



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

DECEMBER 9, 2019 7:00 PM

NORTH HAMPTON TOWN HALL

MINUTES

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

ALSO PRESENT: Town Administrator Bryan Kaenrath, Chair of Conservation Commission Easement Sub-Committee Andrew Vorkink, Aquarion Operations Manager Carl McMorran, Aquarion Director of Engineering Dan Lawrence,

AGENDA

Chairman Maggiore welcomed everyone to the December 9, 2019 North Hampton Select Board Meeting and called the meeting to order at 7:03 pm, followed by the Pledge of Allegiance.

Chairman Maggiore said they were just coming from two Non-Public Sessions with 3 total motions made, all passed, and action will be taken to fulfill those motions.

Motion: To seal the minutes of Non-Public Session II from December 9, 2019.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

First Public Comment Session

Chairman Maggiore said with regard to Public Comment they need to consider Select Board Rules before any changes can be made. He said there is a motion to consider eliminating the First Public Comment Session but until changes are made they will continue to have 2 periods of Public Comment.

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.

Mr. Casey O’Kane of Atlantic Avenue said there is an item on the Agenda from the Conservation Commission described as a Declaration of Protective Covenants. He said a covenant is a contract between two parties but he is only finding one declarant in this document.

Donna Etela of Exeter Road said she was here tonight because of her position on the Heritage Commission, and the fact that they were working to update long-range planning and learned about the MS4 Stormwater Drainage Agreement. She said there is a need for a Stormwater Runoff Plan that will protect Historic Properties, like the Stone Building, from damage with building an addition onto the existing Library. She said the close proximity of just 10 feet would trigger the possibility of a 106 Federal Mandate because the building is on the National Registry. She said the building has a history of having water build up in the cellar, and the septic line goes across the property where the Library addition will be.

Ms. Etela said she went to the Select Board for guidance and an in-depth investigation followed of all the deeds and history of the property, with more than one legal opinion. She said it is very clear to her that people are confused about the Homestead Property, the intent to build there, and now where the Library should be. (Note: Mr. Rick Stanton allocated his 3 minutes to Ms. Etela to continue speaking.)

Ms. Etela said we have the Library Trustees, the Select Board, and the legislative body (residents) and the problem is that that nobody really knows everything about anything. She said the one common thread is that they all agree on the need for a new Library. She said her solution is that for the good of the Town, the two sides need to come together now with a certified professional mediator and come up with a solution. Otherwise nothing will pass on the Ballot and the anger and divisiveness in the Town will only grow stronger.

Consent Calendar

- 5.1 Payroll Manifest of November 21, 2019 in the amount of \$65,624.48
- 5.2 Payroll Manifest of November 27, 2019 in the amount of \$68,167.28
- 5.3 Payroll Manifest of December 5, 2019 in the amount of \$116,951.22
- 5.4 Approval of Accounts Payable Manifest of November 27, 2019 in the amount of \$2,488,863.22
- 5.5 Approval of Abatement Applications
- 5.6 Approval of Veterans Credit Application

Motion: To accept the Consent Calendar as presented in the Select Board Packet.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Chairman Maggiore said the Accounts Payable for \$2,488,863.22 includes approximately \$1.5 Mil to pay our taxes to the County as well as the payment to the School.

Vote: Motion approved 3-0

Correspondence

Copies of all correspondence will be attached to these minutes.

Chairman Maggiore stated that a letter came in today dated December 8, 2019 from Susan Leonardi, and he read the letter in full. In the letter Ms. Leonardi said after viewing the Select Board meeting for approval of funds to TW Design for continued Library Design Concept work on December 4, 2019, the Library

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Trustees found several false and misleading statements which she listed in detail and reviewed the history of Library Trustee and Select Board meetings (see attached letter for details). Ms. Leonardi said in closing, North Hampton voters have waited 10 years for improvements to the Library and they are entitled to decide what progress looks like in this Town.

Committee Updates

Selectwoman Kilgore said the *Economic Development Committee* met last Wednesday and discussed the input sessions held by Ironwood Design for a Village Center Concept for Route 1. She said they shared a lot of ideas and discussed concerns, and EDC Chairman Richard Luff will go back to Ironwood in preparation for the draft presentation of their first concept plan on January 8, 2020. The next meeting is scheduled for Wednesday, January 8, 2020, Ironwood will be here, and everyone is encouraged to attend.

Chairman Maggiore said the *Heritage Commission* and the *Water Commission* have not met since the last meeting.

Selectman Miller said the *Budget Committee Meeting* scheduled for last Monday was cancelled due to inclement weather. He said the next meeting will be Monday, December 16, 2019 for the second review of the School Budget.

Public Hearing – To Consider the Placement of Protective Covenants on Conservation Land and Tax-Acquired Properties

Chairman Maggiore said pursuant to RSA Chapter 31:95-B the Conservation Commission asks the Town to: (1) place protective covenants on the Robie Conservation Land by correcting a recording error for 2 fields south of Exeter Road, (2) place protective covenants on Town-owned Conservation Land and acquired properties. He said tax maps and lots for the 6 properties are given.

Mr. Andrew Vorkink, Chair of the Sub-Committee on Easements for the Conservation Commission, said they are responsible for stewardship of Conservation Land in the Town. He said in 2016 they reviewed all conservation parcels, some privately owned where a Land Trust or Commission holds the easement and some publicly owned. He said the 2016 review produced a lot of properties where it was unclear if Conservation Documents had ever been placed on the property, and they are recommending to the Select Board that protective covenants be placed on those properties. He said the two Robie properties were acquired by the Town in 2018 but easements were never recorded and the Town does not have adequate protection on those properties.

Mr. Vorkink said there is a template prepared by outside counsel which allows the Town to place restrictive covenants on parcels of land already owned by the Town. He explained that they are called restrictive covenants because the owner of the property cannot place a deed on its own property but it can put protective restrictions, called covenants, from a land-use purpose binding on the party placing the protective covenants. He said regarding the question of successors, whether publicly or privately owned, if the Town were to reincorporate as another community the covenants would follow with the formal owner of the property.

He said of the 8 properties, 2 were trying to correct what was intended to be placed in conservation, 2 are owned by the Conservation Commission, and the other 4 are wetlands. He said a Public Hearing is required by State Law to correct the use of public land from one purpose to another. After the Public

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Hearing, the Committee is requesting the Select Board approve the recommendations of the Conservation Commission that all parcels be placed in Protective Covenants.

Chairman Maggiore opened the Public Hearing at 7:32 pm.

Casey O’Kane of Atlantic Avenue said he understands that a covenant is a contract, and asked how you can enforce a covenant yourself, and did not think it was a mechanism that does so legally. Mr. Vorkink said a covenant need not be 2 parties in the formal sense, and in items of land use an individual or a Town can place restrictions on the use of a piece of property, and the format used in New Hampshire is placing restrictive covenants on the land. He said for publicly-owned land it is enforced by the Conservation Commission, with the Attorney General ultimately enforcing.

Chairman Maggiore closed Public Comment at 7:37 pm.

Discussion: Selectman Miller asked Mr. Vorkink for the form of the motion, and Mr. Vorkink said the Select Board should first make a motion to approve the recommendation from the Conservation Commission to place the restrictive covenants on the 8 parcels of land and secondly make a motion to authorize the Select Board to sign the restrictive covenants.

Motion: To approve the recommendation from the Conservation Commission, as per the memo of December 9, 2019, to place Restrictive Covenants on the 8 listed properties, as per the template approved by the Select Board.

Motioned: Selectman Miller

Seconded: Selectwoman Kilgore

Vote: Motion approved 3-0

Motion: To authorize the Select Board to sign the documents as per the previous motion.

Motioned: Chairman Maggiore

Seconded: Selectman Miller

Vote: Motion approved 3-0

Town Administrator Kaenrath asked that they do the Aquarion Water Update next before he gives his report.

11.4 Aquarion Water Quarterly Update

Mr. Carl McMorran, Manager of Operations at Aquarion Water, said with him is Dan Lawrence, Director of Engineering for Aquarion. He said he would present the quarterly update and speak about PFAS, main replacements, and some of the Capital Projects.

Mr. McMorran said as far as Operations & Maintenance, water production was approximately 690 million gallons in 2019; they addressed hydrants, valves and flushing in the Distribution System; serviced meters and customer calls; provided cross-contamination control to protect water systems; addressed water quality by treatment and taking samples. He said the water in North Hampton meets all safe drinking water standards. He provided a PFAS Update, and said if current compound levels for the 4 regulated compounds continues, there is no requirement for treatment based on the regulations. He said the regulations have been challenged and an injunction may change the scope of enforcement into next year.

Mr. Dan Lawrence said they have been doing a pilot since 2017 to understand costs of PFAS Treatment using columns, and the pilot was finished and a report submitted to the Town in September. He said the Table talks about 3 different options: PFAS with no treatment, PFAS treatment of water from Well 6, or PFAS treatment of water from Wells 6, 8A, 9, and 11. He said Well 6 is the source with the highest concentration of PFAS. With no treatment the cost would be zero, treating just Well 6 would be a Capital cost of approximately 4.1 Mil, and treating all of the wells and the well field, possibly by-passing the bedrock wells, would be a Capital cost of approximately \$6.7 Mil.

Mr. Lawrence said they did a Main Replacement on Route 101 this year for the Town of Hampton, converting a 12-inch main to a 16-inch high density, and worked on Mill Road infrastructure which will continue into next year. He said they are increasing the transmission capacity in Hampton and working to install a second Water Storage Tank next to the existing one. He said Well 22 on Mill Road should be permitted any day, implemented next year, and is expected it to be in service in early 2020.

Selectwoman Kilgore asked if Well 22 was the Water Treatment Facility for the whole system and Mr. Lawrence said just for the Mill Road Well Field so they can combine Wells 9, 11, 6, 8A, and 21. Chairman Maggiore asked how the Town is noticed when Aquarion does hydro flushing, and Mr. McMorran said they have their own Code Red Reverse 911 to immediate neighborhoods, let the Town know ahead of time, and notify the Fire Department. Chairman Maggiore asked about the injunction, and Mr. McMorran said these standards are set of the State of New Hampshire and the controversy is that different states are setting different numbers.

Questions:

Selectman Miller asked if Aquarion can run their operation without Well 6, and Mr. McMorran said most of the time yes, but Well 22 will allow a substantial increase of production capacity. Selectwoman Kilgore asked if they would consider only using Well 6 in an emergency when they have Well 22, and Mr. McMorran said he did not want to shut down Well 6 and preferred to keep it in the mix.

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 with 30 weeks left in the current Fiscal Year, the Town has approximately 57% of the Budget remaining. He said IT upgrades with PCG are ongoing and an audit by the State Police found a number of areas needing upgrades in the Police Department. He said Officer Megan McBride has completed her training and the Police Department is now fully staffed.

Town Administrator Kaenrath said as far as the Library, TW Design is currently developing an architectural design package for their proposed design package and layout, and a proposed floor plan and front elevation are attached to this report. He said the information will be used to put out an RFP in the near future and Ambit Engineering has now completed survey work at the Homestead Property. He said Coakley Landfill was postponed to December 18, 2019, and said there was some talk about rescheduling next Select Board meeting on December 23rd.

Chairman Maggiore said he felt they should keep the reserved December 23rd date on the calendar as the Board will not meet again for a month. Selectwoman Kilgore suggested moving the date to December 18th. Chairman Maggiore said they have materials coming in by December 23rd, and if they do not receive the materials by that date they do not need to hold the meeting.

Items left on the Table – None

NEW BUSINESS

11.1 Cycle the Seacoast Permission to use Town Green as Rest Stop on May 3, 2020

Mr. Bob Betts, lead volunteer for the American Legion for this ride, said this is the 11th year of Cycle the Seacoast and everything will be pretty much the same as last year, with the same route and the same number of people, with a total of 400 riders on 3 different routes. He said it is a non-competitive Charity Ride and said there would be one or two locations in North Hampton with Police Officers to make sure participants follow the rules of the road.

Motion: That the Select Board give permission to the American Lung Association to use the North Hampton Town Green for rest-stop purposes as outlined above during the Cycle the Seacoast ride on May 3, 2020 and empower the Town Administrator to sign.

Motioned: Selectwoman Kilgore

Seconded: Selectman Miller

Vote: Motion approved 3-0

11.2 Written Findings, Decision and Recommendation of Ethics Committee – re: Wallace Kilgore

Selectwoman Kilgore recused herself from the discussion and move to the public arena at 8:13 pm.

Chairman Maggiore said the October 7, 2019 recommendation of the Ethics Committee from the complaint filed by Mr. Bernardo against Wallace Kilgore has been received, and the findings ask that the Select Board serve a written recommendation for remedial action, to be sent to the Chairs of the Planning Board and the Select Board, and sent to Mr. Wallace Kilgore. He said following deliberations a motion was made pursuant to Section 7.06-I that the Ethics Committee has found that a violation of the Ethics Code has occurred, minor in nature, and recommends remedial action in a letter to Mr. Kilgore stating that it is inappropriate to discuss with another member of a quasi-judicial board in Town a pending case in a matter the member finds to be abrasive.

Chairman Maggiore said the vote of the Standing Ethics Committee was unanimous but not signed by all as Mr. Wilson submitted a minority report for clarification. He said the other members of the Ethics Committee have signed and the motion was approved unanimously, and following the recommendation of the Standing Ethics Committee a letter will be sent to Mr. Kilgore by certified mail, with a consensus of the Board and the note that Mrs. Kilgore has recused herself.

Mrs. Kilgore returned to her seat on the Board at 8:17pm.

11.3 Discussion of Public Comment Session

Chairman Maggiore said at the November 20th Select Board Meeting a motion was made to address procedures to eliminate the first Period of Public Comment and only have the second, and the motion was approved 2-0. He said to make any changes they would need to amend the Select Board Rules & Procedures, and the rules are currently in conflict with the motion. As a result, they either need to amend the Rules & Procedures or rescind the motion made. Selectwoman Kilgore said she would like to have the Board reconsider removing a Public Comment Period.

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Motion: To rescind the motion made at the November 20, 2019 Select Board Meeting for the purpose of changing it to eliminate the 2nd Period of Public Comment and not the first,

Motioned: Chairman Maggiore

Seconded: Selectman Miller

Vote: Motion approved 2-1

Motion: To address Select Board Rules & Procedures to eliminate the 2nd Period of Public Comment

Motioned: Chairman Maggiore

Seconded: No second, motion dies

Chairman Maggiore said the Board would then stand with the statutes given.

Minutes of Prior Meetings

Approval of the Regular Meeting Minutes of September 9, 2019

Selectwoman Kilgore suggested replacing lines 443 through 449 with her draft, and Selectman Miller objected. Selectwoman Kilgore said she also requested a copy of the Town Counsel's memorandum dated September 16, 2019 be attached to the minutes. Selectman Miller objected as the memorandum was private and confidential, and Chairman Maggiore said only the portion read at the meeting would go in the minutes.

Motion: To table the Regular Meeting Minutes of September 9, 2019

Motioned: Selectwoman Kilgore

Seconded: No second, motion dies

Motion: To approve the Regular Meeting Minutes of September 9, 2019 as we have them.

Motioned: Chairman Maggiore

Seconded: Selectman Miller

Vote: Motion approved 2-1

Approval of the Regular Meeting Minutes of October 28, 2019

Corrections/changes: Selectwoman Kilgore said on line 70 Correspondence says none, but correspondence was read at the meeting and asked that it be corrected. She also asked that the two pieces of correspondence from the Library Board of Trustees be attached to the minutes. Chairman Maggiore said he did not read the second letter at the meeting.

Motion: To amend the Regular Meeting Minutes of October 28, 2019 to correct line 70 and include copies of each piece of correspondence.

Motioned: Selectwoman Kilgore

Chairman Maggiore and Selectman Miller said they had no objection to attaching a copy of only the correspondence that was read at the meeting and amended the motion:

Motion: To amend the Regular Meeting Minutes of October 28, 2019 to correct line 70 and include a copy of *the piece of correspondence read at the meeting*.

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Motioned: Chairman Maggiore
Seconded: Selectman Miller
Vote: Motion approved 2-1

Approval of the Non-Public Meeting Minutes of October 28, 2019

Motion: To approve the Non-Public Meeting Minutes of October 28, 2019
Motioned: Selectwoman Kilgore
Seconded: Chairman Maggiore
Vote: Motion approved 3-0

Approval of the Regular Meeting Minutes of November 20, 2019

Corrections/changes: Selectwoman Kilgore made a correction on line 144 to change "SELF" to *SELT*.

Motion: To approve the Regular Meeting Minutes of November 20, 2019 as amended above.
Motioned: Selectwoman Kilgore
Seconded: Chairman Maggiore
Vote: Motion approved 3-0

Approval of the Non-Public Meeting Minutes of November 20, 2019

Motion: To approve the Non-Public Meeting Minutes of November 20, 2019.
Motioned: Selectwoman Kilgore
Seconded: Chairman Maggiore
Vote: Motion approved 3-0

Any Other Item that may legally come before the Board

Town Administrator Kaenrath brought up the issue of Document Management and said at the last meeting they discussed possibly having Ricoh come back and give a specific demonstration of their system using Town documents. He said it could be scheduled for December 23rd or wait for the next meeting. Selectwoman Kilgore said she preferred to do it in January, and there was a consensus of the Board to have Town Administrator Kaenrath schedule the demonstration for the first meeting in January.

Town Administrator Kaenrath said on December 18, 2019 from 12:00 pm to 1:00 pm, a webinar with NHMA will be held in the Town Office to discuss the Cable Franchise Agreement, as requested by Chairman Maggiore.

Chairman Maggiore said he wished to make a motion to amend the Amended Minutes of October 17, 2019, page 8, 2nd and 3rd paragraphs, to strike the word "Town's".

Motion: To amend the approved minutes of October 17, 2019 to strike the word "Town's" on page 8, paragraphs 2 and 3.
Motioned: Chairman Maggiore
Seconded: Selectman Miller
Vote: Motion approved 2-0, with 1 abstention

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Selectwoman Kilgore said after the last meeting she sent Town Administrator Kaenrath a Draft Agenda for Wednesday, November 20, 2019 which listed correspondence from the South East Land Trust (SELT), but it was not on the final Agenda and it should have been read into correspondence and attached to the minutes. Chairman Maggiore said the letter is in reference to an active Planning Board case but the content of the letter is not germane to the Select Board, and therefore was not read into communications from the Town.

Second Period of Public Comment – None

ADJOURNMENT

Chairman Maggiore adjourned the meeting at 8:44 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary