

**Town of North Yarmouth
Select Board Meeting Agenda
Tuesday, April 21, 2020 - 7:00 PM
Remote Business Meeting**

I. Call to Order

- Pledge of Allegiance

The format and structure for Select Board meetings are authorized and governed by our Town Charter and the Select Board Bylaws with overarching guidance from Maine Statutes. Select Board members are not collectively or individually allowed to speak about personnel matters and may only address personnel matters in an executive session per State Statute Title 1 § 401-410.

II. Minutes of Previous Meeting(s)

- April 7, 2020

III. Public Comment - Non-Agenda Items

Comments regarding issues, concerns, commendations, or matters of general public information are welcome. 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 matters cannot be acknowledged.

COVID-19 Procedures - Public Communications:

- 1) EMAIL: Individuals may email questions or comments to dwalker@northyarmouth.org or manager@northyarmouth.org.
- 2) PHONE: Individuals may also call the Town Office (207)829-3705 select option 4, and submit your comments or questions to staff or leave a voice message.
- 3) DROP OFF: Individuals may submit a written request to the Select Board/Town Manager, and it may be dropped off at the Town Office front door drop-box.

Comments and or questions will be addressed by a Select Board or the Town Manager at the meeting if feasible at that time. Communications must include the individual's name and legal residence.

IV. Management Reports & Communications

- Town Manager's Report
- Financial Report - March

V. Old Business

- Property Lease - North Yarmouth Historical Society
- Elections - COVID-19

VI. New Business

None

VII. Accounts Payable

- Review & Approval

VIII. Any Other Business

Select Board Members: A reminder, the "any other business" section on the agenda is not to include previously discussed items, any formerly "settled items," personal matters, or Town personnel matters. Please submit your other business item(s) to the Town Manager, Chairman, or Vice Chairman prior to the meeting by email or written letter dropped off at the Town Office. Thank you.

IX. Adjournment

REMINDERS TO THE ATTENDING PUBLIC: Please mute all digital devices; Select Board meetings are open to the public, but the public may not speak unless recognized by the Chairperson first. **Workshops:** The public is welcome to attend workshops and listen to the discussion that takes place. The purpose of holding a workshop is to provide the Select Board with the opportunity to focus on specific town matters to later present at a regular business meeting. Therefore, public participation is limited to only regular business meetings of the Select Board.

April 21, 2020

Agenda - Section II. Meeting Minutes

- *Move to approve the minutes for April 7, 2020, as presented. Second, discussion and vote follow.*

Note: Signing of documents will be collected when the Board resumes business in the Town Office conference room.

**Town of North Yarmouth
Select Board
Meeting Minutes of Tuesday, April 7, 2020**

Call to Order – Stephen Morrison, James Moulton, Paul Napolitano, and Jennifer Speirs were present. Town Manager, Rosemary Roy, was also present. Vice Chairperson Morrison called the meeting to order.

Minutes of Previous Meeting(s) – By consensus, Selectperson Moulton and Vice Chairperson Morrison agreed that the minutes of March 3, 2020, accurately reflected the discussion and decisions made at the business meeting. Without a quorum of voting members, these minutes could not be voted on. Vice Chairperson Morrison made a motion to approve the minutes of March 17, 2020, as presented. Selectperson Moulton seconded the motion. Discussion: None. **Vote: 4 Yes – 0 No.** Vice Chairperson Morrison moved to approve the minutes of March 31, 2020, as presented. Selectperson Moulton seconded the motion. Discussion: None. **Vote: 4 Yes – 0 No.**

Public Comment - Non-Agenda Items – Paul Hodgetts of 1095 Sligo Road submitted comments regarding nomination papers and an incident at Toddy Brook golf course relating to COVID-19. Vice Chairperson Morrison and the Town Manager provided feedback to the questions. Lori Robinson of 17 Lufkin Road submitted comments to the Board regarding the potential new school and development in the Village Center. Vice Chairperson Morrison provided feedback after the question. These submissions are available in the Meeting Materials of April 7, 2020, business meeting.

Management Reports & Communications:

Chief Payson – COVID – 19 Update – Chief Payson provided a verbal report to the Board regarding the Fire Department's efforts to assist residents who are quarantining because of COVID – 19.

Town Manager's Report – The Town Manager provided her full report which can be found on the Town's website, www.northyarmouth.org

Old Business:

Marijuana Survey – Economic Development & Sustainability Committee – Diane Morrison, Chairperson of the Economic Development & Sustainability Committee, provided the Board with a survey for their approval. Selectperson Speirs offered additional comments on how to advertise the survey if the Board approved the item. The Town Manager also provided further comments on how to promote the survey. Vice Chairperson Morrison moved to approve and authorize the Marijuana Survey to be circulated to the townspeople of North Yarmouth, as presented by the Economic Development & Sustainability Committee. Selectperson Speirs seconded the motion. Discussion: None. **Vote: 4 Yes – 0 No.**

Pay as you Throw (PAYT) – Trash Bag Requirements – COVID-19 - Vice Chairperson Morrison moved to authorize the Town Manager to grant a temporary waiver on the use of PAYT trash bags for resident(s) requesting assistance with particular circumstances relating to COVID – 19 and until such time that there is relief from the pandemic. Selectperson Moulton seconded the motion. Discussion: Selectperson Speirs asked the Town Manager for clarification of the action. The Town Manager responded that residents would be able to purchase their own thirteen (13) gallon trash bags if the Town Manager provided permission to do so based on their COVID –19 restrictions. Furthermore, the Town Manager stated that there would be a record for all participants who have been granted this special permission. Vice Chairperson Morrison noted that a resident could call, email, or use another form of communication that is received by the Town Manager to request permission to use their own thirteen (13) gallon trash bags. **Vote: 4 Yes – 0 No.**

New Business:

Election - Board Vacancy - Vice Chairperson Morrison moved that nomination papers be available for the existing board vacancy for the period beginning April 8, 2020, and ending April 23, 2020, in accordance with Title 30-A MRA, § 2528(4)(E), to be voted at the June 9, 2020 election. Selectperson Napolitano seconded the motion. Discussion: Vice Chairperson Morrison stated that the Board should delay the vote on this item to find out more information from the Governor's office. The Town Manager said that she has inquired on more legal information to advise the Board on how COVID – 19 would affect elections. Selectperson Speirs asked the Town Manager if

the papers would be available the following day. The Town Manager explained that the Board needed to vote on the item before any action from her office. Selectperson Speirs stated that the nomination papers should be made available as soon as possible and asked the Town Manager if the vote could be amended if the State of Maine determined a later date for the election. The Town Manager responded that the Board would need to wait on the state's decision on the matter. Selectperson Moulton asked the Town Manager on clarification on the agenda item. The Town Manager responded. Selectperson Napolitano stated that the Board would only comprise two members if the election of June 9, 2020, were changed by the state. Selectperson Napolitano asked the Town Manager if the Town could have a municipal election by absentee voting through the mail. The Town Manager responded that she would need further consultation to answer Selectperson Napolitano's question. Selectperson Speirs asked the Town Manager if two (2) of the Selectperson's terms would be extended beyond June 30, 2020. The Town Manager responded the question has already been asked to the Maine Municipal Association in preparation for the meeting. The Town Manager did not have an immediate response. Selectperson Napolitano asked the Town Manager how much control the State of Maine had on the Town Charter and term limits defined thereof. The Town Manager stated that the Town Charter does not apply in a state of emergency. Vice Chairperson Morrison noted that the item should be tabled due to the uncertainty of when the State of Maine will decide on an election date. Selectperson Moulton was concerned with the validity of the nomination papers already taken out. **Vote: 4 Yes – 0 No.**

Accounts Payable – Vice Chairperson Morrison moved to approve accounts payable 40, 41, 42 in the amount of \$114,171.03, as presented. Selectperson Speirs seconded the motion. Discussion: None. **Vote: 4 Yes – 0 No.**

Any Other Business – Vice Chairperson Morrison made a statement referencing the Select Board Bylaws and conduct of Select Board members.

Adjournment – Vice Chairperson Morrison moved to adjourn.

Prepared By: Draven Walker
Administrative Assistant/Recording Secretary

Select Board

Stephen Morrison, Vice Chair

James Moulton

Paul Napolitano

Jennifer Speirs

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.

This report will be verbal.

Respectfully submitted,

Rosemary

Rosemary E. Roy, Town Manager



**Expense Detail Report
March FY20**

	FY19 Budget	Debits	Credits	Unexpended Balance	%	Current Budget	Debits	Credits	Unexpended Balance	%
110 - MUN ADMN										
01 - OPERATIONS	335,123.00	247,374.92	10,708.70	98,456.78		392,333.00	265,725.68	580.00	127,187.32	
02 - CONTR/PROF	67,660.00	40,899.95	0.00	26,760.05		78,716.00	79,986.30	275.00	-995.30	
03 - BLDG/GRNDS	63,045.00	41,212.89	0.00	21,832.11		61,577.00	59,212.57	10.58	2,375.01	
04 - COMMCOMM	9,950.00	4,941.15	0.00	5,008.85		8,500.00	4,590.64	0.00	3,909.36	
05 - NYMS	21,438.00	20,849.93	0.00	588.07		0.00	0.00	0.00	0.00	
	497,216.00	355,278.84	10,708.70	152,645.86	69.30	541,126.00	409,515.19	865.58	132,476.39	75.52
120 - COMM SVCS										
01 - CEO/PLAN	69,219.00	49,758.20	2,319.20	21,780.00		103,698.00	64,750.20	0.00	38,947.80	
02 - ECONOM DEV	69,400.00	26,886.67	0.00	42,513.33		58,400.00	32,916.82	0.00	25,483.18	
03 - PKS/REC	8,850.00	3,815.50	0.00	5,034.50		11,350.00	1,647.36	0.00	9,702.64	
04 - GENL ASST	7,688.00	776.00	0.00	6,912.00		7,688.00	1,033.57	0.00	6,654.43	
05 - SOC SERVC	3,440.00	3,141.52	0.00	298.48		3,440.00	3,125.31	0.00	314.69	
06 - CEMETERIES	5,215.00	5,120.61	0.00	94.39		5,765.00	2,960.70	0.00	2,804.30	
07 - LIVING WELL	750.00	396.89	0.00	353.11		750.00	969.73	0.00	-219.73	
08 - HIST SOCIE	5,000.00	375.00	0.00	4,625.00		1,750.00	0.00	0.00	1,750.00	
	169,562.00	90,270.39	2,319.20	81,610.81	51.87	192,841.00	107,403.69	0.00	85,437.31	55.70
130 - PUBL SAFETY										
01 - FIRE RESCUE	281,827.00	211,516.82	18,061.54	88,371.72		322,308.00	213,521.70	1,421.99	110,208.29	
02 - CONTR/PROF	99,967.00	40,786.15	0.00	59,180.85		109,902.00	51,883.73	0.00	58,018.27	
	381,794.00	252,302.97	18,061.54	147,552.57	61.35	432,210.00	265,405.43	1,421.99	168,226.56	61.08
140 - PUBLIC WORKS										
01 - OPERATIONS	447,813.00	354,552.41	9,255.26	102,515.85		429,518.00	292,969.83	1,784.61	138,332.78	
	447,813.00	354,552.41	9,255.26	102,515.85	77.11	429,518.00	292,969.83	1,784.61	138,332.78	67.79
150 - SW/RECYCLING										
01 - SOLID WASTE	202,905.00	147,171.83	0.00	55,733.17		228,188.00	132,313.41	0.00	95,874.59	
	202,905.00	147,171.83	0.00	55,733.17	72.53	228,188.00	132,313.41	0.00	95,874.59	57.98
160 - FIXED EXPENS										
02 - EE BENEFITS	265,654.00	178,011.64	2,793.00	90,435.36		285,900.00	463,525.00	231,762.50	54,137.50	
03 - INSURANCE	39,767.00	40,509.00	0.00	-742.00		323,435.00	162,916.33	0.00	160,518.67	
04 - EDUCATION	7,333,711.00	5,500,283.09	0.00	1,833,427.91		41,457.00	46,039.00	0.00	-4,582.00	
05 - SHARED SVCS	178,994.00	134,244.00	0.00	44,750.00		7,368,665.00	4,912,443.22	0.00	2,456,221.78	
06 - COUNTY TAX	336,663.00	336,663.00	0.00	0.00		165,876.00	82,937.92	0.00	82,938.08	
	8,154,789.00	6,189,710.73	2,793.00	1,967,871.27	75.87	8,185,333.00	5,667,861.47	231,762.50	2,749,234.03	66.41
Final Totals	9,854,079.00	7,389,287.17	43,137.70	2,507,929.53	74.55	10,009,216.00	6,875,469.02	235,834.68	3,369,581.66	66.34

**Revenue Detail Report
MARCH FY20**

100 - REVENUES	FY19			Current			Uncollected	
	Budget	Debits/Credits	%	Budget	Debits	Credits	Balance	%
4010 - AGENT FEES	12,300.00	8,042.00	65.382	12,100.00	0.00	10,763.75	1,336.25	88.96
4020 - RESCUE FEES	65,000.00	36,545.01	56.223	60,000.00	0.00	72,431.20	-12,431.20	120.72
4030 - APPEALS	50.00	0.00	-	50.00	0.00	112.50	-62.50	225.00
4035 - BAD CHECK FEES	0.00	40.00	-	0.00	0.00	0.00	0.00	-
4040 - BETE REIMBURSEMENT	0.00	0.00	-	1,200.00	0.00	42,712.00	-41,512.00	100.00
4050 - BOAT EXCISE	8,500.00	2,874.90	33.822	8,500.00	320.60	3,469.20	5,351.40	37.04
4060 - BUILDING PERMITS	41,000.00	25,127.30	61.286	60,000.00	0.00	70,261.97	-10,261.97	117.10
4067 - BURN PERMITS - ONLINE	240.00	156.00	65.00	240.00	0.00	168.00	72.00	70.00
4070 - CASH SHORT/OVER	0.00	5.00	-	0.00	1,869.03	1,899.54	-30.51	30.51
4080 - CATV FRANCHISE FEES	29,000.00	33,413.69	115.22	30,800.00	0.00	29,012.01	1,787.99	94.19
4090 - CELL TOWER RENTAL	37,200.00	26,047.81	70.021	39,000.00	0.00	30,668.96	8,331.04	78.64
4110 - CEO MISC. PERMITS	300.00	0.00	-	300.00	0.00	0.00	300.00	-
4120 - CEO POWNAL SERVICES	15,000.00	10,079.90	67.199	17,500.00	4,818.66	12,425.33	9,893.33	43.46
4130 - CLERK FEES	755.00	466.00	61.722	755.00	0.00	780.00	-25.00	103.31
4140 - CUSTOMER SERVICES FEES	700.00	315.17	45.024	700.00	0.00	341.20	358.80	48.74
4150 - DOG LICENSE FEES / ACO SERVICE	1,650.00	1,379.00	83.576	1,650.00	0.00	1,505.00	145.00	91.21
4157 - PARK USE PERMIT DOGS	0.00	650.00	100	1,200.00	0.00	550.00	650.00	45.83
4160 - ELECTRICAL PERMITS	7,500.00	5,895.87	78.612	10,500.00	40.00	13,849.18	-3,309.18	131.52
4200 - GENEALOGY SEARCH	250.00	65.00	26	150.00	0.00	21.00	129.00	14.00
4210 - GENERAL ASSISTANCE	2,500.00	140.00	5.6	2,500.00	0.00	296.43	2,203.57	11.86
4220 - HOMESTEAD EXEMPTION	200,527.00	182,780.00	91.15	200,527.00	0.00	208,503.00	-7,976.00	103.98
4255 - EMA REIMBURSEMENTS	0.00	26,091.79	100	0.00	0.00	0.00	0.00	-
4260 - LOCAL ROAD ASSISTANCE PROGRAM	27,000.00	27,232.00	100.86	27,000.00	0.00	27,952.00	-952.00	103.53
4265 - PROPERTY & CASUALTY POOL	2,000.00	2,643.00	132.15	2,500.00	0.00	5,505.00	-3,005.00	220.20
4270 - MSAD ELECTIONS	2,200.00	1,503.38	68.335	1,600.00	0.00	0.00	1,600.00	-
4280 - MISC REVENUES	1,200.00	3,183.91	265.33	1,200.00	6,195.00	7,026.52	368.48	69.29
4290 - BMV EXCISE	867,000.00	680,319.38	78.468	965,000.00	19,239.40	711,024.27	273,215.13	71.68
4310 - PEER REVIEW	1,000.00	0.00	-	1,000.00	0.00	0.00	1,000.00	-
4320 - PLANNING BOARD	1,200.00	2,300.00	191.67	1,200.00	0.00	700.00	500.00	58.33
4330 - PLUMBING PERMITS	8,000.00	5,475.00	68.438	8,500.00	327.50	12,367.50	-3,540.00	141.64
4335 - PRIVATE ROAD SIGNS	300.00	281.01	93.67	300.00	0.00	155.06	144.94	51.69
4340 - RENTAL FEES	13,000.00	8,155.00	62.731	25,500.00	0.00	8,600.00	16,900.00	33.73
4345 - WH&CC FEES	0.00	0.00	-	0.00	50.00	8,300.80	-8,250.80	100.00
4350 - REVENUE SHARING	191,575.00	135,547.92	70.754	387,000.00	0.00	232,231.86	154,768.14	60.01
4360 - SALE OF ASSETS	0.00	0.00	-	0.00	0.00	801.00	-801.00	100.00
4370 - SITE PLAN REVIEW	1,200.00	725.00	60.417	1,200.00	0.00	350.00	850.00	29.17
4380 - SNOWMOBILE CLUBS STATE REIMBUR	1,200.00	1,271.04	105.92	1,250.00	0.00	1,151.88	98.12	92.15
4390 - SOLID WASTE/RECYCLING	140,000.00	106,347.50	75.963	186,300.00	0.00	124,297.50	62,002.50	66.72
4400 - SW HAULER PERMIT	75.00	0.00	0	75.00	0.00	0.00	75.00	-
4415 - TAX SUPPLEMENTAL	0.00	13,747.75	100	0.00	0.00	109,440.85	-109,440.85	100.00
4420 - TAX INTEREST	12,500.00	8,366.23	66.93	15,000.00	7.73	14,723.33	284.40	98.10
4430 - TAX PENALTY	3,500.00	825.11	23.575	3,000.00	0.00	2,203.51	796.49	73.45
4450 - TIMBER HARVEST	0.00	9,582.40	100	0.00	0.00	0.00	0.00	-
4480 - TREE GROWTH EXEMPTION	3,700.00	2,417.84	65.347	4,000.00	0.00	2,641.04	1,358.96	66.03
4500 - VETERAN'S EXEMPTION	2,950.00	1,340.00	45.424	2,950.00	0.00	1,598.00	1,352.00	54.17
4510 - VITAL RECORDS	3,100.00	1,775.20	57.265	3,100.00	0.00	1,405.20	1,694.80	45.33
Final Totals	1,705,172.00	1,373,153.11	80.529	2,085,347.00	32,867.92	1,772,245.59	345,969.33	83.41

Current Account Status
04/16/2020
G 10-200-20 GENERAL / RE TAXES 20
Monthly Summary
--Regular Entries--

Month		Credits
July	0.00	56,434.25
August	8,895,043.22	389,944.20
September	1,866.85	2,146,374.29
		2,592,752.74
October	368.55	166,293.26
November	2,868.62	111,208.85
December	0.00	1,698,836.25
		1,976,338.36
January	77,634.14	126,957.55
February	595.29	353,321.28
March	5,862.72	1,633,078.52
		2,113,357.35
April	0.00	65,593.45
Totals	8,984,239.39	6,748,041.90

75.11 % Collected

April 21, 2020

Section VI. New Business

None.

April 21, 2020

Section V. Old Business

▪ **Property Lease - North Yarmouth Historical Society (NYHS)**

The Board last reviewed the proposed lease during a workshop with NYHS & NY Fire Company on February 4, 2020. In this meeting, fundamental changes were made to the lease, and the amended version was provided to NYHS. Legal representation for NYHS then reviewed the document, and additional amendments were proposed; this is the document before you now.

The Town Manager and Town attorney have reviewed these proposed changes, and a summary of the findings is enclosed herein.

Note: The purpose of this business item is to review, discuss, and decide on the issues at hand; no vote is needed to approve this document at this time.

▪ **Elections - COVID-19**

It is now confirmed that the State election has been moved to July 14th. The Town Clerk received instructions on the 17th for processing the election with all necessary adjustments. There has been no word from the Governor's office on Municipal elections, although this may happen soon. An attorney at MMA did confirm that an absentee ballot only or vote by mail system was not an authorized alternative for municipalities. As for other questionable areas, i.e., expiring terms, rescheduling town meeting, etc. MMA recommended that we speak to the Town attorney regarding these matters. Information from the Town attorney is currently pending, and answers may be available for this meeting.

If necessary: Move to (take specific action to). Second, discussion and vote follow.

**Town of
North Yarmouth**

Date: April 21, 2020

To: Select Board

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

RE: PROPOSED LEASE - NORTH YARMOUTH HISTORICAL SOCIETY

In the first section of recitals (“Whereas” language) and all other sections of the lease not noted below, we found to have no objections to the revisions and added language. The sections below need the Board’s direct attention; however, the Board is not limited to discussing only these sections.

Section 1. Premises Leased. - The Board should review this section particularly regarding the rights to use other parts of the Village Green. If the language is acceptable, should it include the need for advance permissions from the Town to use other areas of the property?

Section 5. (b). Assignments. - These revisions slightly open up assignability/transferability, in that it includes for-profit endeavors but with the same mission or purpose. Similarly, it limits the Town’s approval power over such transfers and opened up potential uses for the property. It is permissible, but the Board should weigh in on whether they are comfortable with this language or not.

Section 6. (d) Fixtures. - No objection to this language added, however, the deleted language that follows needs to be added back into the lease. It may not be added in its entirety. Still, language regarding the Village Center economic enhancement, reference to the 65% green space, etc. being the focus and should remain in the lease. The Town attorney is working on revising the language for this section.

Section 9. - Default. - The last line of this paragraph should be left in as initially recommended by counsel.

Section 11. Quiet Enjoyment. - The Town attorney will be submitting a new language for this section or recommending to stay with the original language proposed.

Section 17. Right of First Refusal. - In summary, this section would require the Town to offer “first refusal” to NYHS on any sale/transfer or lease of not only the portion noted as “the premises” but the entire Town parcel. If this is accepted, matters such as the Fire Company’s proposed structure would need to go through the NYHS before the Town could act.

GROUND LEASE AGREEMENT

This Ground Lease Agreement (this "Lease") is made as of the ____ day of _____, 2020, by and between **TOWN OF NORTH YARMOUTH**, a body corporate and politic and Maine municipal corporation with a mailing address of _____ ("Town") and **NORTH YARMOUTH HISTORICAL SOCIETY**, a non-profit corporation organized and existing under the laws of the State of Maine with a mailing address of 10 Village Square Rd., North Yarmouth, ME 04097 ("**NYHS**").

RECITALS

WHEREAS, ~~the North Yarmouth Historical Society, a non-profit corporation organized and existing under the laws of the State of Maine ("NYHS"),~~ owns that certain real estate located at 470 Memorial Highway, Town of North Yarmouth, State of Maine, being more particularly described in a Deed to NYHS dated 1976 and recorded in the Cumberland County Registry of Deeds in Book 3919, Page 25 (the "NYHS Property");

WHEREAS, the Town ~~of North Yarmouth, a body corporate and politic and Maine municipal corporation ("Town"),~~ owns that certain real estate located at 475 Walnut Hill Road, Town of North Yarmouth, State of Maine, being a portion the property commonly known as the Village Green and the former site of the Wescustogo Grange Hall (~~the "Premises" or the "Village Green";~~);

WHEREAS, NYHS desires to relocate the approximately 1,550 square foot building known as the NYHS Old Town House (the "Old Town House") is currently located on the NYHS Property onto the Village Green;

~~WHEREAS, NYHS desires to relocate the Old Town House onto the Village Green;~~

WHEREAS, the Town acknowledges that relocating the Old Town House onto the Village Green would enhance the village center and be an aesthetic and economic asset for the Town;

WHEREAS, the Town agrees to lease a portion of the Village Green to NYHS upon the terms and conditions herein and in exchange for NYHS's conveying the NYHS Property to the Town; ~~further referred to as "the premises."~~

Formatted: Indent: First line: 0.5"

Commented [Verrill1]: See definition below.

WHEREAS, by deed of near or even date herewith and in accordance with Section 2 (as stated below), NYHS shall convey the NYHS Property, land only, to the Town (the "Deed");

NOW THEREFORE, in consideration of the Deed and the mutual covenants and obligations herein and other good and valuable consideration, ~~the receipt and sufficiency of which is hereby acknowledged, this Lease Agreement ("Lease") is made this ____ day of _____, 2020, by and between the Town and NYHS, and the parties agree to the following terms and conditions~~ the parties hereby acknowledge and agree to the following:

1. **PREMISES LEASED.** Town does hereby lease to NYHS, and NYHS does hereby lease from Town, upon the terms and conditions herein, the Premises, being a ± 35,335 square feet of raw land located in North Yarmouth, Maine and more particularly depicted as "Leased Area to NYHS" in Exhibit A, attached hereto and incorporate herein (the "Premises"), together with [any other rights to use other parts of the Village Green?]. ~~All references to the Premises hereinafter shall include the Old Town House. The Town and NYHS hereby agree and acknowledge that NYHS is the owner of the Old Town House and that upon the expiration or early termination of this Lease, NYHS shall have the option to (i) remove the Old Town~~

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House or (ii) leave the Old Town House, subject to the terms and conditions herein.

2. TERM/RENEWAL. This Lease shall commence upon the date on which the Old Town House or any portion thereof is relocated onto the Premises, or the date upon which NYHS commences any construction, including digging to install a foundation, whichever is earlier, and shall be for an initial term of ninety-nine (99) years unless earlier terminated in accordance with the terms hereof. This Lease shall automatically renew, upon the same terms and conditions stated herein, for successive periods of twenty-five (25) years, in perpetuity, unless and until terminated by either party ~~in accordance with the terms hereof~~ upon six (6) months prior written notice of the expiration of the then current lease Term. Notwithstanding anything contained herein, if NYHS is unable to obtain all necessary permits and approvals to relocate the Old Town House and for NYHS's Restoration Work of the Old Town House, NYHS may, at NYHS sole option, Terminate this Lease upon written notice to the Town. The Deed conveying the NYHS's Property to the Town shall not be delivered unless and until the approvals required for the relocation and NYHS's Restoration Work have been obtained by NYHS.

3. RENT. NYHS and the Town agree and acknowledge that NYHS has paid One Dollar (\$1.00) as rent for the Term, including any extensions thereof. There shall be no further monetary Rent due under this Lease, ~~the consideration being NYHS's discharge of its performance and/or payment obligations hereunder.~~

4. REAL ESTATE TAXES and UTILITIES. NYHS shall assume and pay when due all charges for utility services rendered or supplied upon or in connection with the Old Town House. NYHS shall be exempt from real estate property taxes for the entirety of the Term and any extensions thereof. The Town will provide snow removal and lawn care of the remises.

5. USE OF PREMISES; ASSIGNMENT/SUBLETTING.

(a) Use. The Premises shall be used ~~only~~ in a manner consistent with the current and traditional historical uses of the Old Town House for NYHS's operations, which uses include, but shall not be limited to ~~for~~ the storage and exhibition of NYHS materials, and as a community space for meetings, social events, or educational programming.

(b) Assignment. NYHS shall not by operation of law or otherwise, assign, ~~mortgage, or encumber~~ this Lease or sublet ~~or permit the Premises or any part thereof to be used by others,~~ except to another profit or non-profit organization(s) with the ~~same~~ substantially similar purpose, ~~and~~ mission, and use as that of NYHS, and, in any event, only upon the prior express written notification to consent of the Town, which consent shall not be unreasonably withheld, conditioned, or delayed. Nothing contained herein shall prohibit the use of the Premises for events, meetings and/or functions by NYHS or others under the supervision of NYHS, which use shall not be subject to consent of the Town. NYHS shall use reasonable efforts to provide a calendar of known events to the Town periodically. ~~of regular calendar and special events is required, which the Town may withhold in its sole and absolute discretion. NYHS shall may not perform any act or carry on any practice which may damage the Premises or constitute a nuisance.~~

6. MAINTENANCE; IMPROVEMENTS; ALTERATIONS; AND FIXTURES ~~AND REPAIR.~~

(a) Maintenance. The Town shall have no obligation to maintain the Premises or the Old Town House during the Term of this Lease. NYHS shall, throughout the term of this Lease, keep and maintain or cause to be kept and maintained, in good repair and clean and orderly condition, the Premises, the Old Town House, any Improvements (as hereafter defined) located or situated thereon, and all utility pipes, lines

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and conduits exclusively serving the Premises. Notwithstanding the foregoing, the Town will provide snow removal and lawn care of the Premises for the entirety of the Term and any extensions thereof.

(b) Improvements. The Town shall have no obligation to make any improvements or alterations to the Premises or Old Town House and NYHS shall be solely responsible for any and all costs associated therewith. NYHS shall perform all work necessary to relocate the Old Town House onto the Premises at its sole cost and expense. In addition, NYHS shall, at its sole cost and expense, commence and complete restoration of the Old Town House promptly following its relocation onto the Premises (“NYHS’s Restoration Work”), said NYHS’s Restoration Work is further described on Exhibit B attached hereto and incorporated herein. Notwithstanding anything to the contrary herein, this Lease is not a permit, and NYHS shall apply for and obtain at its own expense all customary and necessary permitting and approvals; provided, however, that the Town will work collaboratively with NYHS to obtain necessary permitting and approvals for NYHS’s Restoration Work. NYHS shall further have the right, at its own cost and expense and with the prior written approval of the Town, to construct on the Premises such walks, gardens and other improvements and make such alterations, changes, replacements and additions in and to the Premises (collectively, “Improvements”) as NYHS may deem desirable. Any Improvements undertaken by NYHS on the Premises shall be diligently prosecuted to completion and done in a good and workmanlike manner and in strict compliance with all then applicable laws, codes, ordinances and other governmental requirements.

(c) Signs. NYHS may install signs upon the Town’s reasonable written approval, which approval shall not be unreasonably withheld, conditioned or delayed. All signs approved by the Town shall be installed at NYHS’s sole expense, in compliance with all applicable laws and ordinances.

(d) Fixtures. On the last day or sooner termination of the term of this Lease, NYHS shall quit and surrender to the Town the Premises, and remove any and all Improvements, including but not limited to the Old Town House, then thereon at NYHS’s sole cost and expense, except that NYHS may, at NYHS sole option, to leave said Improvements and Old Town House, provided that said Old Town House and Improvements are in good repair and condition. If NYHS desires to leave said Old Town House and Improvements on the Premises, NYHS shall deliver to the Town, at least sixty (60) days prior to the termination date of the then existing lease term, written notice of NYHS’s desire to leave said Old Town House and Improvements. All of NYHS’s trade fixtures, equipment and other movable property shall remain NYHS’s personal property, and NYHS shall have the right at any time during the term of this Lease to remove all such trade fixtures, equipment and other personal property installed by NYHS; provided, however, that NYHS will repair any damage caused to the Premises by such removal.

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~~NYHS acknowledges that the relocation of the Old Town House onto the Village Green is intended to be an aesthetic and economic enhancement to the Town of North Yarmouth’s village center, and hereby agrees to restore and maintain the Old Town House in a high quality manner consistent with the existing aesthetic nature of the Premises Village Green and also consistent with the traditional historical nature of the Old Town House. NYHS shall, solely at its own cost, commence and complete restoration of the Old Town House promptly following its relocation onto the Premises, including but not limited to the completion of a new foundation, reconnection and stabilization of any portions of the Old Town House, reinstallation of the porch, and restoration of the existing chimney and roof, all in accordance with plans to be approved by the Town. Notwithstanding anything to the contrary herein, this Lease is not a permit, and NYHS shall apply for and obtain at its own expense all customary and necessary permitting and approvals. NYHS shall thereafter, at all times during the term of this lease including any renewal(s), solely at its own cost, maintain the Old Town House (including without limitation the exterior walls, the structure and the roof) and the Premises in good~~

~~order and repair and in a manner generally consistent with the high quality maintenance and upkeep of the Village Green, band stand, and Memorial Garden located on or near the Premises, reasonable use and wear and damage by fire or other casualty only excepted; shall keep all fixtures and equipment in the Old Town House, including without limitation all heating, air conditioning, plumbing, electrical and mechanical fixtures and equipment in good operating condition, reasonable wear and damage by fire or casualty only excepted; and NYHS agrees to make all repairs and do all other work necessary for the foregoing purposes. Notwithstanding the foregoing, NYHS shall not make any structural or non structural improvement, addition or alteration without the prior consent of the Town, and any such improvements, additions, or alterations shall be consistent with the existing character of the Village Green, band stand, and Memorial Garden located on or near the Premises, as well as the traditional historical nature of the Old Town House, and The Town shall also maintain at all times at least sixty five percent 65% green space on the Premises. If NYHS refuses or neglects to repair the Old Town House or the Premises as required hereunder and to the satisfaction of the Town, the Town may make such repairs for the account of NYHS, including the right to remove any improvements, additions, or alterations that result in less than 65% green space on the Premises, and shall not be liable to NYHS for any loss or damage to NYHS's business by reason thereof, and upon completion, NYHS shall pay all of the Town's costs and expenses for making such repairs to the Premises. Town shall have reasonable access at all times with a forty eight (48) hour notification to NYHS, to the Premises and the Old Town House for the purpose of examining the same and determining compliance with the terms of this Lease or to make any repairs or perform any reconstruction deemed necessary by the Town.~~

Commented [Verrill3]: Replaced with the above language.

~~At the expiration of the term or earlier termination of this Lease, NYHS shall surrender the Premises to the Town in the same condition as they were in at the commencement of the term, reasonable use and wear and damage by fire or other casualty only excepted. All fixtures, alterations or improvements to the Premises or the Old Town House shall become part of the Premises and shall be surrendered to the Town upon the expiration or termination of this Lease.~~

Commented [Verrill4]: See revised (d) above.

7. **INSURANCE.** NYHS shall maintain a policy ~~of fire and extended coverage of general liability~~ insurance on the Premises, in such amounts ~~and coverages satisfactory to the Town set forth in Exhibit~~, which policy shall name the Town as an additional insured. ~~If, during the term of this Lease or any extensions thereof, the coverages set forth herein are discontinued by the insurance provider, NYHS will use commercially reasonable efforts to obtain insurance coverages similar to those set forth on Exhibit~~. ~~NYHS shall additionally maintain a policy of public liability insurance insuring the Town and NYHS, said policy to be in such amounts and with such companies as shall from time to time be satisfactory to the Town and NYHS and shall otherwise maintain insurance against such other hazards as the Town may from time to time reasonably require.~~

8. **INDEMNIFICATION.** ~~Except for the negligent acts or omissions of the Town,~~ NYHS hereby agrees to indemnify and hold the Town harmless from and against any and all claims for injury to persons (including death) or damage to property in or about the ~~leased~~ Premises, and against any costs or damages (including without limit reasonable attorney's fees and costs) which the Town may incur by reason of the assertion of any such claims and/or relating to NYHS's breach of this ~~Lease and/or the Town's enforcement~~ hereof. ~~Nothing herein shall waive or modify the defenses, immunities, or protections of the Maine Tort Claims Act, to the extent they may apply.~~

The Town hereby agrees to indemnify and hold NYHS harmless from and against any and all claims for injury to persons (including death) or damage to property in or about the Premises, and against any costs or damages (including without limit reasonable attorney's fees and costs) which NYHS may incur by reason of the assertion of any such claims and/or relating to the Town's breach of this Lease.

Commented [Verrill5]: Indemnity must be mutual.

9. DEFAULT. If (i) NYHS shall default in the performance of any of its covenants, agreements or obligations hereunder and such default shall continue for a period of thirty (30) days following notice from the Town of said default or in case of a default which cannot with due diligence be remedied within said thirty (30) day period within a period of time which shall be reasonable under all prevailing circumstances; (ii) this Lease is assigned, excepting any permitted assignments, to any individual or entity other than NYHS without prior written approval from the Town, which approval shall not be unreasonably withheld, conditioned, or delayed; (iii) NYHS shall cease to exist as a validly existing non-profit entity for a period of more than three (3) months after prior written notice from the Town of the same; (iv) an assignment shall be made by NYHS for the benefit of creditors in a bankruptcy proceeding; or (v) ~~NYHS's leasehold interest hereunder shall be taken on execution,~~ then in any of such cases ~~Landlord~~the Town may lawfully, immediately and at any time thereafter, and without further notice or demand, and without prejudice to any other remedies, enter into and upon the Premises or any part thereof, or mail a notice of termination addressed to NYHS at the Premises, and upon such entry or mailing this Lease shall immediately terminate. ~~In case of such termination, NYHS shall pay to the Town all damages for breach as are available and permitted under Maine law~~

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10. FIRE; CASULTY. If the Old Town House on the Premises shall be destroyed or damaged by fire or other unavoidable casualty, this Lease shall, at the option of NYHS, either (i) terminate or (ii) continue, in which case NYHS shall promptly repair, replace or restore said Old Town House at its own cost and expense in accordance with this Lease. If NYHS shall elect not to repair, replace or restore such damaged building or structure, NYHS shall (i) notify the Town in writing not more than ninety (90) days from the date of fire or casualty, and (ii) promptly demolish the damaged building or structure, remove all debris from the Premises and restore the Premises to its natural condition at NYHS's sole cost and expense. In repairing, replacing or restoring the Old Town House, NYHS shall commence the work as soon as weather and seasonal conditions shall allow and shall diligently prosecute the work to completion in a good and workmanlike manner, in accordance with all applicable governmental requirements and at its own cost and expense.

11. QUIET ENJOYMENT. NYHS shall peaceably and quietly hold and enjoy the Premises for the Term hereof without hindrance or interruption by the Town or interference by any person or persons claiming lawfully or unlawfully by, through or under the Town, subject, nevertheless, to the terms and conditions of this Lease. ~~The Town expressly disclaims any covenant of quiet enjoyment with respect to this Lease~~

12. HAZARDOUS MATERIALS. As of the date of this Lease, the Town hereby represents, warrants and covenants that there are no known Hazardous Materials on the Premises. The Town hereby covenants and agrees to indemnify and hold NYHS, its officers, directors, employees and agents harmless from and against any and all damages, cost, expense or liability, including reasonable attorneys' fees, court costs and clean-up costs, which may arise out of the presence, release, removal and/or clean-up of any Hazardous Materials upon or from Premises prior to the term of the Lease. **This agreement to indemnify and hold harmless shall survive any termination or expiration of this Lease.**

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For purposes of this Lease, "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, hazardous materials, hazardous waste, hazardous matter, hazardous or toxic substances, oil or other petroleum products, asbestos, chemical pollutants or related materials, including as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901, et seq.),

applicable state statutes and in the regulations adopted and publications promulgated pursuant thereto, and the term "Hazardous Materials" shall include any underground storage tanks used or capable of being used for Hazardous Materials.

13. NOTICES. All notices and other communications authorized or required hereunder shall be in writing and shall be either delivered in person to the party to whom they are addressed or sent by certified mail or registered mail, return receipt requested, or by any overnight carrier that provides tracking and proof of delivery in the ordinary course of its business, in each case with all postage and mailing charges prepaid and addressed in the manner hereinafter provided. Any notice or other communication intended for the Town shall be delivered or sent to the Town at the address identified in the preamble to this Lease or at such other address or addresses as the Town may hereafter designate by notice to NYHS; and any notice or other communication intended for NYHS shall be delivered or sent to NYHS at the address identified in the preamble to this Lease or at such other address or addresses as NYHS may hereafter designate by notice to the Town.

14. SEVERANCE. Should any term or provision of this Lease, or portion thereof, be determined invalid or unenforceable under law, such determination shall not affect the validity or enforceability of the remaining terms and provisions herein, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

15. EMINENT DOMAIN. If the Premises and the Old Town House are taken in whole or in part by eminent domain proceedings, NYHS shall be entitled to that portion of the damages equal to the fair market value of the Old Town House, and the Town shall be entitled to that portion of the damages equal to the fair market value allocated to the Premises.

16. RECORDING. This Lease shall not be recorded, but the Town and NYHS will, at any time, upon the request of either one, promptly execute and acknowledge an instrument in recordable form which will constitute a memorandum of this Lease for recording purposes. Such instrument shall set forth the names of the parties, a description of the Premises, the term of this Lease and any rights of extension thereof, and any other portions of this Lease, excepting the financial provisions, as either party shall reasonably request.

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17. RIGHT OF FIRST REFUSAL. If the Town elects, during the term of this Lease or any extensions thereof, (i) to sell or otherwise transfer all or any portion of the Premises, whether separately or as part of a larger parcel of which the Premises is a part, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Premises occupied by NYHS, or a larger portion thereof, NYHS shall have the right of first refusal to meet any bona fide offer of purchase or transfer on the same terms and conditions of such offer. If NYHS fails to meet such bona fide offer within thirty (30) days after written notice thereof from the Town, the Town may sell or grant the easement or interest in the Premises, or portion thereof, to such third party in accordance with the terms and conditions of such third party offer.

18. ENTIRE AGREEMENT. This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained or incorporated by reference in this instrument shall have any force or effect. This Lease shall not be modified in any way, except by a writing executed by both parties.

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19 MISCELLANEOUS. No provision of this Lease may be modified or altered except by

agreement in writing between NYHS and the Town. This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine. The headings herein contained are for convenience only, and shall not be considered a part of this Lease. This Lease may be executed in multiple original counterparts.

IN WITNESS WHEREOF, Town and NYHS have executed this Lease as of the date first above written.

WITNESSETH: TOWN OF NORTH YARMOUTH

By: _____
Name: _____
Its: _____

NORTH YARMOUTH HISTORICAL SOCIETY

By: _____
Name: _____
Its: _____

EXHIBIT A
[Plan Depicting the Premises]

EXHIBIT B
[NYHS Restoration Work]

Completion of a new foundation, reconnection and stabilization of any portions of the Old Town House, reinstallation of the porch, and restoration of the existing roof, all in accordance with plans to be approved by the Town.