairman Maggiore thanked the community for commenting about an error he made at the last meeting. He said resident Frank Ferraro asked for a Point of Order at the last meeting, which is a perfectly

acceptable motion but it does need to be made by a Select Board member. He said he was wrong to state it could come from the Public and apologized for his error.

Selectwoman Kilgore said she wanted to remind everyone that Wednesday is September 11th and there will be a Memorial Service held in front of the American Legion in Hampton, NH. She said 5-6 names of New Hampshire residents would be added who lost their lives in the military. She encouraged everyone to pay their respects at American Legion Post 35 from 6:00 to 7:00 pm.

Second Public Comment Session

Frank Ferraro of Post Road said he disagreed with Town Counsel's opinion on Roberts Rules of Order but would apologize for raising the Point of Order. He said with regard to the Wage Survey he assumed it was to establish job positions and salary ranges and should not qualify for a non-public meeting. He said with regard to the Ethics Committee and Alternates he agreed it would need to go to Warrant to be changed. He also asked that the Planning Board be notified that they cannot have an alternate as it is not allowed by charter.

Mr. Ferraro said in light of Counsel's opinion on the Select Board's lack of any authority on the Library, he wondered why a Selectperson was advocating for something over which they had no authority, and should have spoken as a public citizen. He suggested to Mr. Miller that he look into the Town of Greenwich, CT as a reference as they moved their Fire Department to another location and tore down the existing facility.

Casey O'Kane of Atlantic Avenue said he echoed George Chauncey's comments about someone of authority looking at the Ethics Committee situation. He said if they could find an enabling statute they could start there, and said the current Ethics Committee document was terribly constructed. He said with regard to the reimbursement of legal fees requested by Kathy Kilgore, the Counsel gave advice first on the procedure and secondly on the merit. He said several times people noted that they were only discussing procedure and not merit, but referred to the merits many times and then got Mrs. Kilgore to read from the opinion on merits.

Nancy Monaghan of Atlantic Avenue said she wanted to clarify a comment made by Mr. Ferraro, and said while it is true the Library as a municipal building is not required to follow the Zoning Ordinance of the Town, the Planning Board is required by RSA to hold a Public Meeting.

John Savastano said he and Town Administrator Kaenrath were coming up with a number of ideas to have better stagecraft to looking more professional. He pointed out the logo carpet installed on the floor between the tables, and said there were a few other ideas in the works.

Adjournment

Chairman Maggiore adjourned the meeting at 8:57 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary