

**Town of North Yarmouth
Workshop - Contract Zoning 6pm-7pm
Select Board Business Meeting Agenda
Tuesday, February 21, 2017
7:00PM - Town Office Meeting Room**

I. Call to Order

II. Minutes of Previous Meeting(s)

- February 7, 2017

III. Public Comment - Non-Agenda Items

Comments regarding issues, concerns, commendations or matters of general public information are welcome. Individuals shall have two (2) minutes to speak and be asked to state their name & legal residence. The public is encouraged when commenting or expressing points of view about an individual(s) that they do so in a respectful and constructive manner. Topics relating to personnel or personnel matters cannot be acknowledged.

IV. Management Reports & Communications

- Town Manager's Report

V. Old Business

- Cable TV Ordinance & Update (Mike Edgecomb/Sewell Co.)
- Barrett Made Contract - Wescustogo Hall Reconstruction (Matt Ahlberg/Rob Barrett)
- Senior Tax Break Ordinance - Follow Up (Town Manager)
- Spirit of America Tribute - Selection

VI. New Business

- Yarmouth Water District Correspondence - Memorial School Site

VII. Accounts Payable - Review & Approval

- Accounts Payable

VIII. Any Other Business

(Board communications of written, electronic, or verbal information to include but not limited to pending or future agenda meeting topics.)

IX. Adjournment

REMINDERS TO THE ATTENDING PUBLIC: Please shut off all cell phones; Select Board Meetings are open to the public, but the public may not speak unless recognized by the Chairperson first.

**Town of North Yarmouth
Select Board
Meeting Minutes of February 7, 2017**

I. Call to Order

Members Present: Jeanne Chadbourne, Alex Carr, Paul Napolitano, Anne Graham. Peter Lacy was absent with notification. Town Manager Rosemary Roy was also present.

II. Minutes of Previous Meeting(s)

Selectperson Carr moved to approve meeting minutes of January 17, 2017. Selectperson Napolitano seconded the motion. Discussion: None. **Vote: 3-Yes 0-No 1-Abstention** (Selectwoman Graham)

Selectperson Carr moved to approve the minutes of January 31, 2017. Selectperson Napolitano seconded the motion. Discussion: None **Vote: 4-Yes 0-No**

III. Public Comment-Non-Agenda Items

Katie Murphy of Mountfort Road complimented the snowplow drivers for the great job they have done this winter.

Steve Palmer of Mountfort Road reminded residents of the Cribbage Tournament and the Living Well Survey. The response to the Survey has been much higher than expected. Steve expressed thanks to local businesses for refreshments donated for the tournament. The proceeds from this year's tournament will be donated to the Living Well Committee.

Chairperson Chadbourne complimented the Living Well group for an excellent job creating a meaningful survey.

IV. Management Reports & Communications

Town Manager's Report - The Town Manager provided the Board with a brief summary of her report. A discussion was held regarding debris removal from recent storms. Selectperson Carr suggested discussing this during the budget cycle.

Town Manager Roy raised the need for a new sander for Public Works. Selectperson Napolitano had questions regarding the type of material of the proposed sander. Town Manager Roy confirmed the specifications are for a stainless steel sander. The Select Board approved the purchase of the sander from town reserves with no objections.

The Fiscal Year 2016 Audit is under final review by the Town Manager. She hopes to have the Auditors at the next Board meeting for a review.

Town Manager Roy addressed Selectperson Carr's question regarding ambulance and medical reimbursements. Selectperson Napolitano requested Fire & Rescue training reimbursement information.

VI. Old Business

Wescustogo Hall - Reconstruction - Barrett Made owner Robert Barrett discussed and clarified for the Select Board the payment methods and contract cost options the Board had requested at their last meeting. The update contract proposal has the Town paying by the hour. The Board would like to get the project to a point where the Townspeople can vote on the overall project concept and cost. It was discussed that 50% (as opposed to 75%) might provide that information.

Selectperson Carr moved to table contract approval and give further direction to the Wescustogo Building & Design Committee, the Town Manager, and Barrett Made to determine a percentage point that a decision can be made and to present that in a contract to the Board. Selectwoman Graham seconded the motion and added that the Select Board commit to making a decision on the contract at the next meeting. Discussion: Selectwoman Graham noted appreciation for the detail provided in the billing presented by Barrett Made. Selectperson Napolitano inquired as to the Town Manager's spending cap. Noted: \$100,000; the Town Manager confirmed with the Board that Barrett Made's work shall continue. **Vote: 4-Yes 0-No**

Senior Tax Break Ordinance - The Select Board asked for legal clarification on the age requirement and as it relates to what is documented in Maine statute. Selectwoman Graham noted that home rule would more than likely apply. The Board discussed the actual application, and the Town Manager stated she would prepare a draft for the next meeting. Town Manager Roy will provide the Board with another draft of the ordinance with the changes noted at the next meeting.

VII. New Business

Committee Appointments - Selectperson Graham moved to appoint Audrey Lones as a regular member and Chris Cabot as an alternate member of the Planning Board both to serve a term of three years. Selectperson Napolitano seconded the motion. Discussion: None. **Vote: 4-Yes 0-No**

Selectperson Carr moved to appoint Bill Whitten to the Budget Committee and Comprehensive Plan Committee both to be 5-month terms ending on June 30, 2017. Selectperson Napolitano seconded the motion. Discussion: Selectperson Carr stated that the Board should encourage individuals requesting appoint to an elected position run for that position in the next election. **Vote: 4-Yes 0-No**

Town Office Renovations - The committee's findings concluded that it would not be prudent or in the best interest of the Town to renovate the current Town Office building. Selectperson Carr moved to accept the report from the committee. Chairperson Chadbourne seconded the motion. Discussion: The Select Board concluded that the committee has fulfilled their charge and that the committee is dismissed from any further duties. **Vote: 4-Yes 0-No**

Hazardous Mitigation Resolution - Selectperson Carr moved to endorse the resolution. Selectperson Napolitano seconded the motion. Discussion: None **Vote: 4-Yes 0-No**

Spirit of America Tribute - Town Manager Roy explained the recognition program for members of town committees/groups. Selectperson Carr moved to accept the program. Selectwoman Graham seconded the motion. Discussion: None **Vote: 4-Yes 0-No**

VIII. Accounts Payable

Selectperson Carr moved to approve the accounts payable warrants #37 and #38 in the amount of \$127,307.49. Selectperson Napolitano seconded the motion. Discussion: Selectperson Napolitano requested a coding correction on Portland North invoice. **Vote: 4-Yes 0-No**

IX. Any Other Business

Selectwoman Graham asked the Town Manager to inquire with MDOT for future paving plans for Route 9. The unfinished pavement work from last summer is breaking apart already.

Chairperson Chadbourne complimented Skyline Farms Sleigh Celebration for a great event last weekend.

X. Adjournment

Selectperson Carr moved to adjourn.

Cheryl Trenoweth
Recording Secretary

Select Board

Jeanne Chadbourne, Chairperson

Peter Lacy, Vice Chairperson

Anne Graham

Paul Napolitano

Alex Carr

The information contained in this report is intended to inform the Select Board, staff, and residents, some of the current activities taking place within the manager's office or the Town in general. All topics are open for discussion.

The time during this period was dedicated to the following:

- FY18 Budget
- Review of the FY16 Audit
- Snow Storms
- Scheduling
- Training Front Office Staff
- Meeting Materials for the Select Board
- Employee Benefits Improvements
- Misc. / Unforeseen Issues

Route 9 - MDOT Paving - To date we have obtained MDOT's road paving schedule for 2017 (included with report) and the road is scheduled for paving this spring/summer of 2017. We are still waiting to speak directly with MDOT on this issue.

Respectfully,

Rosemary

Rosemary E. Roy, Town Manager

ID/Year	Municipality	Scope	Name	Description	Funding
022088.00 2018	Cumberland	Highway Paving Light Capital Paving	Winn Road	Beginning 0.01 of a mile north of the Falmouth town line and extending northerly 0.79 of a mile to Route 9.	\$29,192
022668.00 2018/19 HCP 5	Cumberland	Highway Safety and Spot Improvements Large Culvert Replacement	Tuttle Road	Large culvert (#46210) located 0.57 of a mile southeast of Bruce Hill Road.	\$295,000
019357.17 2017	Cumberland County	Natural Resource Mitigation	Long Creek Watershed	Long Creek Watershed Management District assessment; to monitor storm water quantity and quality from MaineDOT porous pavement project(s).	\$186,000
019357.18 2018	Cumberland County	Natural Resource Mitigation	Long Creek Watershed	Long Creek Watershed Management District assessment; to monitor storm water quantity and quality from MaineDOT porous pavement project(s).	\$186,000
019357.19 2019	Cumberland County	Natural Resource Mitigation	Long Creek Watershed	Long Creek Watershed Management District assessment; to monitor storm water quantity and quality from MaineDOT porous pavement project(s).	\$186,000
022088.00 2018	Cumberland, Falmouth	Highway Paving Light Capital Paving	Blackstrap Road	Beginning 0.31 of a mile north of Mast Road and extending northerly 3.41 miles to Route 26.	\$126,007
022088.00 2018	Cumberland, Falmouth	Highway Paving Light Capital Paving	Route 26	Beginning 0.08 of a mile south of the Cumberland town line and extending northerly 1.11 miles.	\$41,017
022088.00 2018	Cumberland, Gray	Highway Paving Light Capital Paving	Route 26	Beginning at Long Hill Road and extending south 3.10 miles to Skillin Road.	\$114,552
WR 33064 2017 HCP 5	Cumberland, Falmouth	Drainage Maintenance	Winn Road	Ditching on Winn Road in preparation of the Cumberland Area Light Capital Paving (LCP) project, beginning at the Falmouth-Cumberland town line and extending north 0.80 of a mile to Route 9.	\$8,000
024003.00 2017	Durham, North Yarmouth, Pownal	Highway Paving Light Capital Paving	Route 9	Beginning 0.15 of a mile north of Route 115 and extending northerly 11.72 miles.	\$353,208



February 1, 2017

Rosemary E. Roy
Town of North Yarmouth
10 Village Square Road
North Yarmouth, Maine 04097

Re: Cable Ordinance

The current CATV Ordinance was adopted 03/02/1982. The language is a little outdated, but otherwise the general provisions are fine.

I have suggested in a new draft ordinance, with updated definitions, and additional language to insure that the franchise conforms to current law.

I have also suggested adding provisions for insurance and bond requirements for the cable company.

I have suggested amending the fee structure for North Yarmouth to defray the reasonable costs of public notice, advertising and other expenses incurred by the Town in acting upon franchise applications and renewals. The current ordinance limits these fees to \$100.

I have suggested clarifying that the Municipal Officers can appoint a CATV Regulatory Board, or act as the board if they wish. I have also updated the duties of the Board if appointed.

These are my suggestions; the Town may modify the draft as they wish, or retain the old ordinance. I am available to assist with this, if requested.

If you have questions, or require further information, please do not hesitate to call me at (207) 817-5530; or Email: edgmi@sewall.com

Sincerely,
JAMES W. SEWALL COMPANY

Michael Edgecomb

Michael Edgecomb
Business Development Manager

(84824D)

TOWN OF NORTH YARMOUTH, MAINE

CATV ORDINANCE

Preamble

~~AN~~ SECTION I PURPOSE

The purposes of this Ordinance ~~providing~~ **are to provide** for Town regulation and use of ~~the~~ community antenna television ~~system~~ **systems** including ~~its all aspects of their~~ construction, ~~operation and installation,~~ maintenance ~~in,~~ **along, upon, across, over, and operation,** and ~~under the streets, alleys, public ways and public places now laid out~~ **any additions** or ~~dedicated, and all~~ extensions ~~thereof and additions~~ thereto in the Town of North Yarmouth, ~~including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary;~~ **and to provide rules, regulations, and conditions** for the **granting of franchises or any part thereof for the construction, installation, maintenance, and operation** ~~in the Town of North Yarmouth of the~~ **of** community antenna television ~~system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operation~~ **systems in the Town of North Yarmouth, in the best interests of the Town of North Yarmouth and its citizens.**

Section 1.

SECTION II DEFINITIONS

~~a. "C.A.T.V. "~~ **Board** - shall mean ~~any community antenna television system or~~ **the CATV Regulatory Board of the Town of North Yarmouth as established by this Ordinance.**

B. Community Antenna Television System (referred to in this Ordinance as "CATV System" - shall mean any facility that, in whole or in part, receives ~~directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more~~ television or radio ~~stations.~~ signals or originates its own signal or signals ~~produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay~~ **and transmits them to subscribers paying a fee** for such ~~services~~ **service**, but ~~such term~~ shall not include any such facility ~~that serves~~ **servicing** only the residents of one or more apartment dwellings under common ownership, control, or management, **unless such facility operates in the municipal right of way.**

~~b. "Cable Television Co."~~ **C. Company** - shall mean any person, **persons,** firm, **partnership,** or corporation ~~owning, controlling, operating, managing or leasing~~ **granted** a CATV ~~system within~~ **System Franchise** by the Town of North Yarmouth, ~~sometimes herein after referred to as "~~

D. Franchise - shall mean ~~the company."~~ **written agreement between the Company and the Town which defines the rights, duties, and liabilities of the parties regarding the construction, installation, maintenance, and operation of a CATV System within the Town, as set forth by the Town.**

~~c. "Town"~~ **E. Municipal Officers** - shall mean those persons duly elected as the governing body of the Town of North Yarmouth.

F. Subscriber - shall mean any person or group electing to have CATV System services on their premises.

G. Town - shall mean the Town of North Yarmouth, organized and existing under the laws of the State of Maine, and the area within its territorial ~~limits~~ **boundaries.**

Section 2.

SECTION III FRANCHISE REQUIRED

—No person, ~~persons~~, firm ~~or~~, ~~partnership~~, corporation, ~~or other entity~~ shall **construct**, install, maintain ~~or~~, operate, **or own a CATV System or any part thereof** within the Town ~~or any of its public streets or other public areas~~ ~~any equipment or facilities for the operation of a CATV system~~ unless ~~a franchise authorizing the use of said public streets or areas~~ it has ~~first been~~ obtained **a franchise from the Town** pursuant to the **terms and** provisions of this Ordinance and unless said franchise is in full force and effect.

Section 3.

SECTION IV REGULATORY BOARD

A. Upon adoption of this Ordinance, the Municipal Officers are hereby authorized to appoint a CATV Regulatory Board. In the absence of such appointment, the municipal officers shall serve as The Board. The term of office of an appointed member shall be three years.

B. The Board shall have a Chair, Vice Chair, and Secretary, and shall have the following responsibilities and duties:

- 1. Create, revise, and update the application form for CATV Systems;**
- 2. Recommend regulations to the Municipal Officers concerning CATV Systems;**
- 3. Review and recommend to the Municipal Officers all applications and any renewals or extensions for CATV Systems within the Town;**
- 4. Review the performance of the Company and its compliance with the franchise agreement at least once a year;**
- 5. Review the rates, fees, and deposits for CATV System services at least once a year;**
- 6. Review all notices for rate increases and make recommendations to the Municipal Officers;**
- 7. Review and recommend to the Municipal Officers local programming and services, if applicable;**
- 8. Review and settle disputes and grievances concerning CATV Systems;**
- 9. Assume other CATV related duties as designated by the Municipal Officers or this Ordinance.**

C. Grievance Procedure

- 1. This section shall regulate the Grievance Procedure concerning CATV Systems.**
- 2. All complaints and disputes concerning the Company regarding any aspect of the CATV System shall be submitted in writing to the Board.**
- 3. The Board shall investigate the complaint, hear all parties, and shall file a written report stating its findings of facts, and either dismiss the complaint or direct the Company to remedy the complaint, which remedy may include the ordering of a refund or rebate to any subscriber. The Board shall give reasonable notice to all parties of the time and place of the hearing.**
- 4. The decision of the Board shall be binding unless appealed to the Municipal Officers within ten (10) days after the decision of the Board is announced. Said appeal shall be in writing and filed with the Town Clerk.**

SECTION V PROCEDURES FOR OBTAINING A FRANCHISE

- A. Any person, firm, partnership, or corporation desiring to obtain a franchise to establish or operate a CATV System must apply only in response to a Request for Applications issued by the Town. An incumbent operator must notify the Town in accordance with Section 626 of the Cable Act**
- B. An applicant must first complete an application form furnished by the Town and in addition to this form, the applicant shall furnish any information requested by the Town or the Board.**
- C. Upon receipt of all applications pursuant to its Request for Applications, the Municipal Officers shall hold a public hearing to review the Applications. The public hearing shall be advertised and conducted in accordance with the North Yarmouth Town Charter.**
- D. Applications for a franchise to operate a CATV system in the Town and related documents are public records maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 M.R.S.A. Sec. 401 et seq. as amended from time to time) and the public has the right to inspect and copy such applications and documents during the regular business hours of the North Yarmouth Town Clerk's office.**
- E. The municipal officers shall assess such fees as are reasonably necessary to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon franchise applications and renewals**

SECTION VI FRANCHISE CONTRACT TERMS

- ~~_____~~ **a.A. The terms of the franchise shall be set forth in the franchise agreement. The Company shall abide by the terms of this Ordinance and the franchise agreement.**
- B. The Municipal Officers ~~of the Town~~ may ~~contract~~ grant a non-exclusive franchise for a period not to exceed ten (10) years, on such terms, and conditions ~~and fees~~ as are in the best interests of the ~~municipality~~ Town and its ~~residents with one~~ citizens to include:**
 - 1. A statement of the area or ~~more~~ areas to be served by the Cable Television ~~Companies for the~~ Company;**
 - 2. A line extension policy;**
 - 3. Provision for renewal not to exceed 10 Years**
 - 4. Procedures for the investigation and resolution of the complaints by the Cable Television Company; and**
 - 5. Any other terms and conditions that are in the best interests of the Town.**
- C. The company shall report all information requested by the Board or the Municipal Officers concerning the construction, installation, maintenance, or operation of a the CATV system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed ten (10) years. System.**
- ~~_____~~ **b. Applicants for a franchise ~~Further, the Company~~ shall pay a non refundable filing fee to the Town of \$100.00 to defray the cost of public notice, and advertising expenses relating to such application. The applications shall be filed with the Town Clerk and shall contain such ~~submit any~~ information as the Town may require.**
- ~~_____~~ **c. Said Franchise Contract may be revoked requested by the Board or the Municipal Officers for good and sufficient necessary for reviewing rates, determining rate increases, settling disputes or grievances, or evaluating the general performance of the company.**

D. All fees, rates, deposits, or charges to subscribers shall be fair and reasonable, and shall be filed with the Municipal Officers 30 days prior to becoming effective.

E. The Municipal Officers shall have the right, in addition to any other remedy contained herein or in the franchise agreement, to revoke a franchise for cause after ~~due~~ notice to the ~~company~~ Company and a public hearing thereon; ~~with the right to~~. The Company may appeal such action to the Cumberland County Superior Court under Rule ~~80-B~~ 80B of the Maine Rules of Civil Procedure.

SECTION VII PERFORMANCE BOND

Upon the signing of the franchise agreement, the Company shall file and maintain a surety company performance bond in an amount which the Municipal Officers deem fair and appropriate, conditioned on its performance of the franchise contract and its compliance with any rule, regulation, ordinance, or law concerning the franchise and CATV Systems. The amount of this bond may be reduced at the discretion of the Municipal Officers as construction of the CATV System is completed.

SECTION VIII INSURANCE

The Company shall carry public liability insurance covering its activities in constructing, installing, maintaining, and operating a CATV System in the Town, in an amount and on such terms as set forth in the franchise agreement.

SECTION IX ENFORCEMENT

Any person, persons, partnership, firm, or corporation violating any provision of this Ordinance shall be punished by a fine not to exceed Two-Hundred Dollars (\$200.00) for each such violation. In addition, this Ordinance and any franchise agreement awarded hereunder may be enforced by injunctive relief or any other legal means of enforcement.

SECTION X SEPARABILITY

In the event a Court ~~Rules of Civil Procedure in accordance with due process~~ declares any provision of this Ordinance invalid, illegal, or unconstitutional, such provision shall be deemed to stand alone and all other provisions shall remain in full force and effect.

~~Section 4. PUBLIC HEARING.~~

~~Before authorizing the issuance of any such franchise contract or contracts, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a CATV system within the Town, and shall conduct a public hearing thereon with at least seven (7) days advertised notice prior to said public hearing.~~

~~Section 5. CATV REGULATORY BOARD.~~

~~The Municipal Officials are hereby authorized to appoint a CATV Regulatory Board.~~

~~Section 6. DUTIES OF THE BOARD.~~

~~The CATV regulatory Board shall have a chairman, Vice Chairman, and a Secretary and shall have the following duties:~~

~~a. Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of the system said rules and regulations being subject to the approval of the Municipal Officials.~~

~~b. Make recommendations to the Cable Television Company concerning educational and local interest programming.~~

~~c. Resolve complaints, disputes, or disagreements between subscribers and the company.~~

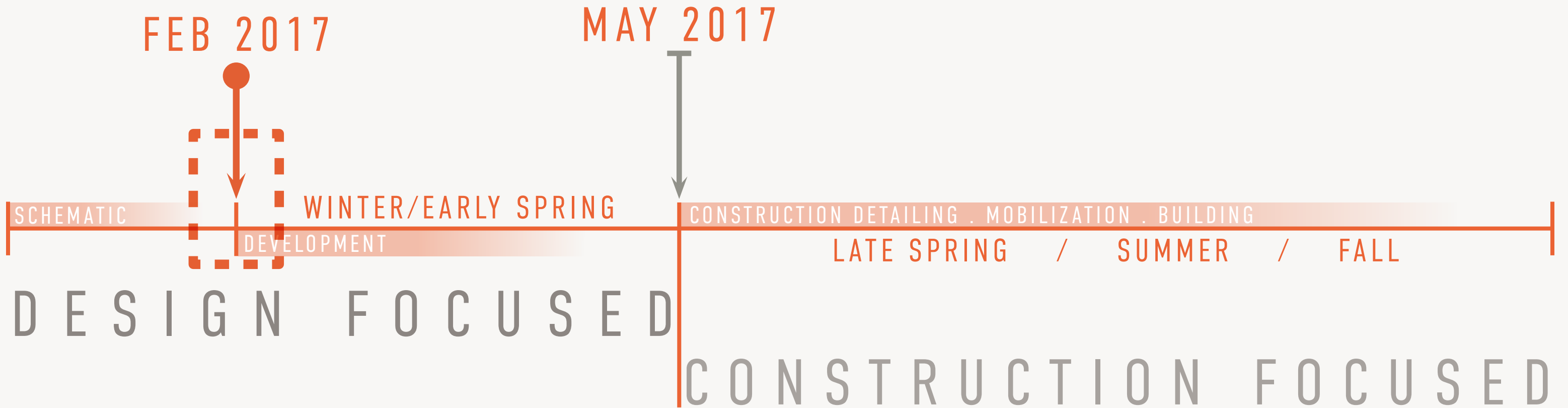
~~d. have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties including the company, except such a decision or finding may be appealed to the Municipal Officers and/or to the Cumberland County Superior Court under Rule 80 B.~~

~~e. Regulate rates and charges to subscribers of the Cable Television Company.~~

~~f. Shall make recommendations on the awarding of a franchise, said recommendations being subject to the approval of Municipal Officials.~~

~~g. After the awarding of the franchise, shall negotiate the franchise agreement between the company and the Town of North Yarmouth.~~

PROJECT TIMELINE



PROJECT FEE TIMELINE

SEPT OCT NOV DEC JAN FEB MAR APR MAY JUN JULY AUG SEP OCT

\$32,500 | ORIGINAL CONTRACT SUM

SCHEMATIC DESIGN

- INFO GATHERING
- PROGRAMMING
- DESIGN CONCEPTS
- ETC.

ADD SD

DESIGN DEVELOPMENT

- DETAILED DESIGN
- PROJECT ENGINEERING
- MATERIAL SELECTIONS
- FINALIZE OVERALL DESIGN
- ETC.

CONSTRUCTION DOCUMENTS

- DETAILING FOR FINAL CONSTRUCTION
- ENGINEERING FOR FINAL CONSTRUCTION
- SPECIFICATIONS
- PROJECT MANUAL
- ETC.

CONSTRUCTION ADMIN

- PROTECT CLIENT INTEREST TO COMPLETION
- APPROVE PAY APP
- ADMINISTER CLARIFICATIONS
- ETC.



P R O J E C T P R O G R E S S

Date: February 15, 2017

To: Select Board

Fr: Rosemary E. Roy, Town Manager ^{RR}

RE: SENIOR TAX BREAK PROGRAM - UPDATE

Noted changes from the last Board meeting have been made to the document. Selecting the applicant age as 70 or above complies with “home rule authority” and as an added observation our neighboring town, Cumberland, has their age set at 67.

I have also prepared a draft application for your review.

Included with this memo is the following:

- Copy of ordinance delineating proposed changes;
- Clean draft copy of ordinance with changes applied;
- Information regarding Home Rule Authority;
- Draft application.

If the Board concludes that the information provided and the amendments to the ordinance are complete, the following action can be taken:

A motion to place an article on the Annual Town Meeting Warrant for April 8, 2017, to amend the Property Tax Assistance Program Ordinance and to hold a public hearing on (either 3/7 or 3/21) or at least ten (10) days before the Annual Town Meeting.

Maine Municipal Officials Manual

CHAPTER 1 - Maine's Municipalities

What is "Home Rule Authority"? - Page 1

Since the adoption of "home rule" by Maine in 1969, Maine's municipalities have had power over all matters of a local or municipal character unless denied expressly or by clear implication ("preempted") (see *Me. Const., Art. VIII, Pt. 2, § 1*). This includes the power to adopt or amend municipal charters by local referendum election without the involvement of the Legislature (*30-A M.R.S.A. §§ 2101-2109*) as well as the power to enact ordinances on most subjects without the necessity of State enabling laws (*30-A M.R.S.A. § 3001*).

Chapter 4 - Legislative and Quasi-Judicial Functions of the Municipal Officers

Home Rule Authority - Page 55

According to 30-A M.R.S.A. § 3001 municipalities (except plantations) have home rule authority to adopt any ordinance which has not been expressly or implicitly preempted by State law. Preemption is implied where there is such a comprehensive statutory scheme of regulation in a particular subject area that a municipal ordinance would frustrate the purpose of the State law; examples of such comprehensive schemes include the State liquor licensing laws in Title 28-A and the laws regarding property taxation in Title 36. Home rule authority must be exercised by the legislative body of the municipality. For an extensive discussion of various State laws which either expressly acknowledge home rule authority or which impose limitations on that authority, see MMA's *Manual for Local Planning Boards: A Legal Perspective* (Chapter 7). See also MMA's "Ordinance Enactment" Information Packet for a discussion of preemption.

When an ordinance requires the approval of the legislative body, only the legislative body may amend it. An ordinance must be administered and enforced as adopted, unless the municipality's attorney advises otherwise because of legal problems. Neither the municipal officers nor other municipal officials should ignore ordinance provisions because of a personal dislike for the ordinance and its effect.

Title 30-A: MUNICIPALITIES AND COUNTIES
Part 2: MUNICIPALITIES
Subpart 4: ORDINANCE AUTHORITY AND LIMITATIONS
Chapter 141: ORDINANCES
§3001. Ordinance power

Any municipality, by the adoption, amendment or repeal of ordinances or bylaws, may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law or charter.

1. Liberal construction. This section, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes.

2. Presumption of authority. There is a rebuttable presumption that any ordinance enacted under this section is a valid exercise of a municipality's home rule authority.

3. Standard of preemption. The Legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the municipal ordinance in question would frustrate the purpose of any state law.

4. Penalties accrue to municipality. All penalties established by ordinance shall be recovered on complaint to the use of the municipality.

**TOWN OF NORTH YARMOUTH
PROPERTY TAX ASSISTANCE ORDINANCE**

SECTION 1. Title, Purpose, Authority

Subsection 1.1 Purpose:

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons **70 (seventy)** years of age and over, whose household income is \$40,000 or less, who reside in the Town of North Yarmouth. Under this program, the Town of North Yarmouth will provide a tax credit to those individuals who qualify as North Yarmouth resident beneficiaries of the State of Maine Residents Property Tax Program pursuant to Chapter 907 of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

SECTION 2. Definitions

Subsection 2.1 Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be the applicant's primary place of residence. .

Subsection 2.2 Qualifying Applicant: A qualifying applicant is a person who is determined by the Town Manager, after review of a complete application under Section 4 of this Ordinance, to be eligible for a tax credit under the terms of this Ordinance.

SECTION 3. Criteria for Participation

Subsection 3.1 - In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- 3.1.1 The applicant shall be **70** (seventy) years of age or more at the time of application.
- 3.1.2 The applicant shall have a homestead in the Town of North Yarmouth at the time of the application and for the entire year prior to the date of application.
- 3.1.3 The applicant has been a resident of the Town of North Yarmouth for at least 10 (ten) years immediately preceding the date of application for participation in the Program.

SECTION 4. Application and Tax Credit Procedures

Subsection 4.1 - Person(s) seeking to participate in the Property Tax Assistance Program shall submit an application to the Town Manager no later than June 30th. Applications are required every year to participate in this program. The Town Manager shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income. The Town Manager shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Town Manager shall notify an applicant if an application is determined to be incomplete. The Town Manager's decision on eligibility to participate in the Program shall be final.

SECTION 5. Determination of Eligibility and Amount of Eligibility

Subsection 5.1 - If the Town Manager determines that the applicant is eligible to participate in the Program, he/she shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

5.1.2 Available monies in the Town Tax Assistance Program fund or;

5.1.3 \$1,000.00 per household.

Subsection 5.2 - The Town Manager shall report to the Select Board at the first meeting in August of each year, the projected credits and number of eligible applicants requesting assistance for the program fund.

SECTION 6. Program Fund - Limitations Upon Credits

Subsection 6.1 - Credits under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, credits shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no credit or less than the full credit to a qualifying applicant, the request will not carry over to the next year.

SECTION 7. Creation of the Program Fund

Subsection 7.1 - The Program Fund from which tax credits shall be made under the terms of this Ordinance shall be created as follows:

Subsection 7.2 - As funds are available, the Select Board shall request from the Annual Town Meeting to appropriate monies from the general fund or other Town sources to support this program. Any surplus monies available after all credits have been made shall be retained in the specified fund for future years program use.

SECTION 8. Timing of Tax Credits

Subsection 8.1 - A person who qualifies for a tax credit under this Program shall have their credit applied to their outstanding real estate taxes no later than October 1st for the year in which participation is sought.

SECTION 9. Limitations Upon Tax Credits

Subsection 9.1 - Only one qualifying applicant per household shall be entitled to credit under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Town Manager shall be disbursed to another member of the household as determined by the Town Manager. If the applicant was the only member of a household, then no tax credit shall be made under this Ordinance.

ADOPTED: May 30, 2009

AMENDED: June 18, 2011

AMENDED: ____/____/____

**TOWN OF NORTH YARMOUTH
PROPERTY TAX ASSISTANCE ORDINANCE**

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SECTION 1. Title, Purpose, Authority

Subsection 1.1 Purpose:

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons ~~65-70~~ **(seventy)** years of age and over, **whose household income is \$40,000 or less**, who reside in the Town of North Yarmouth. Under this program, the Town of North Yarmouth will provide **a tax credit** ~~supplemental cash refund payments~~ to those individuals who qualify as North Yarmouth resident beneficiaries of the State of Maine Residents Property Tax Program pursuant to Chapter 907 of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

SECTION 2. Definitions

Subsection 2.1 Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be **the applicant's primary place of residence.** ~~occupied by that person and that person's dependents as a home.~~

Subsection 2.2 Qualifying Applicant: A qualifying applicant is a person who is determined by the ~~Treasurer~~ **Town Manager**, after review of a complete application under Section 4 of this Ordinance, to be eligible for a ~~refund payment~~ **tax credit** under the terms of this Ordinance.

SECTION 3. Criteria for Participation

Subsection 3.1 - In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- 3.1.1 The applicant shall be ~~65-70~~ **(seventy)** years of age or more at the time of application.
- 3.1.2 The applicant shall have a homestead in the Town of North Yarmouth at the time of the application and for the entire year prior to the date of application.
- ~~3.1.3 The applicant can provide proof of applying for a refund under the provisions of Chapter 907 of 36 M.R.S.A.~~
- ~~3.1.4~~ **3** The applicant has been a resident of the Town of North Yarmouth for at least **10 (ten)** years immediately ~~preceeding~~ **preceding** the date of application for participation in the Program.

SECTION 4. Application and ~~Payment~~ Tax Credit Procedures

Subsection 4.1 - Person(s) seeking to participate in the Property Tax Assistance Program shall submit ~~an~~ **written** ~~application~~ to the ~~Treasurer~~ **Town Manager** no later than ~~November~~ **June** 30th. Applications are required every year to participate in this program. The ~~Treasurer~~ **Town Manager** shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be ~~either~~ proof of **household income.** ~~applying for or the dollar amount (copy of check) of State Refund under Chapter 907 of Title 36 (State Circuit Breaker Program).~~ The ~~Treasurer~~ **Town Manager** shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The ~~Treasurer~~ **Town Manager** shall notify an applicant if an application is determined to be incomplete. The ~~Treasurer~~ **Town Manager**'s decision on eligibility to participate in the Program shall be final.

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SECTION 5. Determination of Eligibility and Amount of Eligibility

Subsection 5.1 - If the ~~Treasurer~~**Town Manager** determines that the applicant is eligible to participate in the Program, he/~~she~~ shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

~~5.1.1 15% of the amount of the refund awarded by the State under Chapter 907, Title 36 M.R.S.A. (Maine Circuit Breaker Program) or;~~

5.1.2 Available monies in the Town ~~Circuit Breaker~~**Tax Assistance Program** fund or;

5.1.3 ~~\$300.00~~**1,000.00 per household.**

Subsection 5.2 - The ~~Treasurer~~**Town Manager** shall report to the ~~Board of Selectmen~~**Select Board** at the ~~second~~**first** meeting in ~~December~~**August** of each year, the projected ~~payments~~**credits** and number of eligible applicants requesting assistance for the program fund.

SECTION 6. Program Fund - Limitations Upon ~~Payments~~**Credits**

Subsection 6.1 - ~~Payments~~**Credits** under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, ~~payments~~**credits** shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no ~~payment~~**credit** or less than the full ~~payment~~**credit** to a qualifying applicant, the request will not carry over to the next year.

SECTION 7. Creation of the Program Fund

Subsection 7.1 - The Program Fund from which ~~payments~~ **tax credits** shall be made under the terms of this Ordinance shall be created as follows:

Subsection 7.2 - As funds are available, the ~~Board of Selectmen~~**Select Board** shall request from the Annual Town Meeting to appropriate monies from the general fund or other **Town** sources to support this program. Any surplus monies available after all ~~payments~~**credits** have been made shall be ~~carried forward~~ **retained with** in the ~~specified Fund~~**fund for future years program use.**~~to the next fiscal year.~~

SECTION 8. Timing of ~~Payments~~ **Tax Credits**

Subsection 8.1 - A person who qualifies for ~~payment~~ **a tax credit** under this Program shall have their ~~award credit amount~~ applied to their outstanding real estate taxes ~~(or pro-rated amount if inadequate funds are available)~~ no later than ~~January 15th~~**October 1st** for the year in which participation is sought.

SECTION 9. Limitations Upon ~~Payments~~**Tax Credits**

Subsection 9.1 - Only one qualifying applicant per household shall be entitled to ~~payment~~**credit** under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the ~~Treasurer~~**Town Manager** shall be disbursed to another member of the household as determined by ~~the Town Assessor or the Treasurer~~**Town Manager**. If the applicant was the only member of a household, then no ~~payment~~ **tax credit** shall be made under this Ordinance.

ADOPTED: May 30, 2009

AMENDED: June 18, 2011

AMENDED: _____



**Town of North Yarmouth
SENIOR PROPERTY TAX ASSISTANCE
Program Application
Application Deadline - June 30, 2017**

General Information

Name: _____ Age: _____ Own or Rent: _____

Property Address: _____, North Yarmouth, ME 04097

Mailing Address (if different from above): _____

Number of years living at above address: _____ Number of years living in North Yarmouth: _____

Phone Number: _____ Email address: _____

Property Owners

A. Map and Lot number as it appears on Tax Bill: Map _____ Lot _____

B. Taxes Paid Fiscal Year 2017: \$ _____

Renters

A. Annual Rental Fees: \$ _____ Expenses included in rent: Heat Electricity Property Tax Other _____ (Check all that apply.)

B. Do you rent but receive a separate bill for property taxes? Yes No If yes, please provide copy of invoice.

C. If renting, a copy of the lease is required.

Income:

A. Federal Income Tax Return (**2016**) - Enter the annual income amount specific to the form you filed: \$ _____ (1040 Line 22, 1040A Line 15 or 1040EZ Line 4)

B. If you **do not** file a Federal Income Tax Return, please complete the following amounts receive in **2016**:

Social Security Benefits: \$ _____

Retirement Plan Benefits: \$ _____ (pensions, annuities, IRA's)

All Other Income: \$ _____

Describe Other Income: _____



Town of North Yarmouth
Senior Property Tax Assistance Program Application - Page 2

Town Use Only

DOB ____/____/____ Type of Verification: DL____ BC ____ Other_____

Length of Residency: Voter Registration ____ Other _____

Homestead Ownership: Property Records____ Other _____

Renters: Rental Agreement____ Property Tax Billing ____

Proof of Income: Income Tax Return ____ Other _____

Approved: Amount of Tax Credit awarded \$_____

Denied: Reason for denial: _____

Applicant

Date: ____/____/____

Town Manager

Date: ____/____/____

Date: February 9, 2017

To: Select Board

Fr: Rosemary E. Roy, Town Manager ^{RR}

RE: SPIRIT OF AMERICA TRIBUTE

Based on purpose, selected activity, the commitment of members, and positive, effective project results, I believe the Select Board can choose any one of the committees listed below to receive the Spirit of America Tribute award.

Committees

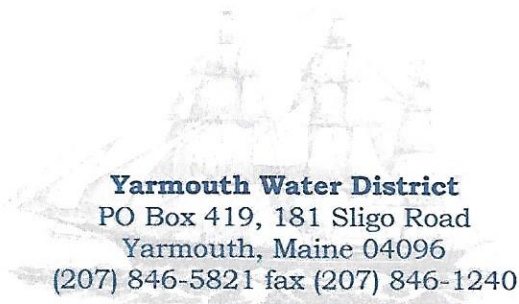
1. Communications Advisory Committee
2. Comprehensive Planning Committee
3. Events Committee
4. Flag Committee
5. Parks & Recreation Committee
6. Wescustogo Building & Design Committee

If the Select Board feels an individual should be selected I might suggest one of the following committee members:

Members

1. Darla Hamlin
2. Brian Sites
3. Grace Lovell
4. Kathy Whittier
5. Katie Murphy
6. Jason Raven

Thank you.



RECEIVED
FEB 06 2017

BY:

Robert N. MacKinnon, Jr.
Superintendent

Irving C. Felker, Jr.
Chairman, Board of Trustees

February 2, 2017

Ms. Rosemary Roy, Town Manager
Town of North Yarmouth
10 Village Square Road
North Yarmouth, ME 04097

RE: North Yarmouth Grange Project

Dear Ms. Roy,

As the Town moves forward with consideration of replacing Westcustogo Hall on the former Memorial School site, the Yarmouth Water District would like to work together with the Town of North Yarmouth to enhance protection of the nearby Hayes Well groundwater resource. We attended the meeting and presentation on December 20, 2016; and agree that this is a good use for the Memorial School site.

Specifically, we would like to explore the possibility of an exchange of the District's developable property on Dexter Lane for the development rights on the balance of the Memorial School site. This would give the Town developable land in the Village Center District and it would limit the development of Memorial School site to Westcustogo Hall, which would further protect the Town's groundwater resource and the District's Hayes Well.

As you may know, the District is required by State law to obtain Maine Public Utilities Commission (MPUC) approval before the sale of any water resource land. The property must first be offered to the municipality and if the municipality has no interest in the property, then the District may sell

the property on the open market. Because this type of transaction must be approved by MPUC, there is always quite a time lag between an exchange agreement and its approval, but the District is prepared to initiate proceedings promptly if the Town is interested in such an exchange.

We look forward to the Town's response.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob MacKinnon". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert N. MacKinnon, Jr.
Superintendent, Yarmouth Water District