



TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
SELECT BOARD

MINUTES

REGULAR MEETING - WEDNESDAY JULY 9, 2008 –7PM

1. Call to Order & Call of the Roll

Members Present: Chair Emily Creighton; Selectman Craig Salomon; Selectman Mike Coutu

Staff Present: Town Administrator Steve Fournier

Select Board came to order at 6:45PM

Motion by Selectman Salomon to enter into non-public session. Seconded by Selectman Coutu. Roll call 3-0 Pursuant to RSA 91-A:3 (a,c,e)

Discussion was held regarding personnel issues.

2. Consent Calendar

Selectman Coutu asked if when an individual is denied because of incorrect or incomplete information, do the assessors let them know and allow them to resubmit. Town Administrator Fournier stated yes.

Motion by Selectman Coutu Seconded by Selectman Salomon. Motion carries 3-0.

3. New Business

3.1. Appointment of Christine Fredericks to the Recreation Commission

Selectman Salomon asked if the Recreation Director Had any input on the nomination. Town Administrator Fournier stated that she recommends the nomination.

Motion by Chair Creighton seconded by Selectman Salomon to approve the nomination. Motion carries 3-0.

3.2. Authorization to transfer funds to Trust Funds

Motion by Selectman Salomon to authorize seconded by Selectman Coutu. Selectman Coutu asked if the Town Administrator has any review of the funds. Town Administrator Fournier stated that he does not. Chair Creighton stated that he Trustees submit an annual report to the Town and the Attorney General's Office. Motion carries 3-0.

3.3. Discussion of cable Channel 22 operating guidelines and policies

Chair Creighton read a letter from Ms. Laurel Pohl regarding the Town's Attorney's opinion on the cable policies. Ms. Pohl recommended the tabling of the topic until the next meeting.

Selectman Salomon stated that he asked for the topic to be placed on the agenda. He stated that he was concern over the lack of understanding of the policy. He felt that it created the firestorm around the policy. He felt that the public had a perception that things were going to be covered up. Selectman Salomon stated that he did not believe that the Select Board ever approved the policy of the Cable Committee. Selectman Salomon asked if the Town had a request for minutes of the Cable Committee. Town Administrator Fournier stated that he had, but they were not in the Town Administrator's Office. Selectman Coutu did not understand why counsel is reviewing this. He thinks that if procedures are codified under

statute then he understands. If not, he thinks this would be determined by the Cable Committee as outlined in the policy. He wants to know if the Counsel is reviewing the policy and making sure that they are. Chair Creighton stated that she recollected that the Select Board did not vote to approve the policy. She stated that former Selectman Gould was concerned and that he wanted counsel to review the policy. She is not aware if the policy was adopted. Ms. Pohl stated that she did not say that the Select Board approved the minutes; the minutes were just given to the Select Board. She stated that she called the Town Offices and the building inspector said that there was no request on record. Town Administrator Fournier stated that requests for information are handled by the Town Administrator's Office not the Building Inspector. Ms. Pohl stated that the tape is being reviewed also for potential liability to the Town. Selectman Coutu questioned what liability the Town has if the father of the individual stated in the paper it was okay to broadcast the meeting. Selectman Salomon stated that he does not believe that you can defame an individual twice, it was first stated at a public meeting.

John Anthony Simmons stated that he personally feels that the meeting should be aired because the purpose of Channel 22 is so we have more open government. He was once a member of the committee but cannot remember ever adopting the policy of Channel 22. He also has no recollection of the minutes being adopted by the Cable Committee.

Chair Creighton stated that she is concerned that Mr. J. Simmons as chair at that point in time did not make sure minutes were voted on at the meetings. He thought that they were but they were not transferred to the proper place. Ms. Pohl stated that they did adopt the minutes and she turned them over to the Town Offices.

Chair Creighton stated that she did not recommend not airing the conservation commission meeting to not air information, but to protect the reputation of the Eagle Scout. She feels that the discussion should have been held in non-public session. She said she is not against the release of the DVD to people who want it. Chair Creighton stated that she was ending the discussion. Selectman Salomon stated that he was appealing the decision of the chair, and allow the members of the public to speak. Chair Creighton allowed the public to speak. Mr. Peter Simmons stated that he filed a Right to Know Request on various forms of information on Channel 22. He stated that he was looking for minutes of the Cable Committee; he stated that Town Administrator Fournier looked for the files but did not have the files.

Selectman Coutu stated to clarify this situation as to if counsel should be reviewing a policy that has not even been adopted. Chair Creighton stated that counsel reviews policies for technical opinions quite often. Selectman Coutu stated that independent of this, the lawyer is reviewing to see if there was libel with the airing of the meeting. Selectman Coutu stated that it is premature for counsel to review a policy and the legality of airing the meeting without the policy being adopted. Mr. Simmons stated that he asked Mr. John Savastano who determines what is broadcast. Mr. Savastano stated that he said it was not his decision.

Selectman Salomon stated that he felt that all public meeting should be aired unedited. Chair Creighton asked what happens if something obscene happens at a meeting, should that be aired. Selectman Salomon believes that the freedom of speech allows this. Ms. Pohl stated that the LGC felt that the station would not be sued for defamation for broadcasting a meeting, but should not create them.

3.4. Removal of Pine Rd. Island

Town Administrator Fournier stated that he reviewed the issue of the removal of the island at Pine Rd. and Atlantic Ave. with the Police Chief and Fire Chief, and is not recommending removing the island at this point in time. Mr. Arthur Nadeau of Pine Rd. stated that he and his daughter took care of the island for a number of years, by planting flowers on the island. Other individuals have taken care of it lately. Mr. Nadeau stated that he did not receive the letter notifying of this decision. Town Administrator Fournier stated that the Select Board said to send a letter to the abutters. Chair Creighton stated that she felt that the Board

wanted to get the neighbor's opinion and they did and they are acting by not removing the island.

Mike Kotzen stated that he thanked the Board for not removing the island and that the Town needs to fight to keep every square foot of green land.

Motion by Selectman Coutu to rescind the previous action and attempt to repair the island with the addition of curbing Seconded by Selectman Salomon. Motion carries 3-0.

3.5. Select Board Meeting Minutes Protocols

Chair Creighton stated that she sent some revisions of the protocols to the Select Board. Selectman Coutu stated that some of the changes that have been made to the protocols raise some legal and technical issues. He recommended having a workshop session to get into policy. He stated that he was concerned with editorial changes and how those decisions are made as to what is included in the minutes. Chair Creighton stated that you would then vote on the disagreement. Selectman Coutu stated that if we were to have to vote on disagreement, than the protocols are not working. Selectman Salomon stated that part of what has driven this is that when reviewing minute revisions he had to look at a tape because of the inclusion of the finer points of and the minutes became expansive. Selectman Coutu stated that he is concerned over the statement in the policy that the text of the motion verbatim should be included in the minutes versus a substantive summary of the motion. Town Administrator Fournier stated that if we need to make sure what the verbatim motion was, he would recommend that the Select Board adopt a protocol of resolutions and ordinance written out prior to a meeting. Selectman Salomon stated that his intent is to have the intent of the motion included in the minutes. Selectman Coutu believes that the Board should hold a workshop session. Chair Creighton felt that the minutes should best reflect what happened at the meeting. Chair Creighton stated that from her understanding of the right to know law, the Board can complete this using the computer and distributing drafts. Town Administrator Fournier stated that they could not, only items that have been voted on and amended can be reviewed via email. Selectman Salomon recommended having a workshop session with the Select Board rules and procedures as well.

3.6. Discussion of Zoning Board of Adjustments fee increase

The Town Administrator distributed a list of changes to the fees the Zoning Board assesses that he ZBA recommended. He stated that it was to cover the increases in postage. Selectman Coutu asked does the filing fee cover the Town's expenses. He indicated that they do.

Motion by Selectman Coutu to approve the changes. Seconded by Selectman Salomon. Motion carries 3-0.

4. Items Laid on the Table¹

4.1. Board of Selectmen Rules and Procedures

5. Report of the Town Administrator

Town Administrator Fournier announced that the Town has hired John Hubbard as the Director of Public Works, replacing Bob Strout. Mr. Hubbard is currently the Director of Public Works in Sanbornton, NH and has previous experience as the Highway Forman in Epping NH, and numerous years with Pike Industries. Mr. Hubbard is a resident of Lee NH and will begin on August 4, 2008.

Town Administrator Fournier stated that he scheduled the Police Study Findings presentation for July 24, 2008 at 7PM .

¹ Items laid on the table shall remain on the table until a member of the Board of Selectmen makes a motion to remove such item from the table.

Town Administrator Fournier let the Board know that in the ongoing effort to keep the public informed of the threat of Eastern Equine Encephalitis and West Nile Virus, this an update from the State of NH Arbovirus Surveillance Bulletin #4. There are still no confirmed test results in the State of NH for the EEE and WNV. The latest mosquito pools were tested in the Hillsborough area. Total tests for the year are 35 Humans and 282 mosquito pools (State Wide). The threat level has not changed and North Hampton still remains low.

Town Administrator Fournier stated that the governor has signed HB 1408, which amends RSA 91-A, the Right-To-Know Law. He stated that the changes area web site can now be used as one of the required two public places for posting notice of meetings. Members of public bodies can now unquestionably telephone in and take part in a meeting, including voting, but there are some restrictions, such as when that is occurring, all votes must be by roll call. The audience must be able to hear the person on the phone, as must all of the other members of the public body. The caller must be able to hear all of the other members of the public body. The person calling in must identify anyone else present at his/her location. Persons calling in to participate may only do so when physical attendance at the meeting is "not reasonably practicable," and the meeting's minutes must state why attendance was not reasonably practicable. A quorum must be physically present in the announced location of the meeting except in true emergency situations. Any discussion or action on public business occurring contemporaneously among a majority (or quorum) of a public body is defined as a meeting, whether it is in a meeting room, by telephone, email, or chat room, or any other means, and all of the rules pertaining to advance notice of the meeting and the public's right to observe and hear as it happens do apply. No exceptions. Any of the above types of communications among a majority or quorum which are accomplished sequentially rather contemporaneously (such as round robin emailing) are illegal if in violation of the spirit of the right to know law. In other words, to conduct public business by sequential emails, one member at a time, to avoid having that discussion in a public session, and then to claim that a quorum was never contemporaneously involved so there is no violation, is indeed a violation of RSA 91-A now.

He stated that the remaining changes of note have to do with the requirements of storing electronic records and their availability to the public. This is not considered by the Right To Know Law Oversight Commission to be the final product, as much remains to be addressed (such as penalties for violation).

6. Minutes

6.1. Regular Meeting – June 25, 2008

Motion by Selectman Coutu to approve the minutes as amended. Seconded by Selectman Salomon. Motion carries 3-0.

7. Adjournment

Motion by Selectman Salomon to adjourn. Seconded by Selectman Coutu. Motion carries 3-0.