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

4 **DECEMBER 9, 2019 7:00 PM**

5 **NORTH HAMPTON TOWN HALL**

6 ***DRAFT MINUTES***
7

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

10
11 ALSO PRESENT: Town Administrator Bryan Kaenrath, Chair of Conservation Commission Easement Sub-
12 Committee Andrew Vorkink. Aquarion Operations Manager Carl McMorran, Aquarion Director of
13 Engineering Dan Lawrence,
14

15 **AGENDA**

16
17 Chairman Maggiore welcomed everyone to the December 9, 2019 North Hampton Select Board Meeting
18 and called the meeting to order at 7:03 pm, followed by the Pledge of Allegiance.
19

20 Chairman Maggiore said they were just coming from two Non-Public Sessions with 3 total motions made,
21 all passed, and action will be taken to fulfill those motions.
22

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

24 **Motioned:** Selectwoman Kilgore

25 **Seconded:** Selectman Miller

26 **Vote:** Motion approved 3-0
27

28 **First Public Comment Session**

29
30 Chairman Maggiore said with regard to Public Comment they need to consider Select Board Rules before
31 any changes can be made. He said there is a motion to consider eliminating the First Public Comment
32 Session but until changes are made they will continue to have 2 periods of Public Comment.
33

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

37
38 ***A recording of the meeting can be found at: http://www.townhallstreams.com/towns/north_hampton_nh, and***
39 ***a DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North***
40 ***Hampton, New Hampshire 03862.***

41
42 Mr. Casey O’Kane of Atlantic Avenue said there is an item on the Agenda from the Conservation
43 Commission described as a Declaration of Protective Covenants. He said a covenant is a contract between
44 two parties but he is only finding one declarant in this document.

45
46 Donna Etela of Exeter Road said she was here tonight because of her position on the Heritage Commission,
47 and the fact that they were working to update long-range planning and learned about the MS4
48 Stormwater Drainage Agreement. She said there is a need for a Stormwater Runoff Plan that will protect
49 Historic Properties, like the Stone Building, from damage with building an addition onto the existing
50 Library. She said the close proximity of just 10 feet would trigger the possibility of a 106 Federal Mandate
51 because the building is on the National Registry. She said the building has a history of having water build
52 up in the cellar, and the septic line goes across the property where the Library addition will be.

53
54 Ms. Etela said she went to the Select Board for guidance and an in-depth investigation followed of all the
55 deeds and history of the property, with more than one legal opinion. She said it is very clear to her that
56 people are confused about the Homestead Property, the intent to build there, and now where the Library
57 should be. (Note: Mr. Rick Stanton allocated his 3 minutes to Ms. Etela to continue speaking.)

58
59 Ms. Etela said we have the Library Trustees, the Select Board, and the legislative body (residents) and the
60 problem is that that nobody really knows everything about anything. She said the one common thread is
61 that they all agree on the need for a new Library. She said her solution is that for the good of the Town,
62 the two sides need to come together now with a certified professional mediator and come up with a
63 solution. Otherwise nothing will pass on the Ballot and the anger and divisiveness in the Town will only
64 grow stronger.

- 65
66 **Consent Calendar**
67 5.1 Payroll Manifest of November 21, 2019 in the amount of \$65,624.48
68 5.2 Payroll Manifest of November 27, 2019 in the amount of \$68,167.28
69 5.3 Payroll Manifest of December 5, 2019 in the amount of \$116,951.22
70 5.4 Approval of Accounts Payable Manifest of November 27, 2019 in the amount of \$2,488,863.22
71 5.5 Approval of Abatement Applications
72 5.6 Approval of Veterans Credit Application

73
74 **Motion:** To accept the Consent Calendar as presented in the Select Board Packet.

75 **Motioned:** Selectwoman Kilgore

76 **Seconded:** Selectman Miller

77
78 Chairman Maggiore said the Accounts Payable for \$2,488,863.22 includes approximately \$1.5 Mil to pay
79 our taxes to the County as well as the payment to the School.

80
81 **Vote:** Motion approved 3-0

82
83 **Correspondence**
84 *Copies of all correspondence will be attached to these minutes.*

85
86 Chairman Maggiore stated that a letter came in today dated December 8, 2019 from Susan Leonardi, and
87 he read the letter in full. In the letter Ms. Leonardi said after viewing the Select Board meeting for approval
88 of funds to TW Design for continued Library Design Concept work on December 4, 2019, the Library

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

93

94 **Committee Updates**

95

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

101

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

104

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

108

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

111

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

116

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

125

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

133

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

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

139
140 Chairman Maggiore opened the Public Hearing at 7:32 pm.

141
142 Casey O’Kane of Atlantic Avenue said he understands that a covenant is a contract, and asked how you
143 can enforce a covenant yourself, and did not think it was a mechanism that does so legally. Mr. Vorkink
144 said a covenant need not be 2 parties in the formal sense, and in items of land use an individual or a Town
145 can place restrictions on the use of a piece of property, and the format used in New Hampshire is placing
146 restrictive covenants on the land. He said for publicly-owned land it is enforced by the Conservation
147 Commission, with the Attorney General ultimately enforcing.

148
149 Chairman Maggiore closed Public Comment at 7:37 pm.

150
151 Discussion: Selectman Miller asked Mr. Vorkink for the form of the motion, and Mr. Vorkink said the
152 Select Board should first make a motion to approve the recommendation from the Conservation
153 Commission to place the restrictive covenants on the 8 parcels of land and secondly make a motion to
154 authorize the Select Board to sign the restrictive covenants.

155
156 **Motion:** To approve the recommendation from the Conservation Commission, as per the memo of
157 December 9, 2019, to place Restrictive Covenants on the 8 listed properties, as per the template approved
158 by the Select Board.

159 **Motioned:** Selectman Miller
160 **Seconded:** Selectwoman Kilgore

161 **Vote:** Motion approved 3-0

162
163 **Motion:** To authorize the Select Board to sign the documents as per the previous motion.

164 **Motioned:** Chairman Maggiore
165 **Seconded:** Selectman Miller

166 **Vote:** Motion approved 3-0

167
168 Town Administrator Kaenrath asked that they do the Aquarion Water Update next before he gives his
169 report.

170
171 **11.4 Aquarion Water Quarterly Update**

172
173 Mr. Carl McMorran, Manager of Operations at Aquarion Water, said with him is Dan Lawrence, Director
174 of Engineering for Aquarion. He said he would present the quarterly update and speak about PFAS, main
175 replacements, and some of the Capital Projects.

176
177 Mr. McMorran said as far as Operations & Maintenance, water production was approximately 690 million
178 gallons in 2019; they addressed hydrants, valves and flushing in the Distribution System; serviced meters
179 and customer calls; provided cross-contamination control to protect water systems; addressed water
180 quality by treatment and taking samples. He said the water in North Hampton meets all safe drinking
181 water standards. He provided a PFAS Update, and said if current compound levels for the 4 regulated
182 compounds continues, there is no requirement for treatment based on the regulations. He said the
183 regulations have been challenged and an injunction may change the scope of enforcement into next year.

184

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

192
193 Mr. Lawrence said they did a Main Replacement on Route 101 this year for the Town of Hampton,
194 converting a 12-inch main to a 16-inch high density, and worked on Mill Road infrastructure which will
195 continue into next year. He said they are increasing the transmission capacity in Hampton and working to
196 install a second Water Storage Tank next to the existing one. He said Well 22 on Mill Road should be
197 permitted any day, implemented next year, and is expected it to be in service in early 2020.

198
199 Selectwoman Kilgore asked if Well 22 was the Water Treatment Facility for the whole system and Mr.
200 Lawrence said just for the Mill Road Well Field so they can combine Wells 9, 11, 6, 8A, and 21. Chairman
201 Maggiore asked how the Town is noticed when Aquarion does hydro flushing, and Mr. McMorran said
202 they have their own Code Red Reverse 911 to immediate neighborhoods, let the Town know ahead of
203 time, and notify the Fire Department. Chairman Maggiore asked about the injunction, and Mr. McMorran
204 said these standards are set of the State of New Hampshire and the controversy is that different states
205 are setting different numbers.

206
207 **Questions:**
208 Selectman Miller asked if Aquarion can run their operation without Well 6, and Mr. McMorran said most
209 of the time yes, but Well 22 will allow a substantial increase of production capacity. Selectwoman Kilgore
210 asked if they would consider only using Well 6 in an emergency when they have Well 22, and Mr.
211 McMorran said he did not want to shut down Well 6 and preferred to keep it in the mix.

212
213 **Report of the Town Administrator**
214 *A copy of the Report of the Town Administrator will be attached to these minutes.*

215
216 Town Administrator Bryan Kaenrath said with 30 weeks left in the current Fiscal Year, the Town has
217 approximately 57% of the Budget remaining. He said IT upgrades with PCG are ongoing and an audit by
218 the State Police found a number of areas needing upgrades in the Police Department. He said Officer
219 Megan McBride has completed her training and the Police Department is now fully staffed.

220
221 Town Administrator Kaenrath said as far as the Library, TW Design is currently developing an architectural
222 design package for their proposed design package and layout, and a proposed floor plan and front
223 elevation are attached to this report. He said the information will be used to put out an RFP in the near
224 future and Ambit Engineering has now completed survey work at the Homestead Property. He said
225 Coakley Landfill was postponed to December 18, 2019, and said there was some talk about rescheduling
226 next Select Board meeting on December 23rd.

227
228 Chairman Maggiore said he felt they should keep the reserved December 23rd date on the calendar as the
229 Board will not meet again for a month. Selectwoman Kilgore suggested moving the date to December
230 18th. Chairman Maggiore said they have materials coming in by December 23rd, and if they do not receive
231 the materials by that date they do not need to hold the meeting.

232

233 **Items left on the Table** – None

234

235 **NEW BUSINESS**

236

237 **11.1 Cycle the Seacoast Permission to use Town Green as Rest Stop on May 3, 2020**

238

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

244

245 **Motion:** That the Select Board give permission to the American Lung Association to use the North
246 Hampton Town Green for rest-stop purposes as outlined above during the Cycle the Seacoast ride on May
247 3, 2020 and empower the Town Administrator to sign.

248 **Motioned:** Selectwoman Kilgore

249 **Seconded:** Selectman Miller

250 **Vote:** Motion approved 3-0

251

252 **11.2 Written Findings, Decision and Recommendation of Ethics Committee – re: Wallace Kilgore**

253

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

255

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

264

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

270

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

272

273 **11.3 Discussion of Public Comment Session**

274

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

281
282 **Motion:** To rescind the motion made at the November 20, 2019 Select Board Meeting for the purpose of
283 changing it to eliminate the 2nd Period of Public Comment and not the first,
284 **Motioned:** Chairman Maggiore
285 **Seconded:** Selectman Miller
286 **Vote:** Motion approved 2-1

287
288 **Motion:** To address Select Board Rules & Procedures to eliminate the 2nd Period of Public Comment
289 **Motioned:** Chairman Maggiore
290 **Seconded:** No second, motion dies

291
292 Chairman Maggiore said the Board would then stand with the statutes given.

293
294 **Minutes of Prior Meetings**

295
296 **Approval of the Regular Meeting Minutes of September 9, 2019**

297
298 Selectwoman Kilgore suggested replacing lines 443 through 449 with her draft, and Selectman Miller
299 objected. Selectwoman Kilgore said she also requested a copy of the Town Counsel's memorandum dated
300 September 16, 2019 be attached to the minutes. Selectman Miller objected as the memorandum was
301 private and confidential, and Chairman Maggiore said only the portion read at the meeting would go in
302 the minutes.

303
304 **Motion:** To table the Regular Meeting Minutes of September 9, 2019

305 **Motioned:** Selectwoman Kilgore
306 **Seconded:** No second, motion dies

307
308 **Motion:** To approve the Regular Meeting Minutes of September 9, 2019 as we have them.

309 **Motioned:** Chairman Maggiore
310 **Seconded:** Selectman Miller

311 **Vote:** Motion approved 2-1
312

313 **Approval of the Regular Meeting Minutes of October 28, 2019**

314
315 Corrections/changes: Selectwoman Kilgore said on line 70 Correspondence says none, but
316 correspondence was read at the meeting and asked that it be corrected. She also asked that the two
317 pieces of correspondence from the Library Board of Trustees be attached to the minutes. Chairman
318 Maggiore said he did not read the second letter at the meeting.

319
320 **Motion:** To amend the Regular Meeting Minutes of October 28, 2019 to correct line 70 and include copies
321 of each piece of correspondence.

322 **Motioned:** Selectwoman Kilgore
323

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

326
327 **Motion:** To amend the Regular Meeting Minutes of October 28, 2019 to correct line 70 and include a
328 copy of *the piece of correspondence read at the meeting.*

Select Board Regular Meeting
December 9, 2019

329 **Motioned:** Chairman Maggiore

330 **Seconded:** Selectman Miller

331 **Vote:** Motion approved 2-1

332

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

334

335 **Motion:** To approve the Non-Public Meeting Minutes of October 28, 2019

336 **Motioned:** Selectwoman Kilgore

337 **Seconded:** Chairman Maggiore

338 **Vote:** Motion approved 3-0

339

340 **Approval of the Regular Meeting Minutes of November 20, 2019**

341

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

343

344 **Motion:** To approve the Regular Meeting Minutes of November 20, 2019 as amended above.

345 **Motioned:** Selectwoman Kilgore

346 **Seconded:** Chairman Maggiore

347 **Vote:** Motion approved 3-0

348

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

350

351 **Motion:** To approve the Non-Public Meeting Minutes of November 20, 2019.

352 **Motioned:** Selectwoman Kilgore

353 **Seconded:** Chairman Maggiore

354 **Vote:** Motion approved 3-0

355

356 **Any Other Item that may legally come before the Board**

357

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

363

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

367

368 Chairman Maggiore said he wished to make a motion to amend the Amended Minutes of October 17,
369 2019, page 8, 2nd and 3rd paragraphs, to strike the word "Town's".

370

371 **Motion:** To amend the approved minutes of October 17, 2019 to strike the word "Town's" on page 8,
372 paragraphs 2 and 3.

373 **Motioned:** Chairman Maggiore

374 **Seconded:** Selectman Miller

375 **Vote:** Motion approved 2-0, with 1 abstention

376

Select Board Regular Meeting
December 9, 2019

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

383

384 **Second Period of Public Comment** – None

385

386 **ADJOURNMENT**

387

388 Chairman Maggiore adjourned the meeting at 8:44 pm.

389

390 Respectfully submitted,

391 Patricia Denmark, Recording Secretary

DRAFT