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2 TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
3 SELECT BOARD
4

5 ***APPROVED MINUTES JUNE 8, 2009***
6 REGULAR MEETING – MONDAY MAY 11, 2009 –7PM
7 MARY B. HERBERT CONFERENCE ROOM
8

9 *These minutes were prepared as a reasonable summary of the essential content of*
10 *this meeting, not as a transcription.*
11

12 **1. Call to Order & Call of the Roll**

13 **Motion by Selectman Coutu to come out of the non-public session. Seconded by**
14 **Selectman Rineman. Motion carries 3-0.**

15 Chair Salomon called the meeting to order at 7:15 PM. Those in attendance were Selectman
16 Coutu, Selectman Rineman and Town Administrator Fournier.

17 Chair Salomon stated on behalf of the Board the he invited those who wish could join them in the
18 Pledge of Allegiance.

19 Chair Salomon confirmed with Town Administrator Fournier that the meeting had been properly
20 posted.

21 **Motion by Selectman Coutu to seal the minutes of the non-public session. Seconded**
22 **by Selectman Rineman. Motion carries 3-0.**

23 **2. Non Meeting With Counsel – 6:00 PM**

24 **3. Non-Public Session – 6:30 PM in the Executive Conference Room 2nd Floor pursuant to**
25 **RSA 91-A:3 II (c)**
26

27 **4. Consent Calendar¹**

28
29 **5. New Business**

30 **5.1. Commendation for two North Hampton Police Officers – Chief Brian Page**

31 Chief Brian Page read and presented letters of commendation to Sergeant Michael Maddocks
32 and Officer Michael Oliveira for their outstanding dedication, team work and efforts in

**THIS LOCATION IS HANDICAPPED ACCESSIBLE. THOSE WISHING TO ATTEND WHO ARE HEARING OR VISION IMPAIRED
MAY MAKE THEIR NEEDS KNOWN BY CONTACTING THE AT TOWN HALL 964-8087**

¹ These items are routine in nature and are approved without discussion. Should a member of the Board request to have an item removed, it shall be placed on the agenda under new business. The consent format is to expedite the business of the Board when adequate backup material has been provided.

33 conjunction with the arrest of Danielle Paula Bascom, and the discovery of a child living with
34 Ms. Bascom in Seabrook, that had been on the missing and exploited children website for
35 twelve years.
36

37 5.2. Acceptance of Justice Assistance Grant (JAG) – Chief Brian Page

38 Chief Page stated that the Select Board had given him prior approval to apply for the JAG
39 grant at their March 25, 2009 meeting, however, the grant application needed to be updated
40 as the Chief was informed that he needed to submit a memorandum of understanding, find
41 a fiscal agent within the county to accept and handle the funds, and that under the
42 guidelines of the grant a public hearing had to be held within 30 days of applying for the
43 grant.
44

45 Chief Page stated that the grant is now going to be 5% less due to the 5% going to the
46 County Sheriffs office for their efforts.
47

48 Chief Page stated that the grant amount is now \$10,780.00.
49

50 **Motion by Selectman Coutu to duly authorize Chief Page to continue his efforts of**
51 **the Justice Assistance Grant. Seconded by Selectman Rineman. Motion carries 3-**
52 **0.**
53

54 5.3. Public Hearing & Acceptance of Unanticipated Revenues
55

56 Chair Salomon opened the public hearing at 7:25 PM and stated that the funds under
57 Disaster FEMA-182-DR-NH declared January 2, 2009 awarded to the Town of North
58 Hampton in the total amount of \$28,377.11 which represents the Federal share (75%) of
59 eligible costs for repair, restoration and emergency measures in the Town of North
60 Hampton.
61

62 Chair Salomon stated that the funds from the State of New Hampshire for cost occurred in
63 the Seabrook Station Emergency Combined Functional Drills, Graded Exercise, and Siren
64 System Test. The total amount received by the Town of North Hampton is \$5,944.28.
65

66 Larry Miller asked what the “anticipated” revenue would be spent on.
67

68 Town Administrator Fournier clarified that the Town had received “unanticipated revenue”
69 and the Town is allowed to spend any unanticipated revenue that it receives.
70

71 Town Administrator Fournier stated that the money received will go back into the budget
72 and offset costs associated with the ice storm and the Seabrook drills
73

74 **Motion by Chair Salomon to close the public hearing at 7:30 PM.**
75

76 **Motion by Selectman Coutu to approve the funds from FEMA in the amount of**
77 **\$28,377.11 for the Federal share of eligible costs from the ice storm declared on**
78 **January 2, 2009 for repair, restoration and emergency measures in the Town of**
79 **North Hampton and \$5,944.28 from the State of New Hampshire for costs occurred**
80 **at the Seabrook Station Emergency Combined Functional Drills, Graded Exercise,**
81 **and Siren System Test. Seconded by Selectman Rineman. Motion carries 3-0.**
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83 5.4. Approval of Purchase Order – Recreation Shade Structure

84 Chair Salomon stated that the Board was in receipt of an approval of a Purchase Order from
85 Recreation Director, Diane Wheeler for a shade structure to be used at Dearborn Park.

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Chair Salomon stated that three estimates had been received.

USA Shade provided a bid for two shade structures that would cover two pieces of equipment in the amount of \$8,154.

Creative Shade Structures provided a bid for one shade structure in the amount of \$8,075.

American Safety Equipment provided a bid in the amount of \$7,541.00 for one shade structure.

Town Administrator Fournier stated for the record that the shades would be purchased through funds received through the Robie-Mackin Charitable Foundation, and that the Fire Department had confirmed that the material on the shade was flame retardant. Town Administrator Fournier also noted that the Public Works Department would be assisting with the installation of the shade structures.

Motion by Selectman Coutu to accept the bid from USA Shade in the amount of \$8,154 and to be funded from the Robie-Mackin Charitable Foundation funds received. Seconded by Selectman Rineman. Motion carries 3-0.

5.5. Acceptance or Waiver of Tax Deeded Properties

Motion by Selectman Coutu to accept the judgment of the Tax Collector, and waive the taking of the following properties by deed: Merritt, B&G Realty Trust (Fuller), Coakley Landfill, Fiore, Garvey Living Trust, Holmes, LaFlamme, Muse and Wilbur. Seconded by Selectman Rineman. Motion carries 3-0.

5.6. Release of Gravel Bond – S. Knowles

Chair Salomon explained the background regarding an old gravel bond that has been discovered, and presumably related to a gravel pit. On the towns records it is the name of Stanley Knowles. Mr. Knowles has advised that it is not his.

Chair Salomon stated that the question now is what to do with it. The Planning Board has dealt with the issue and is now before the Select Board.

The suggestion has been to have Mr. Knowles formally disclaim any interest, and then at that point decide what to do with the money.

Selectman Coutu looked at the matter for the Planning Board and opined to a certain protocol to follow. We have learned after the fact there is a statute that says if the property has not had any activity for more than three years then it is deemed statutorily to be abandoned. The statute further states we have to pay those funds over to the State Treasurer's Office and file those funds with a report and then the State Treasurer's Office will issue public announcements requesting if there are any claimants to the funds. If there are not any claims then property becomes property of the state.

Town Administrator Fournier stated that it is not the purview of the Select Board, and that the treasurer is the one that oversees the funds.

138 Chair Salomon suggested that the Town Administrator get together with the treasurer and
139 Mr. Knowles once an appropriate waiver has been drafted by counsel and then to place this
140 item on the next Select Board Agenda within 30 days.

141 142 5.7. Code of Ethics Complaint Procedure

143 Chair Salomon stated that last year the Select Board worked on an updated and revised
144 Code of Ethics, which was approved at Town Meeting. As part of that update, there is a
145 complaint procedure referenced, and since then the Board has received two communications
146 that are in the judgment of the Select Board to be complaints. The Board has since received
147 communication that one of the communications was not meant to be a complaint.

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149 Chair Salomon stated is prudent to adopt procedures to deal with these two matters. The
150 current Code of Ethics says that the Board is to investigate, conclude and in appropriate
151 cases, impose sanctions.

152
153 Town Administrator Fournier has developed the procedures and given the draft to the Select
154 Board, and the Board has then circulated the drafts to the people that would be involved in
155 the hearing.

156
157 Chair Salomon asked the Board for their comments on the draft of the procedures written by
158 Mr. Fournier.

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160 Selectman Coutu asked if given the fact that the code of ethics was approved in March 2009
161 by the electorates, would the same be true for adopting complaint procedures.

162
163 Town Administrator Fournier stated that the Code of Ethics states that it is up to the Select
164 Board to hear the complaints; it does not state how they hear it.

165
166 Town Administrator Fournier stated that it would be prudent for the Board to set up some
167 guidelines so that any hearing would be fair and equitable, and also if there was an appeal
168 there would be records to show.

169
170 Selectman Coutu stated that in terms of statutory authority of what the Board can and
171 cannot do is very limited. Selectman Coutu stated that the issue of "the removal of an
172 official" is prescribed for violating code of ethics is prescribed by a statute or that the select
173 board would not have the statutory authority to do so. If there was a violation of the code of
174 ethics, then the actions would be limited to censure and removal only to the extent not
175 inconsistent with the statute.

176
177 Town Administrator Fournier stated that the Select Board would have to hear any
178 complaints against any of the land use boards, and that it is Select Board that hears
179 potential removal of a member.

180
181 Selectman Rineman stated that the Board had received correspondence from Don Gould
182 regarding the current code of ethics, and was concerned by some of the issues that he
183 brought forward.

184
185 Chair Salomon stated that he had read the letter written by Mr. Gould and his points
186 regarding procedural matters and the authority of the board to take remedial actions.

187
188 Chair Salomon stated that the prior Select Board had worked long and hard trying to come
189 up with a document that was a clear roadmap on what was expected of not only appointed
190 and elected officials, but employees as well.

191
192 Chair Salomon said that this needs to be revisited but leaves the two matters on the agenda.
193

194 Selectman Rineman suggested that the issues on this agenda should be tabled and brought
195 up at another meeting, as he feels this code of ethics is not a good document.
196

197 Selectman Coutu stated that however imperfect the document may be, there is a code of
198 ethics that was adopted by the electorates on March 10, 2009 and if we intend to make a
199 document that the Board feels is improved, does the Board then use a document that wasn't
200 approved by the electorates.
201

202 Chair Salomon stated that one option that would be available would be to table the
203 complaints before the Board. At any time the complaints can be taken off of the table. If
204 another complaint is filed that can be dealt within the same manner.
205

206 Chair Salomon stated that all complaints have to be dealt with on a case by case basis but
207 procedures need to be consistent.
208

209 Chair Salomon noted correspondence received from Mr. Field, and that it wasn't his intent
210 to file a complaint, but was looking for clarification from the Board.
211

212 Bob Field stated that he made no complaint against any individual and that the Ethics Code
213 now mandates that anyone that has a perceived violation that it be put in writing and given
214 to the Select Board. Only question related to code of ethics is what it means to vote. Clear in
215 Code of Ethics somebody cannot vote on any matter that may come before a representative in
216 which they have an interest. Mr. Field stated that he wished to have guidance on the code of
217 ethics as they were grossly unclear, and provided little or no guidance on the question he was
218 raising.
219

220 Chair Salomon stated that a decision needed to be made whether to adopt some sort of
221 procedures to address both of the items pending, or whether to table those matters and deal
222 with the both the procedures and the body of the Code of Ethics.
223

224 Selectman Coutu stated that he felt uncomfortable trying to sit and judge an allegation
225 that's a violation of the code currently construed if then he also would have to make
226 judgment of the intent of the code. He further stated that a better course of action would be
227 to invest time and energy to make clearer what it is trying to be accomplished in the
228 document and to make it clearer. Selectman Coutu stated that he wants to make sure the
229 Code of Ethics complaint procedures are in fact truly integrated with the document.
230

231 Town Administrator Fournier read the Conflict of Interest state statute RSA 31:39-A.
232

233 Chair Salomon suggested tabling the issue and meet with counsel about some of the
234 interpretation issues to get some guidance. He further stated the need to work on Selectman
235 Rineman state the next step should be to work with counsel in developing a new Code of
236 Ethics, and solicit the voters approval of same. He also asked what the cost of a special
237 meeting would be, and if it is an all day affair.
238

239 Chair Salomon stated that as important as having a Code of Ethics is, it is also important to
240 have a document that is fair and understandable and one that is used as a shield for the
241 town's interests and not a weapon.
242
243

244 Joe Arena spoke to the Board and stated there should be no problem as the Code of Ethics
245 was adopted. Would like to handle complaint against him using the current Code of Ethics
246 that is very simple and straight to the point. The only thing missing is the type of
247 punishment.
248

249 Bob Field spoke to the Board and stated he does not have a complaint it is an interpretive
250 question. Mr. Field stated that if it is the position of the Select Board to refer the matter to
251 counsel, and adopt a code of ethics in the manner where there is public input he would
252 consider withdrawing Part II of his communication to the Board.
253

254 Don Gould spoke to the Board and stated that there are a number of provisions in his
255 judgment that are illegal. Mr. Gould suggesting that a flawed document was given to voters
256 and they didn't understand legal ramifications. Mr. Gould further stated that he
257 recommends that the Board have it reviewed by counsel and then put it back to voters.
258

259 Larry Miller spoke to the Board and stated that there are one or two complaints now before
260 them. Mr. Miller stated that if the Board does not know how to deal with them, and they
261 were to move forward without clarification, there may be even more problems.
262

263 Emily Creighton spoke to the Board and stated that she agreed that if there is a problem
264 then it needs to be straightened out. Ms. Creighton stated many individuals were involved
265 in drafting the Code of Ethics and that the document was sent to legal counsel. Ms.
266 Creighton stated as a matter of common sense that if there are ethical violations the Board
267 should address them.
268

269 Susan Smith spoke to the Board and stated she would like to see a Code of Ethics that is
270 used as more of a guideline. Ms. Smith stated that she felt we should use the current Code of
271 Ethics that is stated in RSA 31:39-A.
272

273 Phil Wilson spoke to the Board and stated that we write good legislation, however when
274 confronted with one of the challenges under those laws, we realize that practical
275 consequences were hard to predict. Mr. Wilson stated that everyone that worked on the
276 Code of Ethics did the best job that they could. Mr. Wilson stated that he feels there has
277 been a breakdown of civility in the Town.

278 **Motion by Selectman Coutu to hold the two complaints until such time that the**
279 **Board has had the opportunity to rewrite and rethink the intent that voters had**
280 **with approving the Code of Ethics that was submitted to them at the Town**
281 **Meeting. Seconded by Selectman Rineman. Motion carries 3-0.**

282 Chair Salomon stated that items 5.7, 5.8 and 5.9 on the agenda would be tabled at this time

283 **5.8. Code of Ethics Complaint – R. Field *TABLED***
284 **5.9. Code of Ethics Complaint – P. Simmons *TABLED***

285 **6. Items Laid on the Table²**

286 6.1. Select Board Rules and Procedures

287 6.2. Personnel Policy Review

² 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.

288 6.3. Capital Improvement Plan

289 Review of Forms of Government

290 **7. Report of the Town Administrator**

291 A letter was received from the Board of Library Trustees in reference to the facilities. The
292 Library Trustees are requesting a joint meeting to discuss the Town's building and
293 infrastructure needs. The Select Board authorized the town office to begin to write an RFP for
294 schematics and conceptual drawings for a Town Campus. The purpose of issuing RFPs is to get
295 a firm on Board to work with us to draw the plans for the facilities and the best way to
296 implement them. It will not be beneficial to anyone if we do this independently of one another.

297 **Communication from the ZBA:** The Zoning Board of Adjustment has written the Select Board
298 requesting that the meetings of the Conservation Commission be televised. They feel that this is
299 a great opportunity for them to be more informed of the decision making processes of the
300 Commission. I have forwarded a copy of the letter on to the Conservation Commission.

301 **Town on Twitter:** Town Administrator Fournier stated that he is pleased to announce that in
302 order to better communicate with the residents of the community; we have begun to use Twitter
303 on a trial basis. Twitter is a service that allows people to communicate and stay connected
304 through the exchange of short messages to people mobile phones or to a specific website. The
305 Town will provide individuals who subscribe with brief news bulletins, breaking news events,
306 emergency communications as well as other information.

307 The Town Administrator decided to use this process for communicating with the public after
308 evaluating the Town's communications issues during the Ice Storms of December 2008. During
309 the storm, it was found that many traditional lines of communications, such as telephones and
310 television, were down for a period of time. During the storm, however, mobile phone service was
311 still working, and utility companies were using Twitter to provide individuals with updates.
312 After hearing the success stories that they had, the Town decided that this would be a beneficial
313 tool for it to use to communicate with the public.

314 **Cable Franchise Agreement:** Town Administrator Fournier announced that a letter from
315 Counsel outlining the Cable Franchise Renewal process was received. The first deadline that
316 needs to be met is to begin the process by August 9, 2009. The Town Administrator recommend
317 that the Board follow Counsel's advice by holding the first hearing just outlining the process with
318 the Select Board at a regular meeting On that date, the Board would officially turn it over to the
319 Cable Advisory Committee. The Cable Advisory then would set up the Franchise Compliance
320 Audit and the formal Ascertainment Hearings.
321

322 Chair Salomon stated that the sense he got was to try to put together an RFP as a good
323 beginning point.

324 Chair Salomon stated that he felt it was best to adopt a concept and then seek the input.

325 Chair Salomon stated there are certainly a lot of important stake holders and participants in this
326 process, and in what this looks like.

327 Chair Salomon stated that the Planning Board, Budget Committee, and the Library, which has
328 its own funds which could be used as part of the overall process, represent participants.

329 The stake holders are the town departments, Town Clerk, records retention committee, the
330 Heritage Commission and the Recreation Department.

331 Chair Salomon stated that there is a need to come up with RFP and get a starting point for the
332 discussion, and then get the participants and stakeholders involved.

333 **8. Minutes**

334 8.1. Regular Meeting April 17, 2009

335 Chair Salomon stated that more information needed to be obtained regarding the land
336 locked properties, so the minutes would be moved to the next Board meeting.

337 8.2. Regular Meeting April 22, 2009 Public Session

338 **Motion by Chair Salomon to accept the minutes of April 22, 2009 with a change on**
339 **line 89 to change the incorrect date to May 21, 2009. Seconded by Selectman**
340 **Rineman. Selectman Coutu abstained. Motion carries 2-0-1.**

341 8.3. Regular Meeting April 22, 2009 Non-Public Session

342 **Motion by Chair Salomon to accept the minutes of the non-public session of April**
343 **22, 2009. Seconded by Selectman Rineman. Selectman Coutu abstained. Motion**
344 **carries 2-0-1.**

345 8.4. Regular Meeting April 27, 2009

346 **Motion by Selectman Coutu to accept the minutes of the April 27, 2009 meeting**
347 **with a correction to line 84 to reflect the vote of the Select Board to 3-0. Seconded**
348 **by Selectman Rineman. Motion carries 3-0.**

349 **9. Adjournment**

350 **Selectman Rineman made a motion to adjourn the meeting at 9:40 PM. Seconded by**
351 **Selectman Coutu. Motion carries 3-0.**

352 **Respectfully submitted,**

353 **Janet Facella**

354 **Administrative Assistant**