

Approved as prepared
at 18 Apr 2019
meeting



21 Mar 2019
Heritage Commission Conference Room
237 Atlantic Avenue

Present:

Paul Cuetara
Jane Currivan
Donna Etela, Chair

Jim Maggiore
Jane Robie
Cynthia Swank

Alternates: Jeff Hillier, Carol Seely

Absent: Vicki Jones, Nancy Monaghan

1. Call to Order at 9:30am

2. Treasurer's Report.

\$950 remains in the operating budget, and \$6548 in Heritage Commission Fund. The amount available to the Commission is \$6498 as Finance has not yet charged the account for \$1000. The report was approved (Robie moved, Cuetara seconded).

The Treasurer noted that her narrative report was incorrect last month in that she had subtracted \$1000 twice. Maggiore will ask why the Finance Director waits until the end of the fiscal year to charge against the Fund.

3. Approval of Minutes. The February 21, 2019 minutes were approved as prepared (Robie moved, Currivan seconded).

4. Old Business

[moved up to Old Business #1] DOT Drake's Bridge. The Chair had distributed the communications the Heritage Commission received from Jill Edelmann, Cultural Resources Manager, Bureau of Environment, NH Department of Transportation and Wadleigh, Staff & Peters' review of the Memorandum of Agreement the Heritage Commission is expected to sign as a consulting party. She asked Edelmann when the MOA needed to be signed and the response was there was no deadline but comments were needed by the end of the month. The attorney indicated

that the Commission would need SB approval, authorizing the Commission to sign the agreement and accept the gift of the railing, RSA 674:4-b, I (h). The matter will come before the SB when the details in the MOA are finalized.

The chair asked members for questions; and discussion ensued. The MOA seems to consider the moving and storage of a portion of the concrete railing by the Town a potential difficulty but John Hubbard was asked and it should not be a problem. The location of a pocket park and where the railing and a descriptive historic plaque may be installed permanently is up in the air. The failure of the warrant article relating to the property at 216 Atlantic Avenue means the likeliest location at present remains near the S.A. Dow house, the only Town access point to the Rail Trail. The triangular piece of land created when the NH DOT changes the intersections at Drake's Bridge and which the State intends to make the Town's responsibility was mentioned but it does not seem feasible without access from the Rail Trail and the volume of vehicular traffic.

Some of the archival and historical research aspects of the mitigation were considered. All agreed that recommending Lisa Mausolf to do the work made sense as she prepared the National Register application for Drake's Farm, the inventory form for the Eastern Railroad which includes Drake's Bridge, and the most recent town-wide historic resources area form. Swank had previously suggested that the number of copies of the booklet needed to be increased to seventy-five or one hundred, and rights or permission to reproduce the photos and booklet be given to the Town. The Town should request the digital files and specify formats so that the future uses can be made of the materials. It also needs to be determined if the historian can begin work prior to the commencement of the construction. Swank will provide Etela with archival technical info to use in the response.

Members voted unanimously to authorize Etela to respond to Edelman by the end of the month. (Cuetara moved, Robie seconded).

Process for HC consultation on Town owned historic buildings.

The consensus was that it was unnecessary until the Certified Local Government effort gets underway.

Certified Local Government Committee. Jones absent; no discussion.

Economic Development Committee Update. Monaghan provided the Chair with a brief update. At its workshop to define s-t goals, the following are included: Fill vacant storefronts; better communication among Town, businesses, and Planning Board to shed perception that North Hampton is not business friendly; and get land-owner buy-in for the kinds of businesses residents and Town wants and for the village center. A sub-committee is working on identifying each land-owner.

An RFP for the rendering of a village center is ready to go out. It also was decided that there needed to be a concerted effort to put the sewer question to rest.

HC Nominations. Nominations have been sent to the Town Administrator and they are expected to be voted on at the next SB meeting

NHHS website for HC image files. Swank will determine collections and volume of images and seek an estimate from the web designer. Maggiore stressed need for a dollar figure and contract before the end of June if funds, if available, are to be encumbered.

Action Items. Etela has not received cost estimates from King and was unable to reach him.

5. New Business

By Law revisions. A subcommittee of Currivan, Cuetara, Swank, and Etela met and reviewed the By-laws and Rules of Procedure. The following changes are recommended: III. Powers. Add "I" to the first list of Commission powers per the RSA; indent the list of powers; add a paragraph after the RSA description with the two relating the barn easement RSA and the demo review ordinance. VI. Officers. Add clause indicating voting on officers would be after Town meeting and after the SB had approved appointments. Approved unanimously. Swank will provide a PDF of the revised document for the Commission's webpage.

Conservation Commission overlay map. Swank has communicated with the Chair of the Conservation, Lisa Wilson, and Wilson had a positive reaction. Wilson suggested that it might be discussed as part of the Land Use boards summit meeting.

Barn easements. Etela reported there are none so far. Swank has prepared flyer for the Friday Folder.

6. Next Meeting Date & Time. 4/18/19 @ 9:30am

7. Adjournment 11:18am

Cynthia G. Swank
Recording Secretary



BY-LAWS & RULES OF PROCEDURE

Adopted 18 August 2011; amended 17 May 2012; 21 Jun 2012; 23 May 2014; 21 Mar 2019

I. Authority: The North Hampton Heritage Commission was established by the voters on 11 March 1997 (Town Meeting Warrant Article VII) pursuant to RSA 673:II and in accordance with RSA 674:44-a and 674:44-b. The Commission has adopted these Rules of Procedure to prescribe the method of conducting its business pursuant to RSA 676:1, RSA 673, RSA 674, RSA 676 and RSA 91-A.

II. Purpose: The North Hampton Heritage Commission is established in accordance with RSA 673 for the proper recognition, use, and protection of resources, tangible or intangible, primarily man-made, that are valued for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural contexts.

III. Powers: Pursuant to RSA 674:44-b I the Commission shall have advisory and review authority, specifically, as follows:

1. Survey and inventory all cultural resources.
2. Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of heritage district ordinances within the Town prior to its adoption or amendment as provided in RSA 675:6.
3. Assist the Planning Board, as requested, in the development and review of those sections of the Master Plan which address cultural and historic resources.
4. Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources.
5. Coordinate activities with appropriate service organizations and nonprofit groups.
6. Publicize its activities.
7. Hire consultants and contractors as needed.

8. Receive gifts of money and property, both real and personal, in the name of the Town, subject to the approval of the Select Board such gifts to be managed and controlled by the Commission for its proper purpose.
9. Hold meetings and hearings necessary to carry out its duties.

Historic District Commission: Pursuant to RSA 674:44-b III, the Heritage Commission, by passage of the warrant article in 1997, assumed the powers and duties of the Historic District Commission it replaced.

According to Select Board policy and/or Zoning Ordinance, the Commission assists and advises the Select Board in the review of applications submitted under RSA 79-D (barn easement) and subsequent monitoring and renewals; and has a role in reviewing demolition applications for structures fifty years or older pursuant to Zoning ordinance Article V. Section 517. Demolition Review.

IV. Appropriations and expenditures: Pursuant to RSA 674:44-d upon establishment of the North Hampton Heritage Commission, the Town may appropriate money as deemed necessary to carry out its purposes. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 674:44-b shall be placed in a Heritage Fund and allowed to accumulate from year to year. Money may be expended from such fund by the Heritage Commission for its purposes without further approval of the town meeting.

The Town Treasurer, pursuant to RSA 41:29 shall have custody of all monies in the Heritage Fund and shall pay out the same only upon order of the Heritage Commission. The disbursement of Heritage Funds shall be authorized by a majority of the Heritage Commission. Prior to the use of such funds for the purchase of any interest in real property, the Heritage Commission shall hold a public hearing with notice in accordance with RSA 675:7.

Property: Pursuant to RSA 674:44-b, the Commission may acquire, in the name of the Town and subject to the approval of the Select Board, by gift, purchase, grant, bequest, devise, lease, or otherwise a fee or lesser interest, development rights, covenant, or other contractual right, including conveyances with conditions, limitation or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the cultural resources of the town, and shall manage and control the same; provided, however, that the Town or Commission shall not have the right to condemn property for these purposes. The Commission shall, by

affirmative vote, recommend to the Select Board whether the property shall be accepted by the Town. The Commission shall conduct a public hearing with respect to any proposed acquisition of real property under this section; provided, however, that the requirement of a public hearing in this section shall be satisfied by any public hearing conducted by the Select Board under RSA 31:95-b as amended or other similar statute.

V. Membership: The appointment of members shall conform to the terms and requirements of RSA 673:4-a and RSA 673:5; and the North Hampton Zoning Ordinance Article IV District Regulations, Section 413 Critical and Unique Area Regulations, Section 413.2.

The Commission consists of five members appointed by the Select Board. They serve three year terms and the terms are staggered. The Select Board appoints one of its members each year to serve as a sixth member of the Commission.

The Commission may nominate as many as five alternate members. The Commission encourages the Planning Board to select one of its members as an alternate member to the Commission if there is no Planning Board member who also is serving as a Commission member.

An alternate may be designated by the Commission Chair to serve as a voting member at a meeting of the Commission if a regular member other than the Select Board member is absent or disqualifies him / herself from the proceedings. All voting and non-voting members may participate in all discussions.

Removal: Members may be removed for cause in a manner provided by RSA 673:13. Pursuant to RSA 673:13 I, after a public hearing, appointed members and alternate members of an appointed local land use board may be removed by the appointing authority upon written findings of inefficiency, neglect of duty, or malfeasance in office.

VI. Officers: Election of Officers: The Commission shall elect, by a majority vote at its first regular meeting after the town meeting and subsequent Select Board meeting approving the appointments of members and alternates, the following officers from among its membership. The term of each officer shall be limited to one year; however, any officer shall be eligible for re-election. An alternate member may not serve as Chair.

Chair: The Chair shall preside at all meetings of the Commission and shall have the duties normally conferred on such officers, appoint such committees as directed by the Commission, and affix her / his signature in the name of the Commission to all correspondence or documents from the Commission. The Chair shall approve the agenda for all regular meetings and special meetings of the Commission. The Chair or the Commission's designee shall act as the official spokesperson for the Commission and / or prepare an annual report.

Secretary: The Secretary shall act as Chair in the absence of the Chair, or may appoint a designee to act as Chair with permission of the Commission. In the absence of the Secretary, the Commission may appoint another member to act as Secretary. The Secretary shall record the minutes of the meetings of the Commission and shall uphold the requirements of RSA 91-A.

Treasurer: The Treasurer shall act as Chair in the absence of both the Chair and Secretary, or may appoint a designee to act as Chair with permission of the Commission. The Treasurer obtains from the Town Treasurer regular monthly reports indicating the opening and closing balances and any transactions in the current year's operation budget and in the Heritage Fund. The Treasurer signs invoices for expenditures voted upon by the Commission and conveys to the Town Accountant.

VII. Members and their duties: Members and Alternate Members: Members and Alternate Members are expected to attend all regular, special, annual and joint meetings and hearings involving the Commission. If a member cannot be present at any meeting they shall notify the Chair or acting Chair prior to the meeting of his / her inability to attend.

Attendance Policy: Regular attendance at meetings by full members promotes continuity. Therefore a member who has three (3) consecutive absences, not excused by the Chair, shall be given the opportunity to become an alternate member. If the member declines, the Commission may request that the Select Board remove the member from office for neglect of duty, pursuant to RSA 673:13. A public hearing shall be held prior to removing a member.

VIII. Meetings:

Regular Meetings. The Commission shall meet on the 3rd Thursday of the month unless there is no business before the Commission. All regular meetings shall be open to the public, unless otherwise noticed, and conducted in strict accordance with RSA 91-A: 3.

Meetings shall not be held on Sundays or legal holidays.

The following general rules of procedure shall govern the conduct of the meeting.

Quorum Required: A majority of the membership of the Commission, including alternates sitting in the place of members, shall constitute the quorum necessary in order to transact business at any meeting.

Notice of Meetings: Notice of the time, date and place of any public meeting of the Commission shall be posted in two public places at least 24 hours, excluding Sundays and holidays, prior to the meeting. Notice to each member also will be given at least one (1) day prior to such meeting.

Records Required: Minutes of the events of the meeting shall be taken and shall include the names of members in attendance, persons appearing before the Commission, a brief description of the topics discussed, and a record of any actions taken or recommendations from the Commission to boards or respective parties. All records must meet the requirements of RSA 91-A.

Order of Business: The general order of business shall be in accordance with the agenda unless modified by a majority of the Commission. The agenda shall include but is not limited to:

- a. Call to order by Chair
- b. Resolution of conflicts of interest and designation of voting
- c. Treasurer's report
- d. Approval of minutes
- e. Old business
- f. New business
- g. Date and time of next meeting
- h. Adjournment

Voting: A motion, duly seconded, shall be passed by a majority of the members present, voting in the affirmative, once a quorum has been established. After all discussion of the motion by Commission members has been completed, the Chair will call for a vote on the motion by the Commission.

Special Meetings: Special meetings of the commission shall take place at the call of the Chair or as the commission deems necessary. All special meetings shall be open to the public unless otherwise noticed, and conducted in strict accordance with RSA 91-A:

3.

Work or Work Sessions: Work or work sessions may be convened as a whole or as a committee of the whole in the same manner as special meetings, provided that no quorum shall be required and that no official action shall be taken.

Joint Meetings and Hearings: Pursuant to RSA 676:2, an applicant seeking a local permit may petition two or more land use boards to hold a joint meeting or hearing when the subject matter is within the responsibilities of those boards. Similarly, the Heritage Commission shall have the authority on its own initiative, pursuant to RSA 676:2 to request a joint meeting with any other land use board(s). Each land use board so petitioned shall have the discretion as to whether or not to hold a joint meeting with any other land use board.

- a. A joint hearing shall be a formal public hearing.
- b. The Chair of the Heritage Commission along with the chairperson(s) of the other land use board(s) shall mutually determine who shall chair the joint meeting; except in the case of the Planning Board, the Planning Board Chair shall chair the meeting.
- c. The rules of procedure for the joint meeting shall be governed by the land use board that chairs the meeting.
- d. Every board shall be responsible for rendering a decision on the subject matter that is within its own jurisdiction.

Non-Public Sessions: In accordance with RSA 91-A: 3, the Commission shall not meet in non-public session, except for the purposes set forth in (a) through (c) below. No session at which evidence, information or testimony in any form is received shall be closed to the public, except for the purposes set forth in (a) through (c) below. The Commission may not enter non-public session, except pursuant to a motion properly made and seconded. Minutes of non-public sessions shall be kept, recorded and made available for public inspection in accordance with RSA 91-A: 3, III.

- a. Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the Heritage Commission itself, unless such person requests an open meeting.
- b. Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interest are adverse to those of the general community.
- c. Consideration or negotiation of pending claims or litigation which has been

threatened in writing or filed against the Heritage Commission or any member thereof, or against any member thereof because of his or her membership in the Heritage Commission, until the claim or litigation has been fully adjudicated or otherwise settled.

Site Review (site walk):

At its option, the Commission may table final consideration of an issue pending a site review. The purpose of the site review is to validate information that could materially affect the consideration of the issue at hand. A site review shall be required in all circumstances where the Commission is considering the acquisition of a full or partial interest in real property pursuant to Section V or expenditure of public funds for the treatment of historic structures. A site review shall be considered a potential meeting and shall be posted and open to the public (minutes are only necessary if a quorum exists).

IX. Acquisitions and Holdings:

Public Hearing: The Commission shall hold a public hearing prior to the acquisition or acceptance of a partial or whole interest in a real property. At the hearing, any applicant, abutter, or holder of conservation or preservation restriction shall be provided an opportunity to testify in person, and any party with a direct interest in the matter may testify in person or in writing.

Notice: Notice shall be provided to the seller/grantor/donor, holders of conservation or preservation restrictions and to abutters by mail of the date upon which the Commission will consider the matter. Notice shall be sent by regular mail at least 5 days prior to the meeting. Notice to the general public shall also be given at the same time by posting in two public places and one local newspaper at least 10 calendar days before the hearing. The notice shall include a general description of the proposal that is the subject of consideration and shall identify the seller/grantor/donor and the location of the proposed property.

Due Diligence: The Commission shall perform or cause to be performed all necessary due diligence to protect the interests of the town and to make an appropriate determination as to the public benefit of the proposed acquisition. Due diligence may include some or all of the following: title search, survey, historic structure report, environmental tests, appraisal, etc.

Consultation with the Select Board: The Commission shall seek the approval of the

Select Board prior to making a final decision on whether to acquire or accept real property.

Gifts of Personal Property: In the case of gifts of personal property, the Commission shall recommend to the Select Board, by affirmative vote, the acceptance of any personal property. The Commission shall conduct a public hearing on the acceptance of said funds; however, that any public hearing conducted by the Select Board as required by RSA31:95-b, as amended, or similar statute shall satisfy the requirement of this section of a public hearing. A record of the gift will be made in the minutes of the meeting at which it is announced. Monetary gifts will be immediately deposited in the "North Hampton Heritage Commission Fund". Gifts of securities and of other personal property that does not have historic or cultural value to North Hampton's heritage will be immediately sold and the proceeds deposited into the "North Hampton Heritage Commission Fund". Gifts of historic or cultural value to North Hampton's heritage may be offered to the North Hampton Historical Society for accession consideration.

X. Administration:

Forms: All forms and revisions thereof shall be adopted by vote of the Commission.

Due Diligence: The Commission may table final consideration of an issue for the purposes of seeking advice, recommendations, or reports from professional, educational, cultural, civic or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

Records: Commission minutes and by-laws shall be kept in the office of the Town Clerk / Tax Collector and be available to the public in accordance with RSA 91-A. Other public records may reside with the Commission or Commission members, and will be made available upon request to the Secretary of the Commission.

XI. Code of Conduct:

1. Commission members shall not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for personal benefit or private gain for themselves or others, particularly those with whom they have family, business, organizational, or other ties.

2. Commission members and staff who have a financial interest in a property, shall not participate in any discussion, hearing, or other Commission consideration of that property, whether as part of local review procedures pursuant to RSA 674 and RSA 676, or as part of actions (such as National Register nomination review procedures) pursuant

to the responsibilities of a “Certified Local Government” under the National Historic Preservation Act, or under the associated requirements established by the National Park Service and the State of New Hampshire for participation in the Certified Local Government program.

3. Commission members and staff shall not participate in the preparation of, administration, monitoring, approval, or payment of grants or contracts made to the Commission if a real or apparent conflict of interest would be involved.

4. In conformance with RSA 673:14, no member of the Commission shall sit upon the hearing of any question which the Commission is to decide if that member has a direct, personal, or pecuniary interest in the outcome which differs from the interest of other citizens or would be disqualified for any cause to act as a juror upon the trial of the same matter in a action of law.

5. When uncertainty arises as to the application of these provisions to a Commission member in particular circumstances, the Commission shall, upon the request of that member or another member of the Commission, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Commission members, except as provided by local ordinance or by these Rules of Procedure.

6. If a member of the Commission is disqualified or unable to act in any particular case before the Commission, the Chair shall designate an alternate to act in place of the disqualified member as specified in RSA 673:11.

7. Any member of the Commission who may have an apparent, potential, or actual conflict of interest with respect to any deliberations or matters before the Commission shall absent himself or herself from the Commission’s meeting while such matters are being considered or acted upon.

8. Commission members who are in office at the time these code of conduct provisions are adopted shall be exempted for a period not to exceed one year from the date of adoption, pursuant to RSA 31:39-a.

XII. Amendments:

Amendments: These by-laws and rules of procedure may be amended at any regular meeting session of the Commission by a majority of the Commission.

Filing with the Town Clerk: These by-laws and any amendments thereto shall be placed on file with the Town Clerk for public inspection. A complete set of by-laws, as amended, shall be attached to the minutes of the Commission meeting in which they were amended and finalized.

Effective Date: These by-laws and any subsequent amendments shall become effective immediately upon passage by the Commission as recorded in the minutes of the meeting at which such action occurs.

Interpretation: These By-laws and Rules of Procedure are based upon the most current statutes governing land use boards as of its writing. Whenever the requirements of these Rules of Procedure are at variance with those of any other lawfully adopted rules, regulations, ordinances, or statutes, the requirements that are most restrictive or that impose the higher standard shall govern.

Severability: If any section, subsection, sentence, clause, phrase or other part of these Rules of Procedure is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Rules of Procedure.