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

4 **JANUARY 23, 2023 7:00 PM**

5 **NORTH HAMPTON TOWN HALL**

6 ***DRAFT MINUTES***

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

9 ALSO PRESENT: Town Administrator Michael Tully, Fire Chief Jason Lajoie, Police Lieutenant James Russell,
10 Municipal Wireless Consultant David Maxson, Aquarion Water Operations Manager Carl McMorran, Town
11 Attorney Stephen Bennett
12

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

15
16 **Motion:** To seal the minutes of the Non-Public Session of January 23, 2023.

17 **Motioned:** Selectman Pinette

18 **Seconded:** Vice-Chair Maggiore

19 **Vote:** Motion approved 3-0
20

21 **First Public Comment Session**

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

23 Chairman Sununu opened the First Public Comment Session and asked that all public comments/questions
24 related to Public Hearing 8.2 be held until the item is brought up later in the agenda.
25

26 There were no other Public Comments.
27

28 **Consent Calendar**

29 5.1 Payroll Manifest of January 12, 2023 in the amount of \$249,388.57

30 5.2 Payroll Manifest of January 19, 2023 in the amount of \$75,111.56

31 5.3 Accounts Payable Manifest of January 19, 2023 in the amount of \$1,594,394.4

32 5.4 Abatement Recommendations

33 5.5 Pole License for Pole 121/5Y on Lovering Road
34

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

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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

85 Property; Deed to Cotters' Property; Deed to right-of-way for Aquarion Water; Assessor document. He
86 explained the Town has looked at various options over the years for cell service in North Hampton and
87 the parcel identified is the most beneficial to filling coverage gap; a Zoning Ordinance governs what can
88 be done with towers; no agreements with other property owners for access and looking at existing
89 easement as the most reasonable way to access the property as a place for a cell tower.

90

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

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

96

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

103

104 Mr. Maxson said this parcel is large and located in a heavily wooded area, and showed an example of the
105 190-ft Rye Tower in a similarly wooded location; North Hampton Ordinance allows 180 ft maximum.
106 Factors considered in granting Zoning decisions: height of tower; proximity of tower to residential
107 developments; tower setback a distance equal to 125% of tower height; surrounding topography, tree
108 coverage, and foliage. The proposed ingress and egress off Mill Road requires a Town Easement over the
109 existing easement for Aquarion water off Mill Road, with access as unobtrusive as possible.

110

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

116

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

121

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

127

128 Police Lieutenant James Russell said communication is also big with the Police Department for public
129 safety. Calls to State Police have been dropped or when dealing with critical incidents or fatal accidents;
130 also need to provide scene security and if one has to leave the scene to go make a phone call it becomes
131 critical. He said they rely heavily on cell phone communications and when 2-ways radios do not work they

132 have no communication at all; laptops in vehicles are not always working properly and depend on wireless
133 technology. He said it is critical for officers to have access to real time information.

134

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

141

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

147

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

155

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

163

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

167

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

174

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

179

180 Chairman Sununu said they looked at all Town-owned properties under the ordinance, looked at all ways
181 to access this property, and felt this was the most efficient and least impactful way. Other possible access
182 would involve crossing multiple properties and wetlands; looked at all possibilities to make a
183 determination.
184

185 **Joe Castagna** of 30 Bradley Lane emphasized the general importance of cell reception, and said it is
186 embarrassing after 12 years in the Town that we cannot get cell reception. His work is a flexible work
187 environment and boosters in homes do not suffice. He said he cannot get cell service down Atlantic
188 Avenue at his house and he trusts the Board as representatives from the Town to make the case for safety
189 and trusts the easement approach and why this meeting is being held today regarding property
190 ownership; he believes it is significant that the Town is at this step, and it is time to move forward.
191

192 **Kirsten Larsen Schulz** of Post Road said she spoke personally with Lori Cotter and said this is not just an
193 overlay easement. She said she has a real issue with eminent domain and asked the process involved.
194

195 Chairman Sununu said the process is laid out by Statutes RSA 498-A and RSA 231, and if after the Public
196 Hearing the Board makes the determination of a public need, an offer is made to the property owner; if
197 no agreement at that point the Town determines to take action (eminent domain) which deeds the
198 easement to the Town. The issue is whether there is a public need that justifies an eminent domain
199 proceeding, with access to the property a prerequisite to putting a cell tower on the property.
200

201 Ms. Schulz assumed other properties were deemed unworthy and asked if other technologies had been
202 looked at. She said she would like to revisit a private citizen's ability to put a tower on their land; Chairman
203 Sununu said it is perfectly within any citizen's right to revisit that.
204

205 **Jim Avalon** of 3 River Road said when he thinks of eminent domain he does not think of taking property
206 for public use for cell service, and to go to such drastic lengths the Town should have a better reason than
207 cell service. He said he assumed this cell tower will be operated by a private company making money. As
208 a property owner in North Hampton he is extremely wary of eminent domain considering its abusive
209 nature and abusive history. He said there are health and environmental effects of 5g wireless radiation
210 and urged the Select Board to have nothing to do with a cell tower.
211

212 **Karen Nash** of 181 Mill Road said she lives directly across from the Cotters. She said she did not dispute
213 the need for better cell phone service and felt internet and cell service should be treated like a public
214 utility. She expressed concern about the presented approach to accessing the Town property and said she
215 would like to see published reports of studies done on other approaches to the property. She questioned
216 setbacks and where the right-of-way is laid out, and said the public should be able to see the results of all
217 studies done.
218

219 **Janet Larsen** of Post Road said her concern is with the process of eminent domain and did not think
220 anyone's land should be taken in that manner except in an extreme situation where there are no other
221 options and it is truly a public safety issue. She suggested installing some emergency phones on the corner
222 of Mill Road and Atlantic Avenue and one in front of the Police/Fire Departments.
223

224 **David Graham** of 164 Mill Road expressed concern about eminent domain and being right there next to
225 the Cotters property, the Mother-in-law's property, and his property. He asked what has happened in the
226 past when this has been done at other properties and what it does to the neighborhood.
227

228 **Valerie Gamache** of 102 Atlantic Avenue said she lives right in the middle of the dead zone and feels very
229 strongly about public safety as her father was a volunteer firefighter. She said she is just trying to live in
230 her neighborhood and feel safe; she has to walk on Atlantic Avenue with cars speeding 55 mph and if
231 something happens to her she would be unable to get help; she can also make no call from the end of her
232 driveway. She said she pays taxes like everyone else for public services but does not have the same access.
233 She said North Hampton needs to fix this and it is time to act.

234
235 **Arthur Nadeau** of 34 Pine Road said he has issues in his house and agreed there is a cell phone need in
236 North Hampton. He said his issue is with eminent domain as his parents house was taken by eminent
237 domain for a price less than it was worth. He said the eminent domain process needs to make sure not
238 only of the taking of land for access but for the people you are taking it from and he does not like it.

239
240 **Kathleen Kilgore** of 220 Atlantic Avenue said the Town needs better cell coverage but it is not justified by
241 taking an easement over someone's property, and hoped people would be invited to explain all the
242 different parcels in that area that will not work. She said her house means a lot to her and this is a life-
243 altering experience to the Cotters and their families. She questioned why 20 years ago the Town accepted
244 a piece of property that is landlocked, and pointed out that no one from the Conservation Commission
245 was here this evening to speak about this. She asked Mr. Maxson what he meant by "just about the right
246 location" for a cell tower.

247
248 Mr. Maxson said in an ideal network there is a honeycomb pattern of all cell towers equally spaced on
249 perfectly flat terrain. The terrain here is not perfectly flat and towers cannot be equally spaced. He said
250 the ideal location would be the intersection between Woodland and Atlantic Avenue, where wireless
251 companies have been hovering and made 2 attempts to put a tower in that area. He said if the Town does
252 not move forward there is a strong possibility another application will come in for a tower on a 2-acre
253 parcel really close to residences.

254
255 **Rich Skronwski** of 142 Mill Road said the map shown is deceiving and shows the coverage of the Mill Road
256 Tower overlaid with the Hampton Tower which may cover 80% of what this tower covers. He said boosters
257 do not work for wireless coverage and he now has WiFi on his modem for his phones with spectacular
258 coverage. He said there are other routes to that site and saying the choice is the best means it is the
259 cheapest; this is about money not cell coverage and proposing to take property away from a citizen. The
260 petition only has 11 signatures and has people that are not even in that coverage area; there are a lot of
261 gaping holes in this whole issue.

262
263 **Frank Ferraro** of Post Road asked: If the access road proposed would overlay the 15-ft easement Aquarion
264 currently has; if Aquarion has any infrastructure in the easement now; if the Town takes an easement and
265 signs a contract with a cell tower company is a plan anticipated to bury a power line back to the tower;
266 10 ft will be added to the current easement for construction equipment and it will be a permanent 25-ft
267 access for equipment to be brought in as long as the easement is there. He also asked about other possible
268 sites and whether a study was done.

269
270 Chairman Sununu said the proposed access road would overlay Aquarion's easement, he is not aware of
271 any Aquarion infrastructure there, and electricity will be delivered to the site. He said Mr. Ferraro was
272 conflating the permanent 25-ft easement with the additional 10 ft construction easement: the permanent
273 easement would be 25 ft and the 10 ft construction easement is just to build the access and will go away;
274 the easement is 15 ft, 15 ft of which overlays Aquarion. He explained that other sites were looked at, they

275 considered how many properties would need to be crossed, the proximity to a good location, and looked
276 at wetlands and conservation land.

277

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

282

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

286

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

289

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

293

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

298

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

301 **Motioned:** Selectman Pinette

302 **Seconded:** Vice-Chair Maggiore

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

304

305 Chairman Sununu called a brief recess 10-minute recess.

306

307 **Report of the Town Administrator**

308

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

316

317 **Items Left on the Table** – None

318

319 **NEW BUSINESS**

320

321 **11.1 Aquarion Water Quarterly Report**

322 Aquarion Operations Manager Carl McMorran said he was here to provide a quarterly update. He said
323 Aquarion is planning to build the Little River Water Treatment Plant for Wells 7 and 22 for disinfection,

324 corrosion control, and arsenic removal; still waiting on State funding decision; mid-summer construction
325 start. He said the arsenic level in Well 22 is just barely above maximum contaminant level.

326

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

331

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

338

339 **11.2 Update on Building Project**

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

346

347 **11.3 Acceptance of Donation from MAC Tactical**

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

352

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

354 **Motioned:** Selectman Pinette

355 **Seconded:** Vice-Chair Maggiore

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

357

358 **MINUTES OF PRIOR MEETINGS**

359

360 **12.1 Approval of Regular Meeting Minutes of January 9, 2023**

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

362 **Motioned:** Vice-Chair Maggiore

363 **Seconded:** Selectman Pinette

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

365

366 **12.2 Approval of Minutes of Non-Public Sessions I, II, and III of January 9, 2023**

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

368 **Motioned:** Selectman Pinette

369 **Seconded:** Vice-Chair Maggiore

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

371

372 **12.3 Approval of Workshop Minutes of January 9, 2023**

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

374 **Motioned:** Vice-Chair Maggiore

375 **Seconded:** Selectman Pinette

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

377

378 **12.4 Approval of Workshop Minutes of January 12, 2023**

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

380 **Motioned:** Selectman Pinette

381 **Seconded:** Vice-Chair Maggiore

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

383

384 **12.4 Approval of Minutes of Non-Public Meeting of January 12, 2023**

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

386 **Motioned:** Vice-Chair Maggiore

387 **Seconded:** Selectman Pinette

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

389

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

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

394

395 **Second Public Comment Session**

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

397

398 No public comments.

399

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

401

402 **Adjournment**

Chairman Sununu adjourned the meeting at 9:01 pm.

403

404 Respectfully submitted,

405 Patricia Denmark, Recording Secretary