



**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE  
SELECT BOARD  
APPROVED MINUTES**

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REGULAR MEETING – FEBRUARY 13, 2012 –7PM  
NORTH HAMPTON TOWN HALL

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

**1. Consultation with Legal Counsel – 6PM – Executive Conference Room**

**2. Non-Public Session Pursuant to RSA 91-A:3 II (a,c,e) 6:45PM– Executive Conference Room**

**3. 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.

**Motion by Selectman Miller to seal the minutes of the Non-Public session. Seconded by Selectman Wilson. Motion carries 3-0.**

**4. Approval of Minutes of Previous Meetings**

4.1 Select Board Minutes of January 23, 2012

**Motion by Selectman Wilson to table the minutes of the January 23, 2012 Select Board meeting. Seconded by Selectman Miller. Motion carries 3-0.**

**5. Consent Calendar**

Chair Maggiore asked that item six be taken off of the Consent Calendar as it is listed under New Business.

Selectman Miller asked to have item two moved to New Business.

**Motion by Selectman Wilson to approve the Consent Calendar with items two and six removed and placed for consideration under New Business. Seconded by Selectman Miller. Motion carries 3-0.**

**6. Communications to the Select Board**

6.1 Correspondence from Rich Skowronski

Town Administrator Fournier read Mr. Skowronski's letter into the record. A copy of this letter is attached to these minutes.

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Selectman Miller stated that in the last meeting, he said that he had no pecuniary interest in noise. He further stated that he didn't realize Mr. Skowronski didn't understand the meaning of the word pecuniary when he stated to him that he could answer the question at a future time if he chose to do so.

Selectman Miller stated that he was not talking about a noise ordinance, but rather just noise.

Chair Maggiore stated that minutes can always be requested or viewed on line. A DVD copy of the meeting is also available through the town office for \$10.

Selectman Wilson stated that he was disappointed that Mr. Skowronski chose to leave the meeting after his letter was read into the record, because he wanted to apologize to him for misinterpreting the meaning of his comment in the meeting when he stated he would have to check an online dictionary. Selectman Wilson further stated that his impression of Mr. Skowronski's statement was that he was being facetious, and had he realized that Mr. Skowronski literally did not understand what the word pecuniary meant, he would have defined it for him on the spot. Selectman Wilson stated that there was no intention by anyone to humiliate him.

Selectman Wilson stated that he felt that the continuing interaction between the Select Board and Mr. Skowronski is an illustration of exactly the opposite of what Mr. Skowronski says he is trying to do. He further stated that the question of too much noise along Mill Road as a result of gun fire, has sent the Select Board down a road that unfortunately led to neighbors not getting together and trying to resolve their differences. The Select Board has received threatening letters from lawyers and letters such as the one from Mr. Skowronski. This source of misunderstanding and the prolonging of it have perhaps intensified disagreements and have come to no conclusions.

Chair Maggiore stated that he wished that Mr. Skowronski was going to stay and hoped that he listened to the meeting. He further stated that the noise ordinance that is going to be considered is in no way an attack or an affront to any individual or individuals. He further stated that it simply is the fact that we need a noise ordinance in place, the same way an ethics code would be considered or a large assembly ordinance.

Chair Maggiore stated that he apologized to Mr. Skowronski if he was offended by anything the Select Board said.

Selectman Miller stated that he thought that the noise ordinance was under consideration before he became a Select Board member because of the proposed large assembly that was going to happen. He further stated that the proposed noise ordinance was not started by him, nor did it have anything to do with him.

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

Town Administrator Fournier stated to the Select Board that he wanted to make them aware of a recent Superior Court decision regarding the Right to Know Law. He further stated that the Town of Marlborough was recently sued for failure to post a meeting of the Select Board. Another important issue in the Right to Know Law is something that sometimes happens between boards and commissions, and that is editing the minutes via email. A fine of no less than \$250 can be assessed against anyone who knowingly violates the law.

At the last Select Board meeting, the Board was given an update on the State House of Representatives redistricting and how North Hampton will be getting a single State Representative for the Town only and share a member with Greenland, Newington and certain wards in Portsmouth. The State Senate has released its redistricting plan and we will continue to be in District 24 with the same Senator. The District will be however losing Portsmouth and adding Seabrook.

As a result of the repeal of the telephone pole tax exemption, there will now be a bill to Fair Point Communications as the result of now being allowed to tax telephone poles. The result has now added \$1,369,600 to the town valuation.

Town Administrator Fournier stated that he attended the public hearing of the State of New Hampshire Department of Resources and Economic Development on the connection of the North Hampton State Beach to the Rye sewer line that goes to Hampton. Some in attendance were concerned that this was an effort by the Town of North Hampton to hook up the entire town to the Hampton sewer lines. He further stated that he emphatically stated that it is not the intention of the Town of North Hampton to connect to the sewer system rather that the town was only there to support the State's efforts. He further stated that he would be asking the

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Select Board to adopt a resolution and submit a letter to the Editor for the next meeting supporting the Warrant Article in Hampton as well as reiterating that it is not being done to hook up the Town of North Hampton to the sewer line.

## **8. New Business**

### **8.1 Public Hearing – Code of Ethics**

Chair Maggiore opened the Public Hearing at 7:34 PM. He stated that the purpose of the hearing is to solicit input on the Code of Ethics as proposed by the Code of Ethics Ad Hoc committee and to consider placing it on the 2012 Town Warrant.

Selectman Wilson stated that an Ad Hoc committee was formed as a result of action taken at a Deliberative Session two years ago when voters were presented at a public hearing held last year with an earlier version of the Code of Ethics. The committee worked hard on the proposed Code of Ethics and at a Public Hearing there were some citizens that attended that were concerned and had important questions so that Select Board therefore voted not to put it on the Town Warrant in 2011. Time has been spent over the past 11 months or so working on this and believe that the committee has effectively addressed or found good reason to dismiss the comments and objections that were raised in the last Public Hearing.

Selectman Wilson stated that members of the committee proudly present the proposed Code of Ethics to the Town for its consideration and feel that at this point it should be on the Town Warrant so that the voters can decide.

Selectman Wilson stated that one of the primary issues that the committee was trying to deal with was balancing the sincere desire to protect the first amendment rights of everybody, with the desire for people who hold public office to be civil. He further stated that the committee codified what is an operating procedure of boards, and that is that the chair is responsible for maintaining the rules of procedure, and to ensure that however the process is progressing in a board or commission meeting, that it is not disrupted by individuals in the audience or on the board itself. The board chairs currently have that responsibility, but the proposed Code of Ethics emphasizes it for the sake of getting business done.

Selectman Wilson stated that the Ad Hoc committee proposed a standing Code of Ethics committee be established whose responsibilities are very specifically outlined. The importance of this committee is that it is made up of elected officials in town who are on other boards. That committee will review the complaints and they have the discretion to decide whether or not a complaint is frivolous or if it is a serious complaint. If it is a serious complaint, they are charged to establish the appropriate procedure for dealing with it based on the evidence.

Selectman Miller asked when the draft of the Code of Ethics was completed.

Selectman Wilson stated that it was completed on September 24, 2011, with minor revisions over the last few months.

Selectman Miller stated that it is his understanding that the intention of the Code of Ethics is to add as much sunshine as possible into the political and nonpolitical process of the business of the Town of North Hampton. He further stated that his overall concern is the unintended consequences.

Selectman Miller stated that this proposed Code of Ethics could not supersede state law and it is intended to add to state law at the local level. He further stated that if this is trying to supplement state law, the committee is then adjudicating the local law. He stated that his concern is not that justice be done, but rather he is concerned with overly aggressive accusations, and the handling of those. He stated the town needs to state up front that it is not going to provide legal services for anybody.

Selectman Miller stated that if it is not the intention to have legal counsel provided by the Town to either the accused or the accuser it needs to be made clearer.

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Selectman Wilson stated that it was never the intention of the committee to provide legal counsel. He further stated that they thought that a complainant or a respondent might want to have representation but it wasn't discussed whether the town would provide it or not. Selectman Wilson stated that as he understood it, the committee did not want to think of it as a court of law or to even appear to be mimicking the procedures of a court of law in constructing the Code of Ethics. The committee wanted it to be citizens evaluating citizens and trying to "civily" resolve differences.

Selectman Miller asked how it would be handled if someone claims, while at a meeting, that a town board member is lying and the accuser asks the member to recuse himself.

Selectman Wilson stated that state law governs under what condition individuals must recuse themselves; therefore the Code of Ethics would not be affected. He further stated that if the person who asks for the recusal takes the next step, they can file a complaint and then the standing committee would look at that complaint and evaluate it on its face to see whether it was frivolous, politically motivated or a serious complaint that they had to establish a process for adjudicating and making a recommendation. Selectman Wilson stated that it is only "adjudication" in the sense that the standing committee comes to the point where it makes a written recommendation to whatever party is relevant.

Selectman Wilson stated that in the public hearing last year, some of the people were trying to push the committee the direction of adopting rules of evidence and rules of procedure similar to courts of law, and the committee very specifically resisted that and went to the town attorney for his opinion. He further stated that he could see no reason why they shouldn't put into the Code of Ethics the statement that the town will not be providing town counsel and representation would be at their own discretion and expense.

Donna Etella stated that she was concerned that having to provide yourself with counsel might affect the willingness of some to volunteer to town boards and committees.

Selectman Miller stated that the point he is trying to make is that in his political career in North Hampton, he has paid a lot of attorney's bills for his own actions, but he has the ability to do it. He further stated that the town runs on volunteers and he wants the light of day to be bright and shining on every level of business in town government, but there is a cost to that.

Bob Hamilton stated that he felt it was important for the public to know that each year randomly picked individuals from the town's boards and committees serve on the Code of Ethics committee.

Mr. Hamilton stated that the committee used the word adjudicate in the spirit of a random group of individuals appointed to give the people in the town a voice. He further stated that no matter what happens, the committee can only make a recommendation.

Selectman Miller stated that he wanted to see something in the policy that if someone is accused of something, it must to be dealt with right away.

Chair Maggiore stated that in Section 7.05 it states that the committee shall meet within fourteen days.

Selectman Miller stated that that is too long of a time period to wait, and he would like to see a meeting no more than ten days later, and he would also like to see them televised.

Chair Maggiore closed the Public Hearing at 8:47 PM.

Selectman Wilson stated that the Ethics Committee would have to meet to review the additions on or before March 10.

**Motion by Selectman Wilson to suspend the Select Board rules stating that no new business shall come before the Select Board after 9:00 PM. Seconded by Selectman Miller. Motion carries 3-0.**

8.2 Proposed Warrant Article – Heritage Commission Appointed by the Planning Board

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Chair Maggiore stated that currently the Heritage Commission is appointed by the Select Board.

Town Administrator Fournier stated that this is a remnant of when the Planning Board was also appointed by the Select Board, and recommended placing a warrant article on the 2012 Town Warrant that reads: "To see if the Town will vote to authorize the Heritage Commission to be appointed by the Planning Board pursuant to RSA 673:4-a. Currently, the Select Board appoints the Commission.

Donna Etella, Chair of the Heritage Commission stated that she would have appreciated more notice that this was going to be on the Select Board's agenda.

Cynthia Swank stated that the Heritage Commission is actually a land use board and asked if there are any other land use boards that are appointed by the Planning Board.

Selectman Wilson stated that he believed the Heritage Commission is the only one.

Chair Maggiore stated that unless there is objection from the Select Board or the public, he would suggest tabling this agenda item, and allow the Heritage Commission to come back to the Select Board with their wishes on February 27 in order to allow time to get it on the warrant.

#### 8.3 Signature of Cemetery Deed for Kathleen J. Kimball

**Motion by Selectman Miller to grant the deed of warranty for \$701 to Kathleen J. Kimball for cemetery plot 584W in the 1930 addition to the Center Cemetery. Seconded by Selectman Wilson. Motion carries 3-0.**

#### 8.4 Abatement for the Town of North Hampton

*This item was removed from the Consent Calendar and placed under New Business for discussion.*

Town Administrator Fournier explained that this was a clerical error and when the property was transferred to the Town the exemptions for town owned property were not entered and therefore resulted in a tax bill being processed. The auditors have stated that there must be an abatement to correct this.

**Motion by Selectman Wilson to approve the abatement of Tax Map 002, Lot 068 in the amount of \$74.00. Seconded by Selectman Miller. Motion carries 3-0.**

### 9. Closing Comments

#### 9.1. Closing Comments by Visitors

Tim Harned, Lovering Road stated that he would not be available to attend the Public Hearing on the proposed noise ordinance and he would like to make a couple of comments.

Mr. Harned stated that after reading through the draft he felt that the ordinance is not tailored to the concept in North Hampton that some of the people have very small lots with neighbor's right next door, and some have very large lots. and what the person with a large piece of property can do and not affect their neighbors is entirely different from what a person can do on a small lot.

Mr. Harned stated that he would like to see a little more verbiage about things that are excessive. He further stated that when he says excessive he doesn't mean things that are in volume he is speaking about time, or duration.

Mr. Harned stated that in Section 3 there are some noises that are prohibited. He further stated that he felt that a modification should be made to the construction or repairing of buildings between the hours of 7AM and 6PM on weekdays that should be changed because a lot of people work on their properties after coming home from work or on the weekend. He stated that he is not opposed to putting a time limitation on it, but that working on your home on the weekends should be allowed.

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Mr. Harned stated that there is some inconsistency relating to time limits and days of the week. He further stated that he also questioned the section that mentions blowers and what is meant by a blower. He stated that there needs to be a little sensitivity to people that are performing routine maintenance on their properties.

Jean Robinson, 197 Atlantic Avenue asked when the noise ordinance public hearing would be held.

Chair Maggiore stated that it would be at the February 27, 2012 Select Board meeting.

#### 9.2. Closing Comments by Select Board Member

Chair Maggiore updated the Select Board on the school's Deliberative Session and stated that there was \$61,002 added back into the budget which brought the total increase to 3.2%. He further stated that the Budget Committee took a vote on the new budget number and voted 6-2 to not recommend it.

Selectman Miller asked why the Budget Committee voted against the budget.

Chair Maggiore stated that they felt that a 3.2% is exorbitant, and if all of the warrant articles pass the budget will be over 4%.

Selectman Wilson stated that he had recalled the amendment that he wanted to make to the January 23, 2012 minutes. He stated that on line 107 it should state that they should state "...concurrent with the Public Hearing" and not immediately following the Public Hearing.

**Motion by Selectman Wilson to take the minutes off of the table for reconsideration. Seconded by Selectman Miller. Motion carries 3-0.**

**Motion by Selectman Wilson to approve the minutes of January 23, 2012 as amended. Seconded by Selectman Miller. Motion carries 3-0.**

#### 10. Adjournment

Chair Maggiore adjourned the meeting at 9:17 PM.

Respectfully submitted,

Janet Facella  
Administrative Assistant

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