



TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
SELECT BOARD
APPROVED MINUTES

REGULAR MEETING – JUNE 27, 2011 –7PM
TOWN HALL

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

1. Call to order

Chair Maggiore called the meeting to order at 7:00 PM. Those in attendance were Selectman Wilson, Selectman Miller and Town Administrator Fournier.

Chair Maggiore led the Pledge of Allegiance.

2. Consent Calendar

Selectman Wilson asked that Item 7 on the Consent Calendar be removed at this time as he had questions about it.

Motion by Selectman Wilson that the Consent Calendar be approved with the one reservation. Seconded by Selectman Miller. Motion carries 3-0.

3. Approval of Minutes of Previous Meetings

3.1 Regular Meeting of June 13, 2011

Chair Maggiore made corrections to lines 90 and 92.

Motion by Selectman Wilson to accept the minutes as emended. Seconded by Selectman Miller. Motion carries 3-0.

4. Report of the Town Administrator

Town Administrator Fournier reported to the Select Board that the House and Senate in the Committee of Conference amended the State Budget to include the same reform as SB3 to be included in the budget. This now awaits the Governor's signature. If the State's contribution were to go to zero, the Town would have to reduce the operating budget by \$105,359, but if the budget with the reforms is signed into law, the Town will see an estimated savings of \$12,200.

The Public Works Director and Town Administrator Fournier met with representatives from the University of New Hampshire Transportation and Technology Center (UNH T2) to begin the process of implementing a Road Surface Management System in Town. This program will have students from UNH work with the Highway Department to inventory, map and determine the condition of all of the Town's roads, culverts and other assets. After this task is completed, they will propose an estimate of the costs for road repairs and culvert replacement in town, as well as a proposed schedule. The University of New Hampshire has received federal funding for this program so there will be no cost to the Town.

5. New Business

5.1 Appointment of Select Board Vice Chair

Motion by Selectman Miller to appoint Selectman Wilson as Vice Chair. Seconded by Chair Maggiore. Motion carries 3-0.

5.2 Appointment of Select Board Member as Planning Board Alternate Representative

Motion by Selectman Wilson to appoint Selectman Miller as Planning Board Alternate Representative. Seconded by Chair Maggiore. Motion carries 3-0.

5.3 Appointment of Select Board Member as Budget Committee Alternate Representative

Motion by Selectman Wilson to appoint Selectman Miller as Budget Committee Alternate Representative. Seconded by Chair Maggiore. Motion carries 3-0.

5.4 Appointment of Select Board Member as Capital Improvement Committee Representative

Motion by Selectman Miller to appoint Selectman Wilson as Capital Improvement Committee Representative. Seconded by Chair Maggiore. Motion carries 3-0.

5.5 Appointment of Select Board Member as Zoning Board of Adjustment Liaison

Motion by Selectman Wilson to strike this appointment from the list of committees that the Select Board serves on. Seconded by Chair Maggiore. Motion carries 3-0.

5.6 Appointment of Select Board Member as Energy Committee Representative

Motion by Selectman Wilson to appoint Chair Maggiore as Energy Committee Representative. Seconded by Selectman Miller. Motion carries 3-0.

5.7 Appointment of Lee Brooks, Rick Stoklosa and Anita Pounder to the Conservation Commission

Chris Ganotis, Chair of the Conservation Commission, gave a brief overview of each of the candidate's qualifications.

Selectman Wilson stated that he felt that it was very important to listen to the Chair of the Conservation Commission's recommendations.

Selectman Miller said that he supports the Chair of the Conservation Commission choice of candidates, and that he felt that members are needed that are going to be passionate about conservation.

Chair Maggiore stated that the Conservation Commission has always ranked very high in importance in surveys that have been sent out to residents, and that he too supports the chairman's recommendations.

Motion by Selectman Wilson to appoint Lee Brooks, Rick Stoklosa and Anita Pounder to the Conservation Commission. Seconded by Selectman Miller. Motion carries 3-0.

5.8 Approval of Encumbrance Request of Public Works Department Funds

Town Administrator Fournier stated that the Chief of Police also had an encumbrance requests that are completed annually. The requests are for encumbrance of funds of donations from the Levine/Petrowski Charitable Foundation for \$8,671.67, Joanne Lamprey for the SPOTS donation \$1,648.00 for, and Dennis Kokernak for a wireless equipment donation for \$629.31.

The Public Works department is requesting an encumbrance of \$5,185.00 for asphalt/paving in the amount of \$3,800, and \$1,385 for equipment maintenance. The asphalt paving would be for sealing cracks on Squier, Cotton Farm and Runnymede and equipment maintenance to repair the 2006, F550 truck for damages from an accident that occurred during the winter.

Chief Page explained the history of the donations that were received and how the funds are expended.

Selectman Wilson stated that unless the funds are specifically earmarked for certain expenditure, than the funds cannot be encumbered.

Motion by Selectman Wilson to approve the encumbrances for the Public Works Department as recommended. Seconded by Selectman Wilson. Motion carries 3-0.

Motion by Selectman Wilson to approve the encumbrances presented for the Police Department as recommended, with the caveat that the Town Administrator shall consult with the outside auditors to get a written opinion about how the town should account for restricted gifts now and in the future, and also a written opinion on how to deal with the present issue of encumbrances of the Police Department funds. Seconded by Selectman Miller. Motion carries 3-0.

5.9 Approval of Extension on BAN dated 06/30/2011

Town Administrator Fournier stated that the BAN (Bond Anticipation Note) on the Jenkins property expires on June 30, 2011, and the bond proceeds do not come into the town until July 21, 2011. Citizens Bank has agreed to extend the BAN until July 21, 2011.

Motion by Selectman Wilson to authorize the Town Administrator to execute the documents for the extension on the BAN dated June 30, 2011 in the amount of \$199,825. Seconded by Selectman Miller. Motion carries 3-0.

5.10 Approval of Workers' Compensation and Property Liability Insurance

Town Administrator Fournier stated that as a member of the Board of Directors of the LGC, he was not involved in this bidding process and that the Administrative Assistant was.

Town Administrator Fournier read through proposals from the Local Government Center and Primex.

Selectman Wilson asked if Ms. Facella had checked with other clients of Primex regarding their performance. Town Administrator Fournier stated that she had and that all comments from communities contacted were very favorable.

Motion by Selectman Miller to award the Town of North Hampton's Property and Liability Coverage as well as Workers' Compensation Coverage to Primex and to authorize the Town Administrator to execute the agreements. Seconded by Selectman Wilson. Motion carries 3-0.

5.11 Public Hearing on Proposed Parking Ordinance – Chief Brian Page

Chair Maggiore opened the Public Hearing at 7:57 PM.

Chief Page stated that in Section 4 (b) of the proposed parking ordinance the time needs to be changed from midnight to 1:00 AM.

Chair Maggiore closed the Public Hearing at 8:02 AM.

Chair Maggiore stated that there would be one more Public Hearing at the next Select Board meeting.

5.12 Update of EPA Label Ordinance and Motorcycle Noise Enforcement – Chief Brian Page

Town Administrator Fournier stated that in May of 2010, the town approved a petitioned warrant article on the motorcycle noise ordinance, and on May 13, 2010, the town received three legal opinions from the Rockingham County Attorney, Town Counsel and from the Local Government Center as to the enforceability of the ordinance. Legal Counsel felt that the ordinance was not legally enforceable because State Statute does not allow local governments to adopt such an ordinance. On June 14, 2010, the Select Board met to discuss the issue, and instructed the Town Administrator to write to the EPA to determine if the town can enforce the EPA law, which was the basis of the petitioned warrant article ordinance that was passed by the voters. On July 27, 2010, Seacoast Motorcycles filed a petition for preliminary and permanent injunction as well as a declaratory judgment on whether or not the ordinance was enforceable. The town did not object the preliminary injunction because the Select Board, at the time, felt that it was better not to delay the final court case to get the final decision, versus fighting just an injunction. At this point in time, the town could not legally enforce the ordinance according to the court decision. On August 30, 2010, the town received a letter from the EPA counsel stating that the EPA noise control act does not grant any localities any additional authority beyond what is granted by state law. On October 6, 2010 NH CALM filed to join a case of the Seacoast Motorcycles vs. the town as an intervener. Shortly after that, NH CALM filed a notice of removal from state to federal court. Seacoast Motorcycles filed to remand to the state court, and that the town did not consent to the case removal from the federal court. The Select Board stated that the reason was with the legal opinion from the EPA; they felt it was a state not federal issue. On February 7, 2011, the federal court denied NH CALM's request to move to a federal court, and on May 18, 2011 NH CALM withdrew from the case.

Chief Page stated that the ordinance is under a temporary injunction. He further stated that as far as public knowledge of that, he did an article for the library newsletter and the town report in regard to the temporary injunction, and made it very clear that the ordinance was unenforceable. After much research and more legal opinions, the Chief stated that some of the suggestions brought forward to him at the June 14, 2010 Select Board meeting were found to be unconstitutional.

Chief Page referred to a survey that shows that the level of police services ranked very high; however, there were a few items in the Master Plan survey that concerned him greatly. Of 309 people that responded to the survey, 150 felt that the police department was not doing enough to control the motorcycle noise; 159 responses indicated that they felt the police department was doing a good job, or were neutral about controlling the motorcycle noise.

Chief Page noted that there was a motorcycle information brochure that has been put together for the riders which reminds them of the state statutes, and to what they can expect at the different traffic checkpoints that are held. He further stated that he had done a radio interview on WOKQ with Rye Police Chief, Kevin Walsh, as well as Portsmouth Police Chief, David Ferland. Chief Page stated the importance of having all of the Chiefs on board, as one agency cannot possibly do this alone and it is a seacoast wide problem.

Chair Maggiore called for a brief recess.

Chair Maggiore called the meeting to order after a brief recess.

Chief Page stated that he has been in contact with State Representative Michele Peckham and has given her his observations as to what needs to be done.

David O'Heir of 18 Old Locke Road stated to the Select Board that in 2008 he became involved with the motorcycle noise issue. Mr. O'Heir asked the Select Board why the town did not follow NH CALM's attempt at the federal level.

Chair Maggiore stated that the consensus at that point was that the issue was being fought in court and the town was waiting for the ruling.

Mr. O'Heir stated that he went to the press conference that was held at Seacoast Harley Davidson, and wonders why the large poster that was on display at that meeting is not posted anywhere at Harley Davidson. He asked whether a notice could be put up on the town sign regarding motorcycle noise at certain times of the year such as July 4, Labor Day and Motorcycle Week.

Town Administrator Fournier stated he did not see any problem with that unless there was a meeting or something of other importance that needed to be displayed at the time.

Michele Peckham stated to the Select Board that it has been suggested that this issue really needs to be dealt with at the state level and not the town. Ms. Peckham stated that she has been asked to introduce legislation that would reduce the decibel level from 102 to 86. She further stated that she has introduced some legislation that models the California law.

Ms. Peckham stated that this has been introduced three or four times at the state level and has failed each time in the committee due to fierce opposition from the motorcycle community as well as motorcycle dealers.

Ms. Peckham urged everyone to come to Concord to testify the next time this is brought up.

Kim Cibrowski, 49 Post Road asked where the signs that are being made would be placed in town.

Donald Gould, 21 Fern Road stated that he shares the opinion that motorcycle noise is at many times obnoxious. Mr. Gould stated that he would like to commend the Police Chief and his department for actively doing everything they possibly can do to try to address this issue. He further asked that the Select Board firmly back up the Chief of the Police Department in his efforts of what he is doing.

Ron Dupuis, Post Road said he wanted to second what Mr. Gould had stated regarding supporting the Police Chief, and hopes that the Select Board remembers the Police and Fire departments and the outstanding job they do at budget time.

Al Contois, one of the owner's of Seacoast Harley Davidson, stated that he hears the concerns of the town, and as a business, they are very concerned. He further stated that Harley Davidson has collaborated with Chief Page to address the issue and do the best they can to work with the town. Mr. Contois further stated that he gets the feeling that people think Seacoast Harley Davidson does not care, or are not doing what they could to help the issue. He stated that they do care and they have invested funds to create signage, and posters that will hopefully help overcome this issue. Mr. Contois stated that they believe in education and working with the community to solve the problem, and he wanted to let the community know that they are concerned and are trying to help solve the issue, and doing the best they can.

Craig Salomon, 100 Woodland Road stated that he feels it is very important to support the Police Chief who is very knowledgeable and has taken the lead on trying to address the motorcycle noise issue and solve the problem within legal bounds. He further stated that we live in a time of budgetary constraints and the Chief has only so many men and so much money in which to enforce the laws.

Mr. Salomon stated that he endorses the approach the Chief has taken and hopes that the Select Board will do the same.

Chair Maggiore stated that the Select Board should now take up the item that was removed from the Consent Calendar, which is the abatement application of Katherine Southworth.

Selectman Wilson stated that Town Administrator Fournier had indicated during the recess that he had some questions as well, and suggested that the Select Board schedule a meeting with the assessor to discuss the request for an abatement.

Selectman Wilson stated that his concerns are that in reading the recommendations of the assessor's, it is a piece of property that is on Little Boar's Head that has only 23 feet of frontage on Atlantic Avenue, and the 23 feet of frontage appears to narrow down to much less than 23 feet according to the tax maps. He further stated that his questions are whether it is a buildable lot. Selectman Wilson stated that if it does not have a building envelope then the assessment should be lower than what it currently is, and that should be looked at carefully before denying the abatement.

6. Closing Comments

6.1. Closing Comments by Visitors

6.2. Closing Comments by Select Board Member

Selectman Wilson stated that he would like to make an observation. He stated that the comments that have been made at this meeting seem to be directed toward the Select Board suggesting implicitly or by innuendo that the Select Board were not adequately supporting the police and fire departments. He further stated that he is fully in support of the police and fire departments and in especially what Chief Page is doing to enforce the ordinance, or improve the situation with the motorcycle noise.

Selectman Miller stated that he is not sure why anyone would think he is not in support of the fire or police department, because he certainly supports them.

Chair Maggiore stated that he feels that the Police Chief has been as open and honest about the motorcycle noise issue, budget constraints, ability, and resources. He further stated that the Chief and his department have done an exceptional job within the confines of the law.

7. Adjournment

Motion by Selectman Wilson to adjourn the meeting at 9:00 PM.

Respectfully submitted,

Janet L. Facella, Administrative Assistant