



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

JANUARY 23, 2023 7:00 PM

NORTH HAMPTON TOWN HALL

Approved February 13, 2023

SELECT BOARD MEMBERS PRESENT: Chairman James Sununu, Vice-Chairman James Maggiore, Selectman Jonathan Pinette

ALSO PRESENT: Town Administrator Michael Tully, Fire Chief Jason Lajoie, Police Lieutenant James Russell, Municipal Wireless Consultant David Maxson, Aquarion Water Operations Manager Carl McMorran, Town Attorney Stephen Bennett

Chairman James Sununu welcomed everyone to the Select Board Meeting of January 23, 2023 and called the meeting to order at 7:04 pm followed by the Pledge of Allegiance.

Motion: To seal the minutes of the Non-Public Session of January 23, 2023.

Motioned: Selectman Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

First Public Comment Session

Call 603-758-1447 or email: jsununu@northhampton-nh.gov

Chairman Sununu opened the First Public Comment Session and asked that all public comments/questions related to Public Hearing 8.2 be held until the item is brought up later in the agenda.

There were no other Public Comments.

Consent Calendar

- 5.1 Payroll Manifest of January 12, 2023 in the amount of \$249,388.57
- 5.2 Payroll Manifest of January 19, 2023 in the amount of \$75,111.56
- 5.3 Accounts Payable Manifest of January 19, 2023 in the amount of \$1,594,394.4
- 5.4 Abatement Recommendations
- 5.5 Pole License for Pole 121/5Y on Lovering Road

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.

Motion: To approve Consent Calendar items 5.1, 5.2, 5.3, 5.4, and 5.5 as individual motions.

Motioned: Jonathan Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

Correspondence - None

Committee Updates

Vice-Chair Maggiore said the *Heritage Commission* did meet last week though he was unable to attend; minutes showed everything of a routine nature; the *Water Commission* has not met.

Chairman Sununu said *Rails to Trails Committee* has not met since last Select Board meeting; *Budget Committee* met January 12 for Town and School Budgets and Warrants.

Public Hearing

8.1 To consider the acceptance of unanticipated revenue in the amount of \$49,726.44 awarded to the Town pursuant to House Bill 1221 as reimbursement of New Hampshire Retirement System Contributions.

Town Administrator Tully said the legislature has set the base rate for NH Retirement System Contributions and is returning an excess amount to each community. North Hampton's share is a certain percentage of what we pay out for retirement funds which will go into this year's budget.

Chairman Sununu opened the Public Hearing to comments on this item; seeing none, he closed the Public Hearing.

Motion: To accept funds in the amount of \$49,726.44 pursuant to House Bill 1221 as reimbursement for the New Hampshire Retirement System Contributions.

Motioned: Vice-Chair Maggiore

Seconded: Jonathan Pinette

Vote: Motion approved 3-0

8.2 To determine if there is an occasion (public need) to take easements over private property known as 168 Mill Road, North Hampton, New Hampshire (Assessor's Map 012, Lot 052) for public use.

Chairman Sununu opened the Public Hearing and stated that information would first be presented and reviewed before opening to Public Comments on this topic. He read the Petition in full pursuant to RSA Chapter 498-A and RSA Chapter 231 to take private land for public use: whereas current cell phone communication coverage for the Atlantic Avenue area is inadequate, undependable, and results in poor communications; the Town was gifted a piece of land Map 12, Lot 62 by deed of Lamprey Brothers, Inc., August 8, 2000; there is no legal public access to the property; there exists a 15-foot permanent easement over the property at 168 Mill Road for Aquarion Water which crosses the Town's property; request to add a 10-foot additional easement and a 15-foot construction easement for access.

Town Administrator Tully listed documents provided on the back table: Approval of new easement being discussed; Appraisal of new easement being discussed with proposed Easement Plan; Deed to the Town Property; Deed to Cotters' Property; Deed to right-of-way for Aquarion Water; Assessor document. He explained the Town has looked at various options over the years for cell service in North Hampton and

the parcel identified is the most beneficial to filling coverage gap; a Zoning Ordinance governs what can be done with towers; no agreements with other property owners for access and looking at existing easement as the most reasonable way to access the property as a place for a cell tower.

Parcel 12-62 – Establishing Town Access to Improve Wireless Coverage in North Hampton

Municipal Wireless Consultant David Maxson of Isotrope, LLC said he is a member of IEEE, a leading professional association for the Advancement of Technology, and the Society of Broadcast Engineers (SBE). He said he would summarize what was stated in the Petition to show all the positives for this particular site.

Mr. Maxson said the objective is to establish access to the Town Property with purpose to develop the site for a cell tower consistent with zoning and well-hidden from view. Goal is to provide wireless service to benefit every wireless subscriber in this area and benefit Public Safety; Zoning Ordinance prioritizes Town property, parcel was deeded to the Town specifically for development of telecommunications facilities. The Town controls the tower under a land lease; Wireless Telecommunications Facility District shall be the overlay district.

Mr. Maxson said this parcel is large and located in a heavily wooded area, and showed an example of the 190-ft Rye Tower in a similarly wooded location; North Hampton Ordinance allows 180 ft maximum. Factors considered in granting Zoning decisions: height of tower; proximity of tower to residential developments; tower setback a distance equal to 125% of tower height; surrounding topography, tree coverage, and foliage. The proposed ingress and egress off Mill Road requires a Town Easement over the existing easement for Aquarion water off Mill Road, with access as unobtrusive as possible.

Mr. Maxson said we have fought wireless companies being able to come in and put a cell tower in any location and use the Federal Telecommunications Act to push it through. If this property becomes unavailable because it cannot get proper access, the risk of having a cell tower in an unwanted location increases significantly. He said Hampton is close to filing a permit to construct a tower on Barbour Road and the Mill Road Site would be an excellent complement.

Mr. Maxson said the School property would receive major opposition, the site is near an airport, is 50 ft lower in elevation, and coverage to the east will be cut off by the terrain. In summary the Town property was deeded for this purpose, is remote from residences, is fully zoning compliant, and re-purposes an existing easement.

Fire Chief Jason Lajoie said the Fire Department has dealt with dropped calls for a long time: often need to call the hospital for direction while out performing medical services and calls are dropped delaying hospital notification; transferring cardiac rhythms to the emergency room not received by the doctor for assessment or advice in the field; inability to communicate with personnel at motor vehicle crashes; issues with 2-way radio communications in general.

Police Lieutenant James Russell said communication is also big with the Police Department for public safety. Calls to State Police have been dropped or when dealing with critical incidents or fatal accidents; also need to provide scene security and if one has to leave the scene to go make a phone call it becomes critical. He said they rely heavily on cell phone communications and when 2-ways radios do not work they have no communication at all; laptops in vehicles are not always working properly and depend on wireless technology. He said it is critical for officers to have access to real time information.

Chairman Sununu opened the Public Hearing and said the purpose of this hearing is for the Select Board to receive comments from the public and raise any relevant issues. Any resident of North Hampton is welcome to come up to the podium and speak, give name and address for the record. He said this is not a forum for debate; the Board will use the information in deciding whether to vote to take action requested in petition which is to declare a public need for this particular action. He first asked if any of the petitioners wished to speak. As there were none he opened the Public Hearing to public comment.

Kathy Remington of 131 Mill Road said she and her husband got a booster for their residence and cell phones seem to work fine now. She admitted that there is a problem and felt townspeople should put their heads together to find the best way. She said she was uncomfortable with eminent domain and would not want the road in her yard; she also questioned the impact of radiation from the cell tower on people's health.

Brian Hyatt of 22 Ship Rock Road said as a physician In Town, often on-call, he performs emergency procedures and has not only had calls dropped but calls that do not go through. He said during a storm if his generator does not kick in, he has to leave his house to get reception and said it is not right in 2023 for a local doctor to not get reception. He said his daughters often run in the neighborhood with their cellphones but there is a 20% chance an emergency call will not get through to him. He said there is no area on the map that is not residential and someone is going to have a cell phone tower on their property for this whole thing to work.

Chris Hilson said he is the attorney for the Cotters who could not be here tonight. He said the Cotters have engaged an appraiser and there are some legal issues with this property that need to be addressed. He said this hearing is about whether or not eminent domain is going to be exercised across the Cotter property; the important topic is whether or not there is a public need and a public necessity. He said the Town will enter into a typical lease arrangement with a tower company to build the tower and hang carrier systems on that: that is the Town entering into private commerce not public need, and under New Hampshire Law you cannot condemn a property for private business purposes.

David Duchesne of 131 Mill Road said he assumed the Town had done various studies and wanted to know what kind of frequencies are generated by this particular tower, the range of those frequencies, and what might be the effect on the human body.

Chairman Sununu said we are not proposing to build a tower but to access the property for a tower company to build a tower; would be the same as all other towers around. Mr. Maxson said he evaluated wireless facilities for compliance and safety standards, and said he has been relying on FCC Safety Standards since they went into effect in the 1980s and were updated in 1996. He said other sources for authoritative public health statements on the safety of wireless facilities are FDA and WHO; this tower will be 1,000 ft from the nearest residence.

John Cannon of 173 Mill Road near the Cotters said he is more concerned about access and what due diligence was done relative to other ways to do it, and said he did not want a big road going in across from his residence. He said everyone realizes the need for a cell tower, and asked if other possible access points would cost more to get to the site.

Chairman Sununu said they looked at all Town-owned properties under the ordinance, looked at all ways to access this property, and felt this was the most efficient and least impactful way. Other possible access

would involve crossing multiple properties and wetlands; looked at all possibilities to make a determination.

Joe Castagna of 30 Bradley Lane emphasized the general importance of cell reception, and said it is embarrassing after 12 years in the Town that we cannot get cell reception. His work is a flexible work environment and boosters in homes do not suffice. He said he cannot get cell service down Atlantic Avenue at his house and he trusts the Board as representatives from the Town to make the case for safety and trusts the easement approach and why this meeting is being held today regarding property ownership; he believes it is significant that the Town is at this step, and it is time to move forward.

Kirsten Larsen Schulz of Post Road said she spoke personally with Lori Cotter and said this is not just an overlay easement. She said she has a real issue with eminent domain and asked the process involved.

Chairman Sununu said the process is laid out by Statutes RSA 498-A and RSA 231, and if after the Public Hearing the Board makes the determination of a public need, an offer is made to the property owner; if no agreement at that point the Town determines to take action (eminent domain) which deeds the easement to the Town. The issue is whether there is a public need that justifies an eminent domain proceeding, with access to the property a prerequisite to putting a cell tower on the property.

Ms. Schulz assumed other properties were deemed unworthy and asked if other technologies had been looked at. She said she would like to revisit a private citizen's ability to put a tower on their land; Chairman Sununu said it is perfectly within any citizen's right to revisit that.

Jim Avalon of 3 River Road said when he thinks of eminent domain he does not think of taking property for public use for cell service, and to go to such drastic lengths the Town should have a better reason than cell service. He said he assumed this cell tower will be operated by a private company making money. As a property owner in North Hampton he is extremely wary of eminent domain considering its abusive nature and abusive history. He said there are health and environmental effects of 5g wireless radiation and urged the Select Board to have nothing to do with a cell tower.

Karen Nash of 181 Mill Road said she lives directly across from the Cotters. She said she did not dispute the need for better cell phone service and felt internet and cell service should be treated like a public utility. She expressed concern about the presented approach to accessing the Town property and said she would like to see published reports of studies done on other approaches to the property. She questioned setbacks and where the right-of-way is laid out, and said the public should be able to see the results of all studies done.

Janet Larsen of Post Road said her concern is with the process of eminent domain and did not think anyone's land should be taken in that manner except in an extreme situation where there are no other options and it is truly a public safety issue. She suggested installing some emergency phones on the corner of Mill Road and Atlantic Avenue and one in front of the Police/Fire Departments.

David Graham of 164 Mill Road expressed concern about eminent domain and being right there next to the Cotters property, the Mother-in-law's property, and his property. He asked what has happened in the past when this has been done at other properties and what it does to the neighborhood.

Valerie Gamache of 102 Atlantic Avenue said she lives right in the middle of the dead zone and feels very strongly about public safety as her father was a volunteer firefighter. She said she is just trying to live in

her neighborhood and feel safe; she has to walk on Atlantic Avenue with cars speeding 55 mph and if something happens to her she would be unable to get help; she can also make no call from the end of her driveway. She said she pays taxes like everyone else for public services but does not have the same access. She said North Hampton needs to fix this and it is time to act.

Arthur Nadeau of 34 Pine Road said he has issues in his house and agreed there is a cell phone need in North Hampton. He said his issue is with eminent domain as his parents house was taken by eminent domain for a price less than it was worth. He said the eminent domain process needs to make sure not only of the taking of land for access but for the people you are taking it from and he does not like it.

Kathleen Kilgore of 220 Atlantic Avenue said the Town needs better cell coverage but it is not justified by taking an easement over someone's property, and hoped people would be invited to explain all the different parcels in that area that will not work. She said her house means a lot to her and this is a life-altering experience to the Cotters and their families. She questioned why 20 years ago the Town accepted a piece of property that is landlocked, and pointed out that no one from the Conservation Commission was here this evening to speak about this. She asked Mr. Maxson what he meant by "just about the right location" for a cell tower.

Mr. Maxson said in an ideal network there is a honeycomb pattern of all cell towers equally spaced on perfectly flat terrain. The terrain here is not perfectly flat and towers cannot be equally spaced. He said the ideal location would be the intersection between Woodland and Atlantic Avenue, where wireless companies have been hovering and made 2 attempts to put a tower in that area. He said if the Town does not move forward there is a strong possibility another application will come in for a tower on a 2-acre parcel really close to residences.

Rich Sceronti of 142 Mill Road said the map shown is deceiving and shows the coverage of the Mill Road Tower overlaid with the Hampton Tower which may cover 80% of what this tower covers. He said boosters do not work for wireless coverage and he now has WiFi on his modem for his phones with spectacular coverage. He said there are other routes to that site and saying the choice is the best means it is the cheapest; this is about money not cell coverage and proposing to take property away from a citizen. The petition only has 11 signatures and has people that are not even in that coverage area; there are a lot of gaping holes in this whole issue.

Frank Ferraro of Post Road asked: If the access road proposed would overlay the 15-ft easement Aquarion currently has; if Aquarion has any infrastructure in the easement now; if the Town takes an easement and signs a contract with a cell tower company is a plan anticipated to bury a power line back to the tower; 10 ft will be added to the current easement for construction equipment and it will be a permanent 25-ft access for equipment to be brought in as long as the easement is there. He also asked about other possible sites and whether a study was done.

Chairman Sununu said the proposed access road would overlay Aquarion's easement, he is not aware of any Aquarion infrastructure there, and electricity will be delivered to the site. He said Mr. Ferraro was conflating the permanent 25-ft easement with the additional 10 ft construction easement: the permanent easement would be 25 ft and the 10 ft construction easement is just to build the access and will go away; the easement is 15 ft, 15 ft of which overlays Aquarion. He explained that other sites were looked at, they considered how many properties would need to be crossed, the proximity to a good location, and looked at wetlands and conservation land.

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Jennifer Bergeson of 144 Mill Road said she is a lifelong resident of North Hampton, the Cotters were her neighbors, and she is against property being taken by eminent domain. She said she would like to know the other options and whether minutes from that meeting could be made public so residents can know exactly what those options were.

Wally Kilgore of 220 Atlantic Avenue said if the neighbors do not want the property taken that is good enough for him. He said find another way. The Select Board represents us and actually taking the Cotters property by eminent domain means you are taking it by us and under our will and it is *not* our will.

Kathy Remington of 131 Mill Road questioned what the concerns were about using School land, and asked those present if they would want their land taken by eminent domain like that.

Chairman Sununu said the School location does not address the coverage gap, is closer to Route 1A and the airport, and School properties inherently are more problematic. He said the elevation is lower and it is not a satisfactory location to address the coverage needed.

Mr. Kilgore asked if there would be a second Public Hearing on this issue; Chairman Sununu said not a second hearing but held over so the Cotters could be present. He said the Board will recess the Public Hearing until February 2, 2023 at 7:00 pm and not close it tonight. He said at this time I would like to recess the Public Hearing.

Motion: To recess the Public Hearing on the Petition to take Private Land for Public Use to date certain February 2, 2023 at 7:00 pm.

Motioned: Selectman Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

Chairman Sununu called a brief recess 10-minute recess.

Report of the Town Administrator

Period: January 9, 2023 – January 20, 2023: Finance at 45% of Budget remaining with 24 weeks left in fiscal year; Police hired new officer Dylan Spence who will attend the Police Academy for 16 weeks; Fire grant award \$7,500 from NH HSEM to update Hazard Mitigation Plan; Town Hall and Stone Building converted to natural gas; Chevalier Building demolished. Rec: luncheons scheduled, Summer Camp registration begins February 14; Highway busy with storms; Route 1 Culvert still flooding properties on North Road; Rails to Trails Warrant out for potential expenses in next year; Route 95 Exit 2 bridge project delayed.

Items Left on the Table – None

NEW BUSINESS

11.1 Aquarion Water Quarterly Report

Aquarion Operations Manager Carl McMorrان said he was here to provide a quarterly update. He said Aquarion is planning to build the Little River Water Treatment Plant for Wells 7 and 22 for disinfection, corrosion control, and arsenic removal; still waiting on State funding decision; mid-summer construction start. He said the arsenic level in Well 22 is just barely above maximum contaminant level.

Mr. McMorran said at the Winnicut Road Plant they are updating corrosion control to liquid phosphate for better control; adding a big bulk tank and replacing the chlorine bulk tank at same time; submitted plans to DES for approval and hope to start in a month or two. There is one Main Replacement Project at the beach on Highland Avenue to replace a few hundred feet of old concrete pipe.

Mr. McMorran provided Operational Highlights and reviewed current staff licensing in Treatment and in Distribution, and said Aquarion has gone 12 years with no lost-time injuries. He reviewed the Drought Update and said drought conditions have steadily improved with 12 inches of precipitation since December 1 and he expects it to disappear entirely in the next few weeks. He said the company promotes conservation by selling rain barrels and supports Community Champions, volunteers who work to protect water resources.

11.2 Update on Building Project

Town Administrator Tully said Marc Jobin was unable to be here tonight due to the weather. He said Town Offices are substantially complete with just a few items left punch-list still in progress; the project came in at budget and exact numbers will be provided in the next few weeks; old building demo and foundation removal will be completed this week and foundation crew will begin pouring footings on the site next week. John Ricci continues to work procuring materials; working with Eversource and DOT to determine best route for power to the new building; remains on budget with completion date of next December.

11.3 Acceptance of Donation from MAC Tactical

Chairman Sununu said the Board needs to accept a donation, gifted to the Police Department from Mark Cook's company MAC Tactical, of four (4) sights for rifles, items Police Officers were requesting for a total value of \$677.96. Police Chief Mone requests the Select Board accept this donation on behalf of the Police Department.

Motion: To approve 11.3 Acceptance of Donation from MAC Tactical for \$677.96 for gun sights.

Motioned: Selectman Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

MINUTES OF PRIOR MEETINGS

12.1 Approval of Regular Meeting Minutes of January 9, 2023

Motion: To approve the Regular Meeting Minutes of January 9, 2023 as presented.

Motioned: Vice-Chair Maggiore

Seconded: Selectman Pinette

Vote: Motion approved 3-0

12.2 Approval of Minutes of Non-Public Sessions I, II, and III of January 9, 2023

Motion: To approve the Minutes of Non-Public Sessions I, II, and III of January 9, 2023.

Motioned: Selectman Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

12.3 Approval of Workshop Minutes of January 9, 2023

Motion: To approve Workshop Meeting Minutes of January 9, 2023.

Motioned: Vice-Chair Maggiore

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Seconded: Selectman Pinette
Vote: Motion approved 3-0

12.4 Approval of Workshop Minutes of January 12, 2023

Motion: To approve Workshop Meeting Minutes of January 12, 2023.

Motioned: Selectman Pinette

Seconded: Vice-Chair Maggiore

Vote: Motion approved 3-0

12.4 Approval of Minutes of Non-Public Meeting of January 12, 2023

Motion: To approve Workshop Meeting Minutes of January 12, 2023.

Motioned: Vice-Chair Maggiore

Seconded: Selectman Pinette

Vote: Motion approved 3-0

Any Other Item that may legally come before the Board

Vice-Chair Maggiore asked if at the second session of the public hearing if the Board will be accepting new material to be included. Chairman Sununu said people can come to that hearing and submit additional comments, the Board will wrap up public comments and conclude the Public Hearing .

Second Public Comment Session

Call 603-758-1447 or email: jsununu@northhampton-nh.gov

No public comments.

Next Regular Meeting: February 13, 2023; Continuation of Public Hearing February 2, 2023

Adjournment

Chairman Sununu adjourned the meeting at 9:01 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary