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2 **TOWN OF NORTH HAMPTON, NEW HAMPSHIRE**  
3 **NORTH HAMPTON SELECT BOARD MEETING**  
4 **CONTINUATION OF PUBLIC HEARING**

5 **FEBRUARY 2, 2023 7:00 PM**

6 **NORTH HAMPTON TOWN HALL**

7 **DRAFT MINUTES**

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

9 EXCUSED: Chairman James Sununu

10 ALSO PRESENT: Town Administrator Michael Tully, Municipal Wireless Consultant David Maxson of  
11 Isotrope, School Business Administrator Matt Ferreira, Town Attorney Stephen Bennett  
12

13 Vice-Chairman James Maggiore welcomed everyone to the Select Board Special Meeting of February 2,  
14 2023 for continuation of the Public Hearing for Petition on Eminent Domain and called the meeting to  
15 order at 7:17 pm.  
16

17 Vice-Chair Maggiore said the Board is coming out of recess from the original posted meeting to allow the  
18 Cotters, whose property is affected, to speak as they were unable to attend the last meeting. He said the  
19 Town has a legal petition which subjects the Select Board to give notice and conduct a Public Hearing  
20 pursuant to RSA 498-A and RSA 231 for purpose of determining if there is a public need for an easement  
21 over the affected property; followed by the Pledge of Allegiance.  
22

23 Vice Chair Maggiore read the petition in full, and said the process is: the Public Hearing is open, he will  
24 turn the meeting over to David Maxson to present information, then another presentation by Business  
25 Administrator Matt Ferreira of SAU 21. He said the Board is here to listen, no final decision has been made,  
26 and asked that questions be held until after the presentations.  
27

28 Municipal Wireless Consultant David Maxson of Isotrope said he would provide answers to public  
29 questions regarding Parcel 12-62 and reviewed what he presented at the January 23, 2023 Select Board  
30 Meeting. He started with historical background and said this is not an idea that just popped up but has  
31 been simmering for close to 20 years.  
32

33 ***Disclaimer –These minutes are prepared by the Recording Secretary within five (5) business days as required by***  
34 ***NH RSA 91-A:2, II. They will not be finalized until approved by majority vote of the Select Board.***  
35

36 ***A recording of the meeting can be found at: [http://www.townhallstreams.com/towns/north\\_hampton\\_nh](http://www.townhallstreams.com/towns/north_hampton_nh), and a***  
37 ***DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North***  
38 ***Hampton, New Hampshire 03862.***

39  
40 Mr. Maxson said four tower projects in the eastern part of North Hampton have been submitted and  
41 rejected; the ordinance was reaffirmed and reinforced during that time and was adopted by Town  
42 Meeting stating that using Town property is the approach of choice. He reviewed each application for a  
43 tower project individually and the reasons for rejection: applications for Chapel Road, 22 Woodland Road,  
44 63 Atlantic Avenue (Lamprey Homestead), and one on a conservation parcel at 57 Woodland Road for  
45 which a special election was held in December 2006 with public voting to protect the land by a 2:1 margin.

46  
47 Mr. Maxson said there is very strong sentiment in the community to protect conservation land and scenic  
48 views, and said people have been doing due diligence for options on other sites since 2004. He showed a  
49 map of current conservation land in North Hampton and said a fair amount of land in eastern part of town  
50 is protected He showed a map of Town properties and said most are conservation; unencumbered are  
51 parcel 11-13 on the Rye border which is landlocked and near residences with low elevation, parcel 12-62,  
52 and School Property.

53  
54 Mr. Maxson said AT&T has a coverage gap at existing macro cell sites; -95 dBm RSRP is typical signal level  
55 for wireless services; a cell tower application in Hampton for Barbour Road is pending soon; a tower at  
56 parcel 12-62 in North Hampton would be a good complement. A tower on School property from behind  
57 the School on Atlantic Avenue would have a 75-ft antenna height which is the maximum height without  
58 FAA oversight (without lights due to airport) may be hazard to air navigation. Also School site indicates it  
59 is "unofficial conservation land"; parcel 12-62 is on the outer edge of that and can have a full-sized tower  
60 for better coverage, the site is fully wooded, and access would be a dedicated driveway.

61  
62 Mr. Maxson said his first conclusion is that the Hampton Tower is likely to be approved and the Town now  
63 has an area where they are looking to allow a tower to go, north of Atlantic Avenue straddling Woodland  
64 Road and Mill Road. The other Town property at 11-13 on Rye Border has residences along South Road  
65 and Woodland Road, is also landlocked and would need an access easement, and is lower in elevation.

66  
67 Mr. Maxson said there have been 3 applications for cell towers on private property, all soundly rejected  
68 by Land Use Boards under terms of Ordinance; to open an Ordinance change would take at least one year.  
69 Question of adding to existing structures is no, as the tallest structure is the United Church of Christ which  
70 is not much higher than a utility pole, and both not higher than the surrounding tree line. Other possible  
71 structures are small-cell towers added to utility poles; proposal made and accepted by Planning Board but  
72 no interest from wireless companies.

73  
74 Mr. Maxson said his second conclusion is that there are no other options in North Hampton and a Town  
75 parcel is available that is workable. He said a driveway access of 25 ft is rule of thumb in the industry, with  
76 a narrower dimension for construction and utilities. The said there is another improved gravel driveway  
77 10-12 ft wide further up Mill Road from the current Aquarion easement that tapers off. During  
78 construction traffic would be coming and going on the driveway; when done, wireless companies for all  
79 applications for a new cell site average one visit per month; assuming 4 wireless companies would mean  
80 one vehicle per week on average.

81  
82 Mr. Maxson said cell towers are set up to be safe and meet FCC safety regulations, and he has been  
83 working with FCC standards since 1985 and is comfortable with them. He said applications for cell towers

84 from wireless companies are reviewed by the Planning Board which requires the companies to  
85 demonstrate that safety standards are met. He said Public Safety uses cell services, and a study was done  
86 in 2008 showing gaps in dispatch coverage for 2-way radios, revealing the seriousness of this issue.

87  
88 Mr. Maxson said it will cost the Town something to do this, with Tower companies typically reimbursing  
89 with a lump sum; can put in the deal to take the money they would have spent on building the road and  
90 buying the easements and provide it back to the Town as a Capital contribution. He said Public Safety has  
91 communication issues with dispatch and use of cellular which are issues with a governmental agency, and  
92 public safety is part of the definition of Public Use. Cell Services are considered to be common carrier  
93 services like telephones.

94  
95 Mr. Maxson said regarding alternate access, there are no offers on the table of an easement and it comes  
96 down to an Eminent Domain option, unless someone agrees voluntarily. Other options: (1) subdivision  
97 plan from 2009 showing old wood roads that might be considered, partly in Rye; (2) easement over the  
98 driveway to 142 Mill Road residence and continue to Town parcel; (3) approximate location of Aquarion  
99 easement at one edge of parcel at 168 Mill Road; other edge of frontage at parcel on Mill Road is an  
100 "ancient way" laid in 1836, but house foundation is right next to the edge; (4) Last possibility would be to  
101 take an easement on another parcel at 176 Mill Road and run straight back to Town parcel.

102  
103 Mr. Maxson reiterated that Parcel 12-62 is the best option, area is wooded and well-hidden, it is in  
104 compliance with the Town Ordinance, and a tower can be set in its place. As far as emissions the tower  
105 will be as far away from people as possible, minimizes impact to residents, and is the most protective. He  
106 said there would be a place on the parcel for a cell tower if access can be achieved. As to whether or not  
107 a wireless company will be interested, he said he is usually reviewing the applications and spoke with a  
108 tower company in this region who would absolutely be interested as this area needs service.

109  
110 Mr. Maxson said his final conclusion is that he has been involved with almost 20 years of this history,  
111 involved in reviewing easements, and involved in Federal Court cases, and said any attempt to come up  
112 with another solution would likely face a similar amount of opposition.

113  
114 **PUBLIC HEARING**

115 **Jennifer Bergeson** of 144 Mill Road said she is interested to know why carriers dropped and were not  
116 interested in the small cell option that was approved by the Planning Board and asked who is responsible  
117 for keeping in touch with the carriers.

118  
119 Mr. Maxson said microcells or distributed antenna systems were not successful because wireless carriers  
120 plan their network development in 12- or 18-month windows and prioritize their development plans  
121 yearly; the area being proposed was of relatively low density and carriers were doing them in urban areas  
122 and never made it into this kind of territory.

123  
124 **Amy Margolis** of 130 Woodland Road said she agreed the Town needs cell coverage and that it has to be  
125 as far away from people as possible. She said I have suggested, because I have 50 acres of land on 130  
126 Woodland Road, which is right where it needs to be for a radius and has no trees, that my property be put  
127 forth as an alternate possibility. She said her neighbors are excited, the Ordinance would need to be  
128 changed, but said it could be opened up if everything fits into place.

129

130 Vice-Chair Maggiore asked Ms. Margolis if she would be willing to enter into a discussion about the  
131 possibility of erecting a wireless communication tower on her property at 130 Woodland Road, and asked  
132 Town Administrator Tully to get in touch with her. Mr. Tully said if Ms. Margolis wished to donate the  
133 property to the Town we could do it quickly. Ms. Margolis said her recently deceased mother did not want  
134 an eyesore with a roadway to the cell phone area and wanted it to be beautiful, and if I keep the land I  
135 can make it beautiful. She said the cell tower would be a tree, the driveway would not be a scar, and she  
136 would have control over it.

137  
138 **Matt Ferreira**, Business Administrator for SAU21, said the School brings in Homeland Security every 3  
139 years to look at the facility and grounds, look at surveillance, access control, and emergency alerts.  
140 Homeland Security indicates that schools need the ability to use independent systems and must have  
141 redundant capabilities to have emergency help offsite and inform the public; also ability to communicate  
142 rapidly to the whole school. He said the School would really appreciate better cellphone coverage.

143  
144 **Maurice Vincent** of 61 Exeter Road said he lives on the other side of Town and has good cell service. He  
145 said his issue is with the way the Town would acquire access to the proposed cell tower site. He said where  
146 the existing easement is would need widening as it is a fairly narrow area between the 2 houses; farther  
147 up Mill Road there are much wider gaps between homes which would be less intrusive. He said the  
148 easement may be the easy way out but it is not the right way.

149  
150 **Lori Cotter** of 168 Mill Road said according to the Town's letter she can only give evidence on issues of  
151 public need and value of property taken, and they were only told it was a public need. She said when the  
152 Town wants to spend taxpayer money on building a road and taking land by eminent domain they should  
153 know what is happening, and asked why a committee was not formed or a study group to look into DAS  
154 systems. She said there are 45 acres with road frontage on Woodland Road. She said the petition suddenly  
155 appeared with 11 signatures mostly by Town employees.

156  
157 Ms. Cotter said the facts are that the Town is changing an existing easement for condition of building this  
158 road; the original Aquarion Water easement is 15.11 ft wide but would be 30 ft wide where it exits our  
159 property; the 25-ft easement would take the road right up to our pool fence; the retaining wall would  
160 have to be removed and the electricity to our pool; cannot take something if you do not know what you  
161 are taking. She said the Town needs to complete an accurate survey we agree to during a walk with your  
162 assessor; with the information we have this provides a hardship and disruption to private life.

163  
164 Ms. Cotter asked the Selectmen if they had walked the site and they said they had not. She said Mr.  
165 Sununu did and he saw a lot of wetlands and ledge. Lamprey Brothers also included in the deed that they  
166 would be allowed to come in and put up another tower for their own service. She referenced North  
167 Hampton Zoning Ordinance 605.4e and said one has to question why eminent domain is being used  
168 against us and said that easement is for underground pipes only. She said we need to step back and look  
169 at what we are doing as far as eminent domain and think about the people involved.

170  
171 **Amy Bucklin Faley** from 3 North Road said she takes care of children and elderly and takes it seriously.  
172 She said she is passionate and protective of these people and their land and wishes. She said land comes  
173 with very strong protections and did not feel that it was being respected; the land is wetland and should  
174 be protected. She said she is thankful for cell service and struggling to be part of this community, but this  
175 taking of property is not the right way.

176

177 **Kirsten Larsen Schultz** raised Point of Order, and said if you are going to vote tonight it is disrespectful to  
178 property owners to vote without the Chair of the Select Board present, and said she wanted them all on  
179 the record.

180  
181 Vice-Chair Maggiore said the full intent of the Board is to continue to deliberate this at a date certain  
182 February 27, 2023; there is no vote tonight. Ms. Schultz asked who wrote the petition and Vice-Chair  
183 Maggiore said he was not part of the petition, and not soliciting the petition.

184  
185 Ms. Schultz said she would be filing a 91-A as she heard the petition had been worked on and a separate  
186 91-A to determine how much was paid to Mr. Maxson. She presented a petition to Mr. Tully, signed by 80  
187 people, to NOT support eminent domain for this easement.

188  
189 **Frank Ferraro** of Post Road said the reasoning was this property already had an easement versus the  
190 adjacent property. Vice-Chair Maggiore said the other property would require an original easement and  
191 another easement in the back across Cotter property; 2 original easements with no support from  
192 landowner. Mr. Ferraro said Aquarion could come in at any time and put in a water pipe and maintenance  
193 driveway. He asked how much area a wireless company would need for a tower of this height and Mr.  
194 Maxson said typically 50x50 ft or 100x100 ft; Mr. Ferraro said less than a quarter of an acre.

195  
196 Mr. Ferraro said we are all amazed by the offer of Ms. Margolis which would trigger the Ordinance. But  
197 there is a way to do this immediately: negotiate an easement for the right-of-way to a ¼-acre plot that  
198 Ms. Margolis would deed to the Town making it a Town property. The Board can vote to accept a piece of  
199 property and negotiate where it will be and how to access the plot. He suggested that if the Board decides  
200 to use the existing Aquarion easement, they offer to lease the land for the access and temporary  
201 construction road at the cost of half of what the cell company would pay the Town on a monthly basis.

202  
203 **David McCarthy** of 2 North Road asked why the Select Board did not provide a list of properties at the last  
204 meeting and why, against a list of criteria, they were discounted. He said he came up with 25 town-owned  
205 properties that fit the property off Woodland Road owned by the Conservation Commission. He said he is  
206 concerned about the deed given to the Town giving potential companies additional rights to have their  
207 own facilities and said he was not sure that met eminent domain criteria.

208  
209 **Harry Marsh** of 101 Mill Road said he has lived here longer than anyone and said we grew up running  
210 through the woods all over the place and know what the Town is doing, and said he found it disturbing  
211 that selectmen had not yet walked the property. He said you are all great people who work hard and have  
212 the Town in mind but said he really felt for the Cotters and a line through their property would drop ¾ of  
213 the property value.

214  
215 Vice-Chair Maggiore explained why only 1 Select Board Member walked the property: He said two  
216 members together constitutes a Public Meeting and they did not want to run the risk of allowing the entire  
217 public to be on this property, and designated Mr. Tully and Mr. Sununu to walk the property.

218  
219 **Kathleen Kilgore** of 220 Atlantic Avenue said Board members could have walked the property separately,  
220 and as representatives of all town residents it is important they all walk the property and make their own  
221 decisions. She said Wally and I are expecting our first grandchild and I wanted to bring this down to being  
222 a parent, someone's daughter, and somebody's grandmother: talking here about life-altering changes to  
223 those peoples' property and their mother's property and you cannot put a price on that.

224

225 **Donna Miller** of 45 Oak Drive said trucks going in and out will use both sides of that road, and said the  
226 road would also be hazardous in the summer due to traffic as it is a very blind area.

227  
228 **Ann Marie Banfield** of 7 Highlander Drive said she and her husband have owned 8 homes in 4 states. In  
229 Kentucky they sold a portion of their property to the City of Lexington to widen the road and got a fair  
230 price and did not have to worry about resale. She said if the Cotters do not want to give this land you need  
231 to negotiate for an acceptable deal; they will be losing a portion of the value of their home. She suggested  
232 the Board speak to Senator Denise Ricciardi in Bedford who just went through this and supports fiber  
233 optics as a better solution.

234  
235 **George Ronney** of 116 Mill Road said he was shocked to be talking about eminent domain in North  
236 Hampton. He said the Town now has an offer on the table and asked what the process would be and if  
237 the public would have access as it takes place. He also asked if the offer from the Town for compensation  
238 under eminent domain would allow the public have a say. He said he would love to have a cell signal but  
239 not at the expense of his neighbor giving up their property.

240  
241 Vice-Chair Maggiore made a general statement that conversations at times are privileged and some  
242 conversations may have to be privileged and some may not, and any minutes may need to be sealed to  
243 protect the parties involved. He said the rules for eminent domain are spelled out and those negotiations  
244 are covered. Attorney Stephen Bennett said it goes to the Board of Tax & Land Appeals (BTLA) and the  
245 Superior Court; if contested it goes to the BTLA and there is no debate.

246  
247 Town Administrator Tully said we want peoples' opinions and about whether they think the offer should  
248 be higher; the Board has NOT made up their mind already but are having a Public Hearing to listen to  
249 public opinion and see what direction the public thinks they should go. If you feel the offer is not enough  
250 now is the time to let the Board know.

251  
252 **Rich Sceronti** of 142 Mill Road asked what the expected revenue of rent on a tower with 4 carriers would  
253 be. Mr. Maxson said it varies by region, site value, and whether it is competitive, and said he has seen  
254 figures for \$36,000/yr to areas outside of Boston suburbs where town-owned water towers are getting  
255 \$50,000-\$80,000/yr per wireless carrier and estimated about \$30,000-\$60,000 for a land lease for a tower  
256 with the owner receiving revenues from the carriers.

257  
258 **Wally Kilgore** of 220 Atlantic Avenue expressed sympathy for the Cotters and apologized for the town for  
259 what you have to go through. He said the town is spending a lot of money tonight paying for Attorney  
260 services and consultant services and this has been ongoing at the Cotters' expense. He said this should  
261 have ended at the last meeting and said too much is happening in non-public. He said the people who  
262 stayed and did not leave are the ones that matter.

263  
264 **Kirsten Larsen Schultz** said there is an item on Warrant Article that addresses taxpayer funds towards  
265 eminent domain: that the Town not spend a single dollar of taxpayer money towards eminent domain,  
266 and asked people to come to Deliberative.

267  
268 Vice-Chair Maggiore closed the Public Hearing at 9:25 pm and looks to adjourn this meeting and repost a  
269 meeting for February 27, 2023 for the Board to discuss this at 7:00 pm.

270  
271 **Any Other Item that may legally come before the Board**

272

273 **Second Public Comment Session**

274 Call 603-758-1447 or email: [jsununu@northhampton-nh.gov](mailto:jsununu@northhampton-nh.gov)

275

276 **Next Regular Meeting:** February 13, 2023.

277

278 **Adjournment**

Vice-Chair Maggiore made a motion to adjourn the meeting, seconded by Selectman Pinette. Vice-Chair Maggiore adjourned the meeting at 9:27 pm.

279

280 Respectfully submitted,

281 Patricia Denmark, Recording Secretary

DRAFT