



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

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REGULAR MEETING – AUGUST 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. Non-Public Session Pursuant to RSA 91:A-3 II (a,b,c) 6:00PM– Executive Conference Room**

**2. Call to Order**

Chair Maggiore called the meeting to order at 7:04 PM. Those in attendance were Selectman Wilson, Selectman Miller and Town Administrator Fournier.

**Motion by Selectman Wilson to come out of the Non-Public Session. Seconded by Selectman Miller. Motion carries 3-0.**

**Motion by Selectman Wilson to seal the minutes of the Non-Public Session pursuant to RSA 91:A-3II (a,b,c). Seconded by Selectman Miller. Motion carries 3-0.**

Chair Maggiore invited those in attendance to join in the Pledge of Allegiance.

**3. Approval of Minutes of Previous Meetings**

3.1 Select Board Minutes of July 23, 2012

3.2 Select Board Non-Public Minutes of July 26, 2012

**Motion by Selectman Wilson to table action on the meeting minutes until the next Select Board meeting. Seconded by Selectman Miller. Motion carries 3-0.**

**4. Consent Calendar**

Selectman Miller stated that he had questions on item 1, the abatement for William Muse, and asked to have this item moved to New Business, item 7.7.

**Motion by Selectman Wilson to approve items 2, 3 and 4 on the Consent Calendar as proposed. Seconded by Selectman Miller. Motion carries 3-0.**

**5. Communications to the Select Board**

*No items*

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

Town Administrator Fournier stated that the new Building Inspector, Kevin Kelley started today, and is working with the Interim Building Inspector, Charlie Smart. Mr. Kelley will be attending a future Select Board meeting to meet the board.

The town has been notified that they were not successful in receiving a grant from the New Hampshire Division of Historical Resources under the Moose Plate program. The purpose of the grant was to install a more historically accurate front door to the town hall.

The Select Board will need to solicit requests for proposals for a complete statistical revaluation, and copies of two versions were submitted to the board.

The Select Board discussed holding a workshop and asking the town assessor, Scott Marsh meet with the board to review the request for proposal.

Due to the change back to a March Town Meeting, budgets worksheets will need to be received in the finance office prior to September 21.

## **7. New Business**

### **7.1 Appeal of Decision for Large Assembly Permit – Seacoast Harley-Davidson**

Chair Maggiore stated that at the May town election, the voters approved a Large Assembly Ordinance. Part of the permit process is to submit an application 60 days prior to the event. Subsequent to that, the Select Board will ask the Police and Fire Chiefs to ensure public safety relative to that event.

Chair Maggiore stated that there have been several permits to come before the Select Board that have been short of the 60 day notice of the event. A majority of the Select Board interpreted the law to allow two other events to take place.

Chair Maggiore stated that work needs to be done to the ordinance, because there have been some issues with it. He further stated that it is an ordinance, and the Select Board is bound by it. The Select Board has received several legal opinions from town counsel and they have been told there is no flexibility because it is an ordinance.

**Motion by Selectman Wilson to allow public comment on this agenda item not to exceed 10 minutes. Seconded by Chair Maggiore. Motion carries 2-0-1.**

Al Contois, owner of Seacoast-Harley Davidson stated that they have been holding events such as the one they applied for, for over 20 years, and have never had any problems. Mr. Contois stated that on an average Saturday or Sunday they have over 1,200 people visit their store, and asked if he needed a permit for every Saturday and Sunday. He further stated he was looking for clarification on what games, exhibitions and entertainment are, and an answer as to why their application for a charity event was denied.

Chair Maggiore stated the reason for the denial was that the application came in short of the 60 days, and because there was going to be a band and funds were going to be raised.

Selectman Wilson stated that the application indicated that there were going to be vendors who were not directly related to Seacoast Harley-Davidson. He further stated that he had indicated that if those vendors could exhibit their products within the confines of the building than it could be interpreted as normal retail activity.

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Selectman Wilson stated that because the fundamental purpose of the ordinance is public health and safety it should apply to any single event, not to the activities of a normal retail establishment on a Saturday afternoon, but to any special event that involves more than 150 people. He stated that in Section 1.2 there is an “A” and a “B”, and if it is greater than 150, and it falls into one of the four categories, it had to have a permit. The town legal counsel has stated that the Select Board has no legal flexibility if those two criteria apply to an event.

Selectman Wilson stated that they have tried under the circumstances to allow the event at Seacoast Harley-Davidson to take place, but their hands are tied.

Mr. Contois stated that he wanted to abide by all of the rules of the town, but it was his understanding that the Fuller Garden event was given approval without a large assembly permit, and they had a live band, vendors, and beer. He further stated that he is confused with the board’s inconsistency when deciding on applications.

Selectman Wilson stated that he did not feel that the Select Board had been inconsistent because he believed that the Fuller Garden application presented to them was for a garden party to thank their contributors, and that the person representing Fuller Garden sat in the audience that evening and did not speak up to say that was not the case. He further stated that he based his decision on the facts presented, and they did not fit the criteria in Section 1.2 of the ordinance.

Selectman Wilson stated that he felt the Select Board tried to give Harley-Davidson all the relief that they could, but felt they were consistent with a very flawed law.

Chair Maggiore stated that the only way to fix the ordinance is to have a public hearing, and it must be voted on by the town.

An unidentified person from the audience asked to speak to the Select Board, but Chair Maggiore stated that because this was not a public hearing, they could make comment under Agenda Item 8.2.

Chair Maggiore asked the Select Board if they had an objection to allowing someone to speak. There were no objections.

Glenn Miller, 83 South Road stated that he felt there may be federal law that makes the ordinance illegal, and suggested research be done to find out if that is the case.

Selectman Wilson thanked Mr. Miller for his suggestion and stated that it may be a good idea to explore whether the ordinance is unconstitutional.

Bradley Hutchings, 28 Lovering Road stated that he felt the Select Board erred in the ordinance, and that it was rushed to the voters without proper public hearing so that people understood what they were voting for. Mr. Hutchings stated that if the Select Board felt that they had to summons Seacoast-Harley for having the event, they should be charged one dollar. He further suggested putting the ordinance “on hold” and find out the technicalities.

Chair Maggiore stated to Mr. Contois that if they have the event, the police cannot shut the event down, but they are required to issue a summons not to exceed \$1,000. He further stated that he could not tell them what to do or what not to do, that he was simply giving his opinion.

Town Administrator Fournier stated that a fine could not be issued by the Select Board, that it was the police department.

## 7.2 Application for Large Assembly Permit – Reach the Beach Relay

Town Administrator Fournier stated that the town received a phone call from John Dionne of Reach the Beach Relay after he discovered there was a Large Assembly Permit ordinance in place.

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Town Administrator Fournier stated that they had already received permission from the State of New Hampshire for the use of the state roads before the ordinance was passed at the May Town Meeting. He further stated that the event will also be taking place on government property which the ordinance does not regulate.

Town Administrator Fournier recommended that the Select Board take no action on this application as it does not have oversight of this matter pursuant to the Large Assembly ordinance.

### 7.3 Discussion of Town Administrator Profile

Chair Maggiore asked the Select Board if there were any objections with moving this item to the end of the agenda, item 7.8.

There were no objections by Selectman Wilson or Selectman Miller.

### 7.4 Approval of Rockingham Planning Commission Circuit Rider Planner Assistance

Town Administrator Fournier stated that the Circuit Rider Planner assistance is provided over a 12 month period beginning July 1, 2012 and terminates on June 30, 2013. He further stated that in prior years there has been a New Hampshire Coastal Zone program grant to help pay 50% of the cost, but that the grant is no longer available. The cost for one year is \$16,006.

Selectman Wilson stated that although the town must now pay the full amount, the alternative would be to hire a planner which would then involve paying for a salary, benefits and all of the overhead. He further stated that they have received very good service from the Rockingham Planning Commission, and they actually provide more time to the town than what the town is billed for.

Selectman Wilson stated that the funds to pay the full cost is in the Planning Board budget because they were aware of the cut in the coastal zone grant when budgeting last year.

**Motion by Selectman Wilson to approve the agreement for Circuit Rider Planner assistance with the Rockingham Planning Commission, and authorize the chair to sign on behalf of the town. Seconded by Selectman Miller. Motion carries 3-0.**

### 7.5 Landowner Consent Form for Tourist Oriented Directional Sign Encroachment

Chair Maggiore stated that Sagamore-Hampton Golf Club is placing a blue State Tourist Oriented Sign near 137 Lafayette Road and needs to have permission from the town as it is near town owned property. The State of New Hampshire requires that the applicant receive landowner's permission before installing the signs.

Selectman Wilson stated that this property is located near the Acura dealership and the Public Service utility building, and it is town owned property that was gifted to the town.

Selectman Miller asked if the town has given permission for one of the signs before.

Town Administrator Fournier stated that he has not seen an application come before the Select Board prior to this.

Selectman Miller stated that if the Select Board approved the application, would they be approving the "soon to follow many signs." He further asked what the policy is for advertising for private industry on town property.

Town Administrator Fournier stated that the sign would not be placed on town property, it would be in front of town property in the State's right of way.

Selectman Wilson stated that if this were put before the Planning Board, one interpretation that they might have is that the definition of a billboard in the ordinance is an advertisement for any business that is not

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conducted on the property on which the sign appears. He further stated that in this case this would be a billboard, and billboards are prohibited in the Town of North Hampton.

**Motion by Selectman Wilson to deny the landowner consent form, and as a matter of policy that the Select Board does not believe it is appropriate that the town appear to be endorsing any particular businesses by allowing these, and if the Select Board endorsed every business by allowing one for every business in town, there would be a proliferation of blue tourist signs that would not be wanted. Seconded by Selectman Miller for discussion.**

Selectman Miller stated that he believed there were other town owned pieces of land that would be under the same requirements, and if the Select Board opens this up, and there is ample opportunity elsewhere along every street, if they were denied one place they could apply in another place. He further stated that he agreed with Selectman Wilson that they shouldn't start something that isn't needed.

Selectman Wilson stated that he didn't believe the Select Board would be causing a hardship, because he felt there are ample opportunities for private owners, whether commercial or residential property, to say they don't mind if the state puts up a sign in front of their house in the right of way.

**Motion carries 3-0.**

Chair Maggiore called for a brief recess at 8:13 PM.

Chair Maggiore called the meeting back to order at 8:17 PM.

7.6 Continuation of the Little River Watershed Testing and Monitoring – Fire Chief Dennis Cote

Chief Cote stated that this was year two of the project of testing and monitoring the Little River Watershed.

Chief Cote stated that last year several sources were identified as contributing to the contamination of the Little River Watershed, which in the long term, could go all the way to the beach, and may have been a contributor to the beach closings last year.

Chief Cote stated that there have been a lot of corrective measures taken at the Shel-Al Mobile Home Park. He further stated that both of the leach fields have dried up considerably, and are in the process of recovery. Discharge pumps are now running only one hour per day as opposed to 14 to 16 hours previously.

Chief Cote stated that two other locations that could have fed into the Little River Watershed have been corrected with new systems. Instead of a traditional pipe and stone septic system, they have been replaced with a pretreatment system.

Chief Cote stated that he has submitted a proposal for Forest Bell to continue the second year of testing. He further stated that what is proposed is one base line testing along the Little River. Those will be the same locations where all of the testing was done last year, and this will allow for a baseline reading for this year.

Chief Cote stated that there was some concern because it was deemed as a runoff issue in a few areas that directly feed into the Little River that could be of some concern. It could be from the large influx of geese that are on Atlantic Avenue in the fall and winter. He stated that they are proposing to conduct Microbial Source Tracking (MST) testing which will specifically identify what the fecal matter is. The testing is a little more Expensive, but it will identify whether it is human or animal fecal matter.

The Select Board thanked Chief Cote, the Conservation Commission and former Building Inspector Richard Mabey for their hard work on this project.

**Motion by Selectman Miller to approve the second phase of the Little River Watershed project, and authorize the Town Administrator to sign the proposal. Seconded by Selectman Wilson. Motion carries**

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### 3-0.

#### 7.7 Approval of Abatement of William Muse

*(Secretary's Note – At the request of Selectman Miller, this item was moved from the Consent Calendar to New Business item number 7.7.)*

Selectman Miller stated that if he understood correctly, the taxes on this property have not been paid for many years, and that the town chose not to take the property by tax deed.

Town Administrator Fournier stated that traditionally the town does not take deeds on manufactured housing that is located in a park because the town would then become responsible for paying lot rent to the park owner.

Town Administrator Fournier stated that this individual is in state custody and is being held on bail, therefore there is no way to collect the payment. Additionally, the Fire Chief and the Code Enforcement Officer have condemned the building. The park owner would like to demolish the building and replace it with a new manufactured house which the town could then tax.

**Motion by Selectman Miller to approve the abatement for Tax Map 013 Lot 071-018 for the years 2002 through 2012 for a total of \$9,191.41 plus any applicable interest. Seconded by Selectman Wilson. Motion carries 3-0.**

#### 7.8 Discussion of Town Administrator Profile

Chair Maggiore stated that the Select Board needed to discuss what their options are moving forward in replacing the Town Administrator. He stated that the first step is to decide what characteristics and qualities the board is looking for, and what the town's needs are.

Selectman Wilson stated that the Select Board discussed looking at three "buckets" of things they are looking for in a Town Administrator. Those items include the competence that is required to do the type of work that has to be done in the town, and what real pieces of work that they know are going to need to be done in the next three or four months for the Interim Town Administrator, such as the budget and capital improvement plan. He further stated that the Select Board also discussed what particular character traits are they looking for in a town administrator for North Hampton.

Selectman Wilson stated the final item that was discussed was something that will have to be evaluated when speaking face to face with the candidates, and that is whether or not they really having a calling or desire to do the type of work that the Town of North Hampton needs in a context like the Town of North Hampton given the residents and governing principles.

Selectman Miller stated that he would like to add organizational skills and the ability to organize work to the profile.

Town Administrator Fournier read the Code of Ethics from the International City Managers Association (ICMA) that describes the oath that the Town Administrator's and City Manager's strive to abide by.

Chair Maggiore stated that the Select Board needed to do something quickly, because it is getting into the budget season.

**Motion by Selectman Miller to use the work product written by Town Administrator Fournier to advertise for an Interim Town Administrator as soon as possible. Seconded by Selectman Wilson.**

#### **Discussion:**

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The Select Board agreed to publish the advertisement in the Seacoast Newspapers, Foster's Daily Democrat, Union Leader and other ways that Town Administrator Fournier deemed appropriate.

Town Administrator Fournier stated that he would email it to the Municipal Leagues which will cover New Hampshire, Maine and Massachusetts, and he will also email it to the ICMA and the Municipal Management Association.

Town Administrator Fournier asked if the Select Board would accept proposals from firms that would do contracting. The Select Board stated that they would.

Selectman Wilson stated that if a staffing agency states that they can provide the Town with the service of an administrator, they would ask the agency to forward their candidates credentials to the Select Board, and they will evaluate that person along with the other applicants.

**Motion carries 3-0.**

Town Administrator Fournier stated that he received a phone call from the town's insurance carrier, Primex and they stated that although they do not do recruitment, they help to facilitate and make sure the appropriate questions are being asked to the applicants, and to help the Select Board go on to the next steps. There is no charge for their service. He further stated that he has been in touch with Municipal Resources Incorporated and is awaiting what their fee would be.

Chair Maggiore stated that the Select Board cannot sit in as the Town Administrator. He stated that if something came up that the Town Administrator could triage, the Select Board would have to meet publically to discuss that issue every time. A Select Board member cannot sit in alone either, because one member cannot make decisions without the other two.

Chair Maggiore stated that the Select Board has to move aggressively on the interim replacement, but at the same time be cautious of the budget and the amount of money being spent.

Selectman Wilson stated that he appreciated what Town Administrator Fournier read from the ICMA as it will be very useful. He stated that the Select Board needs to "boil down" the description of what they are looking for and what can be used internally in evaluating, as well as what is going to be published in order to have people that "self select."

Selectman Wilson stated that he felt in the current environment, there would not be a lot of "self selection." He stated that in his experience in recruiting, there are two types of recruiting; one being that you put an ad up, you get in resumes, sort through them, pick the best one, and maybe offer the job. This would be called a reactive way of recruiting. He stated that another way to recruit is to define very carefully who you want, and hire a professional who goes out and looks for that person for you. This is typically more expensive, but you don't typically get people who are in transition or who are dissatisfied with their current job. He further stated that he felt that the town should do both, and look for a target of opportunity instead of simply taking whatever resumes happen to come through the mail.

Selectman Wilson stated that there are 70 municipalities in New Hampshire and a recruiter would call a few people from those towns, start putting out feelers, and if the recruiter is good at his or her position, could probably identify within a month six to ten people in the State of New Hampshire that meet their profile that they should try to attract to North Hampton.

Chair Maggiore stated that he felt that they do need a professional to target the type of person they think would best serve the Town of North Hampton.

Selectman Wilson suggested having a separate work session to put together the profile to give the recruiter good guidance.

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Chair Maggiore stated that a date should be set for the next week to do this, and asked Town Administrator Fournier to contact Primex to see how quickly they could attend a meeting with the Select Board.

## **8. Closing Comments**

### 8.1. Closing Comments by Visitors

There were no comments by visitors.

### 8.2. Closing Comments by Select Board Member

Selectman Wilson stated that he had been ruminating since the person from the audience spoke out and said “Why don’t you just be truthful about the Large Assembly Ordinance.” He stated that he felt that perhaps that was a rhetorical statement, and that he felt that none of the Select Board members were being less than truthful about anything. He further stated that the Select Board recognized that the ordinance was flawed, and had made that comment.

Selectman Wilson stated that the person from the audience did indicate that people should have known that the Fuller Garden party would not qualify.

Selectman Wilson stated for the record that he has lived in North Hampton for 15 years and has never been to the Fuller Garden party, but fully appreciates what the Fuller Foundation and the Fuller Gardens do in this town, but he honestly had no idea, other than what they said, what the party is. He also stated that he wanted everyone to know that he was not being untruthful about anything he said about that organization or that event.

Selectman Miller stated that the 49 days that Seacoast Harley applied in advance for the date of their event is the problem, and that the ordinance is not that flawed. He further stated that if they had applied at 61 or 60 days in advance of their event or for any event they have planned, he felt it would have been approved.

Selectman Miller stated that there is a shared responsibility, and although it is unfortunate that someone didn’t know about the law, but they do know now, and would expect that no one else will come forward again and state they didn’t know about the law. He further stated that until and unless the public changes the ordinance, the Select Board has to follow the law.

Chair Maggiore thanked both the Highway Department and Gray Construction for the hard work they are doing on the front of the town hall.

## **9. Adjournment**

Chair Maggiore adjourned the meeting at 9:15 PM.

Respectfully submitted,

Janet L. Facella

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