



TOWN OF NEWPORT, NEW HAMPSHIRE

BOARD OF SELECTMEN

OPERATIONAL GUIDELINES & HANDBOOK

The Newport Board of Selectmen hereby adopts these operational guidelines pertaining to the functions of the Board and the conduct of its members.

I. GENERAL INFORMATION

- A. The Board of Selectmen for the Town of Newport consists of five equal members who shall operate by majority vote to manage the prudential affairs of the Town and perform the duties prescribed by law in accordance with the Right to Know Law (RSA 91-A), attached hereto and incorporated herein as Appendix A.
- B. Individual Selectmen have no authority to make decisions on behalf of the Town or to take any action as a Town Official except upon a majority vote of the Board or as otherwise allowed by law. This does not prohibit a Selectman from acting as an ordinary citizen of the Town by expressing personal viewpoints and opinions on municipal matters to the extent that such information is based on encounters and observations derived outside of the privileged purview of a Selectman.
- C. The Board of Selectmen derives its authority from New Hampshire State Law as specifically set forth in the Revised Statutes Annotated (RSA) and as further established under common law (court decisions). A general rule of thumb is the Board of Selectmen does not have the final authority to act on any particular issue unless there is a specific law granting such authority or when Town Meeting has lawfully delegated such authority to the Selectmen.

II. GETTING ORGANIZED

- A. The first meeting of the Board of Selectmen following the Oath of Office being administered to any newly elected members shall include:

(1) The meeting will be opened by the Town Manager.

(2) Voting on the Election of Officers

- Chair
- Vice-Chair

[NOTE: There is no provision in these guidelines for an established order based on length of service in the selection of officers, nor is there any provision that would prevent a Selectman from serving consecutive or more than 2 terms as Chair.]

(3) Voting on Selectmen's Liaison Assignments

- Airport Advisory Committee Representative
- Budget Advisory Committee Representative
- ECON Representative
- Historic District/Heritage Commission Representative
- Planning Board Representative
- Planning Board Alternate Representative
- Recreation Advisory Committee Representative
- Upper Valley Lake Sunapee Regional Planning Commission Representative
- Zoning Board of Adjustment Representative
- Zoning Board of Adjustment Alternate Representative
- Ad-Hoc Representatives as may be deemed necessary by the Board

(4) Voting on the Establishment of a Meeting Schedule

(5) Voting to reaffirm or amend these Board of Selectmen Operation Guidelines & Handbook

(6) Voting to reaffirm or amend the Town of Newport Code of Ethics

[NOTE #1: Nothing in these guidelines shall prevent the Selectmen from voting by majority to table such decisions until such time as the Board members may be ready to act, nor shall these guidelines be construed as preventing the Selectmen from voting on these matters at any other time upon a vote of the majority.]

[NOTE #2: Nothing in these guidelines shall prevent the Selectmen from voting to replace the Chair or Board Liaisons at any time during any duly posted public meeting upon a determination by the remaining Board members that the Chair or Liaison has acted inappropriately or exceeded his/her authority or upon a request to be replaced.]

III. DUTIES OF SELECTMEN

A. Chair

The Chair shall preside over all meetings and shall have the authority to:

(1) Maintain order and control of the agenda.

- (2) Ensure that informal parliamentary procedures are followed.
- (3) Place limits on the length of time and the content of input provided by meeting participants.
- (4) Call for a special or emergency meeting.
- (5) Request the voluntary (or involuntary removal by a Police Officer) of persons who disrupt the business of Town government.
- (6) Represent the Town at ceremonial events and serve as the Town's Chief Executive Official.
- (7) Serve as the Board spokesperson by presenting the official viewpoint of the Board of Selectmen to the media, citizens, government agencies, civic groups and others based upon a majority vote.

[NOTE: Nothing herein is intended to prohibit the remaining members of the Board of Selectmen from attending ceremonial events or voting to override a ruling of the Chair, nor is anything intended to prevent the Chair from delegating his/her authority as may be deemed necessary.]

B. Vice-Chair

The Vice-Chair shall have all of the duties and responsibilities of the Chair in the event of absence, vacancy, or disqualification.

C. Primary Duties

The Board's primary duty is to "manage the prudential affairs of the Town and perform the duties by law proscribed (RSA 41:8). The Town has also adopted the Town Manager form of government (RSA 37) which specifically redistributes certain administrative powers and duties from the Selectmen to the Town Manager.

A list of the primary duties of the Board can be found in Appendix B and the Town Manager's job description can be found in Appendix C.

D. Delegation of Selectmen's Duties

- (1) Although the Board of Selectmen has historically delegated many of its responsibilities to staff members with enhanced levels of expertise, qualifications and specific competencies, it is important to note that nothing herein is intended to imply the Board of Selectmen cannot assume control over its obligations; and it should also be understood that the Board of Selectmen retains the final decision-making authority for all its responsibilities.
- (2) It shall be the responsibility of the Town Manager to keep the Board of Selectmen informed of their duties in a timely manner and to ensure, to the greatest extent

practical, that the Board acts in compliance with all applicable laws, including, but not limited to posting notices, meeting deadlines, producing minutes and reports, advertising, scheduling hearings, etc.

E. Limitations of Selectmen's Duties

The duties and responsibilities of the Board of Selectmen as set forth in these guidelines and as otherwise enumerated under law are almost always subject to certain conditions, limitations and exclusions that require further examination to determine the full extent of the Board's authority as it pertains to each specific set of circumstances.

IV. BUSINESS PROTOCOLS

A. Public Sessions

The Board of Selectmen can only act in a duly posted public session unless a subject matter is specifically exempt by law from such requirement. Notice of all meetings shall be posted at least 24 hours in advance of the meeting (except in the event of an emergency as noted herein) on the Town's website and the Town Hall lobby. Additional postings may be made at other municipal buildings such as the Library and DPW, and notice may be provided to local media outlets to the extent practical. There is no legal requirement to post an agenda with a notice of meeting. Notes, tapes and other materials used for compiling minutes of a public session meeting shall be made available for public inspection in the Office of the Town Manager immediately upon the conclusion of a meeting; and draft minutes shall be considered a permanent record of the Town as of the 5th business day after the meeting.

B. Non-Public Sessions

The Board of Selectmen may meet in non-public session only to discuss the subject matters referenced in RSA 91-A:3, II (see Appendix A), provided that such action is preceded by a motion, second and roll call vote that indicates the precise reasons for entering a non-public session, including a reference to the applicable statutory citation; and furthermore, provided that such action can only take place during a duly posted public meeting. Upon the close of non-public session business, the Board of Selectmen may, by 2/3 vote, seal the minutes until such time as divulgence is otherwise permitted under law (RSA 91-A:3, III, see Appendix A); otherwise a draft of the non-public session minutes shall be made available for public inspection in the Office of the Town Manager within 72 hours.

C. Minutes

An original document of all minutes from all meetings of Board of Selectmen shall be transferred to the custody of the Office of the Town Manager as soon as practical. The minimum content of the minutes shall be as set forth in RSA 91-A:2 & 4 (see Appendix A), but nothing herein is intended to prohibit the Selectmen from including such additional information as they may deem necessary. Sealed minutes shall be held in the custody of the Office of the Town Manager. Draft minutes shall be noted as such.

D. Non-Meetings

There are a few specific situations where the Board of Selectmen is permitted under law to conduct official business without posting notice of a meeting or taking minutes as set forth in RSA 91-A:2, I (see Appendix A). These non-meetings may be held during the course of a non-public session or upon the conclusion of a public session meeting or at any other time that is convenient to the participants.

E. Emergency Meetings

RSA 91-A:2, II (see Appendix A) defines the circumstances and explains the procedures for the Board of Selectmen to have a meeting with less than 24 hour notice. Such meetings require an emergency where immediate undelayed action is deemed to be imperative by the Chair and advance notification must be provided (by staff) as soon as possible to the local newspapers and on the Town's website.

F. Public Hearings

Public hearings are generally held for the following reasons: (a) to solicit input on proposed regulations, ordinances, fees or special events with significant community impacts; (b) to resolve a personnel matter upon a request from an employee to hold such proceedings in public; (c) to settle an appeal of a decision made by a Town employee; (d) in response to a petition to layout or accept a public highway; or (e) for the purpose of deciding any question affecting the conflicting rights or claims of different persons. It should be noted the Board of Selectmen cannot legally preside over hearings when such responsibilities or decision-making authority had been delegated by statute or ordinance to some other party, (such as subdivision approvals, appeals of administrative decisions of the Building Inspector, etc.)

During such proceedings, the Board members should refrain from expressing any opinions unless specifically asked or until such time as all other speakers have had an opportunity to speak and the hearing is then closed by the Chair. Selectmen may, however, ask questions of speakers and respond to questions if they so choose. Typically, a hearing should begin with some type of opening remark from the chair and then a presentation or viewpoint from a supporter of the subject matter or the person requesting the hearing and thereafter alternate with opposing views. In the case of contested proceedings, each party should be given one opportunity to make closing remarks and a rebuttal. (See also RSA 43 for specific requirements under certain situations.)

Decisions of the Board following a public hearing should always be expressed in writing and/or under signatures of the Board members, however the drafting of a decision and circulation for signatures may be exempt from the open meeting requirement of NH law.

G. Personnel Hearings

- (1) For those employees who have a right to a hearing, personnel hearings are to be conducted in non-public session unless otherwise requested by the affected employee, in which case they must be held in public session. If the hearing is held in non-public

session then all proceedings and documents related thereto shall be exempt from public disclosure except as otherwise required by law. If the hearing is held in public session then all records related thereto shall be subject to public disclosure.

- (2) The procedures used for a personnel hearing should be similar to the process used for any public hearing, except that a Selectman has no obligation to answer any questions posed by the participants. In addition, either party may call witnesses or submit evidence to support his/her viewpoint, but the Selectmen are not required to comply with or establish any formal set of evidentiary rules; and the provisions of RSA 43 are not applicable except for removal proceedings as set forth in RSA 41:16-c (Town Clerk), 41:26-d (Treasurer), and 41:40 (Tax Collector).

H. Consent Agenda

In order to facilitate the daily operations of Town government, the Selectmen may sign routine documents such as payroll changes, payment manifests, tax warrants, abatements and correspondence without the necessity of a public meeting; provided that such documents are thereafter approved by a vote of the Board. Furthermore, it should be noted that such documents must be made available for public inspection unless specifically exempt by law and any Selectman may require any such document to be acted upon and/or discussed by the Board at a meeting prior to the signatures of a majority taking effect.

I. Lack of a Quorum

In the event that two Selectmen are absent from a meeting, the remaining three members of the Board shall constitute a quorum and all decisions made must be unanimous and shall have the same effect as any other decision of the entire Board, unless otherwise prescribed by law. In the event that three Selectmen are absent from a meeting, no official meeting can take place and therefore no decisions can be made.

J. Remote Participation in Meetings

The provisions of RSA 91-A:2, III shall apply to the remote participation of a Selectman at a public meeting of the Board by telephone or video conference, only upon the consent of three members of the Board physically in attendance at the meeting, unless such meeting is an emergency meeting.

K. Voting Abstentions

In the event that a Selectman should voluntarily abstain from voting, such action shall not count towards the tally of a vote for the purposes of determining the majority viewpoint. If more than two Selectmen abstain from a vote, no action shall be taken without a unanimous vote of the remaining Board members.

L. Illegal Votes

It is illegal for the Board of Selectmen to make any decisions by use of a secret ballot or by email

or in such a way as to be contrary to the Right to Know Law.

M. Disqualifications

Selectmen should disqualify themselves from the Board and step down from all participation in deliberations (to include voting) on any subject matter where there is a conflict of interest or perceived conflict of interest. A Selectman should voluntarily disqualify himself/herself whenever he/she has a direct personal or pecuniary interest in the outcome. In addition, a Selectman should disqualify himself/herself when acting in a quasi-judicial capacity based on a juror's standard of impartiality. [NOTE: There are no circumstances when a majority of the Board members can refuse to allow a Selectman to participate in the official proceedings of the Board, however, Selectmen are encouraged to publicly disclose any and all potential conflicts of interest and to thereafter defer to the will of the majority in determining whether or not to step down.]

N. Voting Procedures

Votes should be taken by the Board upon a motion and a second whenever the Board members wish to go on record as having made a decision on behalf of the Town. In some instances, however, the Board may wish to convey its opinion or consent by a simple consensus process.

O. Role of the Town Manager

The Town Manager shall ensure that all meetings of the Board of Selectmen comply with the requirements of NH law, (public notice, postings, non-public sessions, public hearings, minutes, etc.). In addition, the Town Manager shall be available during meetings to provide advice and recommendations to the Selectmen upon request. The Town Manager shall also perform all of the duties and responsibilities as set forth in the job description or as otherwise determined by the Board of Selectmen.

P. Meeting Agenda

(1) The Board of Selectmen may choose to conduct its meetings according to the following order of business:

- a. Call to Order
- b. Agenda Review
- c. Minutes of Previous Meetings
- d. Open Forum
- e. Communications (Individual Selectboard members, Town Manager)
- f. Informational Items
- g. Action Items
- h. Non-public session(s)
- i. Adjournment

(2) Agenda Management.

- a. The purpose of agenda management is to allow for the conduct of efficient and

effective meetings, and to provide the Board of Selectmen with an informed decision making process.

- b. To advance that goal, the Selectmen's Office must be in receipt of any requests from the general public or Town boards or committees by noon on the Wednesday preceding the next business meeting to be considered for inclusion on the upcoming meeting agenda. An "Agenda Request Form" to facilitate the development of agenda submissions aimed at advancing effective and efficient conduct of Town business has been developed and must be used for all agenda matters. Documents or supplementary material concerning the request must also be received by the deadline noted above.
- c. The Town Manager shall prepare a draft agenda for review by the Selectboard Chair, and the Town Manager and Board Chair shall meet or otherwise communicate regarding the matters proposed for review and/or consideration by the Board. Requests may be referred to appropriate departments or boards to allow investigation or development of background material to facilitate the Board's decision making process prior to being scheduled on the agenda. The Board Chair shall have final authority over setting the Board agenda.
- d. Once the meeting agenda has been set, the Town Manager shall strive to distribute packets containing the agenda and supplementary materials to the Board of Selectmen by the close of business on the last business day of the week. The agenda will be posted on the Town's web site and at the Town Offices and made available to the public upon request once distributed to a quorum of the Board.
- e. Agenda packets (including any supplemental information provided to the Board, excluding any documents exempt from disclosure) may be obtained upon request in accordance with the provisions of RSA 91-A subject to the Town's standard copy charges. Staff will strive to meet requests received forty-eight (48) hours prior to the scheduled meeting in advance of the meeting. The purpose of this rule is to allow for the packet to be assembled and copied in advance of a meeting and not take time away from the agenda preparation process or meeting's purpose which is to conduct the business of the Board.
- f. The Board may vote to suspend the rules concerning agenda management upon majority vote.
- g. The purpose of the agenda item entitled "Open Forum" is to allow citizens of the town to bring issues of concern to the Board which are not on that evening's agenda. Issues raised by citizens under the agenda item "Open Forum" will be placed on the agenda of the next business meeting as a new business item unless a majority of the Selectmen vote to suspend the agenda management rules and address the item(s) of concern immediately.

Q. Correspondence

- (1) The Office of the Town Manager shall open all mail addressed to Selectmen at the Town Offices unless marked confidential and/or personal. Such mail shall be date stamped upon being opened and forwarded to the appropriate Selectman's mailbox in Town Hall.
- (2) In-coming correspondence addressed to the Board of Selectmen or an individual Selectman should be promptly shared with all members of the Board and the Town Manager. The Town Manager (or Department Manager if delegated) may respond on behalf of the Board to routine questions of an administrative nature (with copies provided to the Selectmen), but all other matters shall be placed on an upcoming Selectmen's agenda for a Board decision. The Town Manager may thereafter respond on behalf of the Board unless otherwise directed.
- (3) Selectmen should not sign or use official Town letterhead as individuals without the consent of the majority of Board members.

R. Political Issues

The Selectmen should refrain from endorsing (or giving the appearance of endorsing) any specific candidate for elected office (including themselves) while acting at a public meeting or in an official capacity. Selectmen are encouraged, however, to speak on any political issues that may affect the Town of Newport, to include expressions of specific viewpoints as may be applicable.

S. Appointments of Town Officials

The Selectmen act as the Appointing Authority for many other Town Officials, including employees, members of boards and committees and to fill vacancies in some elected offices. Often times these appointment decisions have long-term implications in much the same way as the President may appoint a Justice to the Supreme Court, with an emphasis on local consequences. In making these decisions by majority vote, the Board should always discuss individual qualifications in a non-public session (except for positions that are subject to future elections in which case all discussions must be done in public and all application materials are subject to public disclosure). Ultimately decisions to appoint should be made based primarily on a candidate's qualifications, experience, track record and ideology, even when considering re-appointments.

IV. SELECTMEN'S CODE OF CONDUCT

A. Selectmen's Meetings

The following guidelines are presented as a list of suggestions for Selectmen to consider in order to facilitate the management of the Town:

- (1) Be prepared for all meetings by reading the materials in advance of the meeting.
- (2) Actively participate in all deliberations.

- (3) Be respectful of differences of opinion. Treat others with dignity and attentiveness.
- (4) Be fair and open-minded.
- (5) Attend all meetings to the greatest extent possible; otherwise notify the Chair in advance to request that an absence be excused.
- (6) Demonstrate the characteristics of honesty, integrity and positive role-model leadership.
- (7) There should be no hesitation to express a viewpoint or present the opinions of concerned citizens.
- (8) Research and requests for additional information are strongly encouraged, but it is suggested that the Town Manager be utilized to process all inquiries from staff.
- (9) Be attentive to the remarks of others during a meeting, including input received from members of the public, staff and other Town Officials.
- (10) Electronic devices should only be used for information gathering or note taking. Devices should not be used for communication between selectmen during a meeting.

B. General

The following guidelines are intended to assist the Selectmen in the performance of their official duties:

- (1) Don't make unilateral promises, threats or decisions on behalf of the Board. Understand the Doctrine of Estoppel can be a double edged sword.
- (2) Be very cautious about making promises with regards to a future vote or the treatment of any individual.
- (3) Do make yourself available to listen to (or read about) constituent concerns.
- (4) There is a fine line that is often impossible to identify between "acting in concert with personal beliefs and principles" vs. "acting in the best interests of the Town based on a specific set of circumstances". Follow your conscience.
- (5) Don't cast blame for problems without having all the facts. In most instances it is better to steer conversations towards identification of problems and possible solutions rather than pointing fingers at individuals who may have made mistakes.
- (6) Don't be afraid to explain that you were not aware of a certain situation or that you may not know the answer to a specific question about Town government. There are many resources available for you to get the right answers in a short period of time. Also keep in mind that the right answer may not always be the answer desired, but this will always

be better than giving misinformation or false hope.

- (7) Friendships and business relations should not be a deciding factor when making decisions in the best interests of the Town. A true friend will understand and respect the need for a Selectman to avoid the appearance of favoritism.
- (8) The business of running the Town often requires perseverance, patience and long-term planning. The existence of phrases such as "Rome wasn't built in a day" and "the wheels of government grind slowly" is indicative of a frustrating reality of times. However, Selectmen are encouraged to be mindful of their role in the posterity of future generations while dealing with current issues.
- (9) Keep in mind that the eyes of Newport are upon you. The things you say and do and the people you associate with are a reflection on your character as an official who is elected to represent the Newport community.
- (10) Try to avoid being a player on either end of the rumor mill. Work towards earning (and keeping) a reputation for having integrity.
- (11) Statements made by individual Selectmen that amount to personal attacks or public insults (regardless of the setting) will impede the ability of the Board of Selectmen to function in the best interests of the Town.
- (12) Privileged information should not be shared or discussed with anyone other than the parties directly involved. In some instances, the disclosure of privileged information can result in legal consequences (of a personal nature as well as creating Town liability) and/or removal from office.
- (13) In the event a Selectman becomes aware of any wrong-doing on the part of an elected or appointed Town Official, this knowledge must be shared with the remaining members of the Board during a non-public session meeting prior to any action being taken.
- (14) Selectmen are indemnified by a Town insurance policy from liability for official conduct that is taken within the confines of their duties and responsibilities. Selectmen are also covered under the Town's worker's compensation insurance policy as "employees", but they are not eligible for any other employee benefits.

C. Relationships with Other Elected Town Officials

- (1) Selectmen are encouraged to maintain open lines of communication and positive relations with other elected Town Officials for the sake of facilitating municipal operations. When discussing Town business, such communications should be prefaced as either being a personal viewpoint or the official position of the Board, as may be appropriate.
- (2) In the event that a Selectman is aggrieved by a decision or action that is taken by an elected Town Official, the issue should be shared with the remaining members of the Board during a public or non-public session meeting (as allowed by law) prior to any

action being taken.

- (3) The role of the Board of Selectmen in any proceedings related to the removal from office of an elected Town Official is specifically set forth in law and must be followed in a precise manner.

D. Relationships with Other Town Boards & Committees

- (1) The Selectmen should be mindful of the statutory authority granted to certain Boards and Committees with a goal of assisting such agencies in the fulfillment of their mission to the greatest extent practical. This is especially relevant in dealing with the Town's Legislative Body (Town Meeting) as well as the Planning Board, ZBA and Budget Committee.
- (2) Whenever the Board of Selectmen decides to establish a board or committee that is not prescribed by law or is otherwise under the Selectmen's jurisdiction, the Board shall adopt a resolution that specifies the name of the agency, the number of members and alternates if desired, the length of terms, the mission of the agency, (to include duties, responsibilities and authority), residency requirements, the date by which the agency shall cease to exist and any other information deemed relevant.
- (3) In some situations, the role of the Board of Selectmen in any proceedings related to the removal from office of members of boards and committees is specifically set forth in law and must be followed in a precise manner. However, there are also situations where the Board of Selectmen may have the authority to replace members with or without cause and with or without due process as may be allowed by law. Accordingly, it is important that the Oath of Office be carefully worded by the Selectmen to ensure the Board preserves its right pertaining to the status of appointees.
- (4) Selectmen who serve as ex-officio members (or Liaisons) of other boards and committees are expected to vote and act in a manner that is consistent with the majority viewpoint of the Board, to the extent practical.
- (5) All Town Boards and Committees are subject to the Right to Know Law and must therefore comply with all provisions of RSA 91-A.

E. Relationships with Other Selectmen

- (1) It is recognized under NH law that a chance meeting or social event involving a quorum of the Board (three or more members) does not constitute a "meeting". However, individual Selectmen must not discuss any Town business during such situations.
- (2) Communications between Selectmen during meetings or public events should always take into account a level of decorum that is commensurate with the position of elected leaders of the Town. Accordingly, it is expected that Selectmen will conduct themselves in a professional manner at all times; and that members of the Board can ultimately agree to disagree in the event of differences of opinion regardless of the circumstances or the intensity of feelings.

- (3) All written communications between Selectmen may be considered public documents under the law. This includes emails and handwritten notes. Selectmen can be held personally (and financially) liable by a court for destruction of any such documents or willful violations of the Right to Know Law.

F. Relationships with Staff

- (1) It is requested that Selectmen respect the Chain of Command and deal with staff issues or requests for information through the Office of the Town Manager at all times. This is not to imply, however, that Selectmen must do anything differently from ordinary residents with regards to routine government services (such as vehicle registrations, permit applications, etc.) in which case Selectmen should expect to be treated in the same manner as every other "customer".
- (2) In the event a Selectman observes an employee exhibiting inappropriate behavior, such conduct should be promptly referred to the Town Manager and may also be disclosed to the other members of the Board of Selectmen during a non-public session of a meeting.
- (3) Selectmen should be aware that staff meetings are not open to the public and these meetings are not subject to the Right to Know Law. Members of the Board of Selectmen should only attend these types of meetings upon invitation or request of the Town Manager.
- (4) Selectmen are encouraged to meet as individuals on a regular basis with the Town Manager to exchange information and share ideas. Such meetings, unless there is a quorum present, are not subject to the Right to Know Law; however, any written documentation that is exchanged may be subject to public disclosure.
- (5) Selectmen should never solicit political favors, contributions or election support from Town employees who are expected to remain neutral in such matters at all times, but especially during work.
- (6) Disciplinary decisions made by Department Managers and/or the Town Manager must be implemented without consulting the Board of Selectmen or individual Selectmen in order to preserve the juror status and impartiality that is required for the Board and its members to serve as an appeals body.

G. Relationships with Legal Counsel

- (1) The Town Attorney works for the Town of Newport under such terms and conditions as may be determined solely by the Board of Selectmen. Consultations between the Selectmen and legal counsel are exempt from the Right to Know Law.
- (2) Members of the Board of Selectmen should only communicate with the Town Attorney through the Office of the Town Manager. Often times the Town Manager may be able to provide legal answers without incurring any legal expenses.

- (3) Selectmen who have a legal question about Town business that is not of an urgent or emergency nature who do not wish to involve the Town Manager in such an inquiry are expected to discuss this matter with the remaining members of the Board during a non- public session of a meeting prior to contacting the Town Attorney directly.
- (4) Selectmen who have a legal question about Town business of an urgent or emergency nature who do not wish to involve the Town Manager are authorized to contact the Town Attorney directly, provided, however, that the nature of the communication shall be put into writing and shared with all Board members as soon as practical.
- (5) From time to time Selectmen are individually served with a lawsuit in the exercise of their duties. Because the timing of the Town's response can be a critical component in a lawsuit, Selectmen should immediately notify the Town Manager if they have been sued as a Town Official. The Town Manager will then forward copies of the lawsuit to all of the Selectmen and the Town Attorney and Town's insurance carrier. (Sometimes the Town's insurance carrier will provide and pay for legal counsel in which case the Town Attorney may not be involved in the proceedings.)

H. Relationships with the Media

- (1) It is recommended that Selectmen never go "off the record" when communicating with a reporter. And keep in mind that there may be times when it is in the Town's best interest for a Selectman to have no comment, but such remarks should be used very judiciously.
- (2) Selectmen should be very careful and cautious when choosing words during a conversation with a reporter (or in the presence of the media) to avoid being misquoted, or having words taken out of context, or disclosing information that should not be made public.
- (3) Although the Chair serves as the official spokesperson for the Board, there is nothing in these guidelines that is intended to prevent any other members of the Board of Selectmen from speaking with the media and offering a personal viewpoint that may differ from the Board.
- (4) Newspaper accounts of municipal events are not always an entirely accurate depiction of the factual circumstances. Accordingly, members of the Board of Selectmen should not make decisions based solely on reports in the newspaper or on television or other media outlets.

I. Relationships with Civic Organizations & Citizens

Selectmen are encouraged to visit with members of local civic organizations and concerned citizens to solicit feedback and input on government operations and/or discuss current issues, public events and personal viewpoints concerning Town affairs.

J. Ethics

- (1) Individual Selectmen should not seek to exert any undue influence or interference in the exercise of the official duties of other Town Officials or employees. In the event that a Selectman has legitimate personal interests in the outcome of a government function, and he/she acts as a private citizen in pursuit of that objective, then he/she should thereafter disqualify himself/herself as a Selectman in any matters related thereto.
- (2) The Selectmen shall uphold and exemplify the provisions of the Code of Ethics for Public Officials of the Town of Newport, as adopted by the Newport Board of Selectmen on June 4, 2018 attached hereto and incorporated herein as Appendix 4.

K. Violations

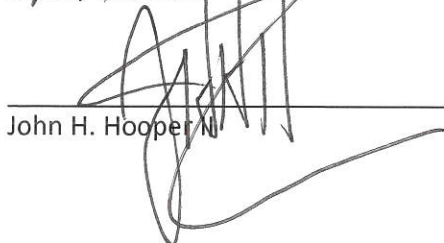
- (1) There are no defined consequences under NH law for failure to comply with these guidelines. However, it should be noted that the remaining members of the Board of Selectmen may vote to publicly censure a Selectman for repeated or egregious failures to meet these obligations.
- (2) In the event that a quorum of the Board is of the opinion that one of the Selectmen has violated State Law, then they may vote in public session to initiate judicial removal proceedings and/or petition a court of competent jurisdiction for the imposition of such other penalties as may be allowed by law.


IN WITNESS WHEREOF, these Operational Guidelines for the Board of Selectmen are adopted and approved on the 16th day of May, 2016; 15th day of May, 2017; 4th day of June, 2018; 20th day of May, 2019; by the Newport Board of Selectmen.

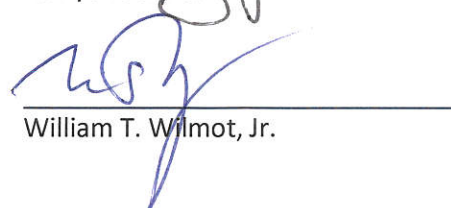
ATTEST:


Todd M. Fratzel


Jeffrey F. Kessler


John H. Hooper


Barry J. Connell


William T. Wilmot, Jr.

Board of Selectmen Operational Guidelines & Handbook

Appendix 1

Right-to-Know Law

The Town of Newport is subject to the State of New Hampshire Right-to-Know law (RSA91-A), which may be periodically amended by the State Legislature. This appendix will be updated as the Town becomes aware of amendments, but may not have the most up to date version of the law at any given time.

TITLE VI PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

91-A:1 Preamble. – Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.

91-A:1-a Definitions. – In this chapter:

I. "Advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.

II. "Governmental proceedings" means the transaction of any functions affecting any or all citizens of the state by a public body.

III. "Governmental records" means any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function. Without limiting the foregoing, the term "governmental records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body. The term "governmental records" shall also include the term "public records."

IV. "Information" means knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form.

V. "Public agency" means any agency, authority, department, or office of the state or of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision.

VI. "Public body" means any of the following:

(a) The general court including executive sessions of committees; and including any advisory committee established by the general court.

(b) The executive council and the governor with the executive council; including any advisory committee established by the governor by executive order or by the executive council.

(c) Any board or commission of any state agency or authority, including the board of trustees of the university system of New Hampshire and any committee, advisory or otherwise, established by such entities.

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(d) Any legislative body, governing body, board, commission, committee, agency, or authority of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto.

(e) Any corporation that has as its sole member the state of New Hampshire, any county, town, municipal corporation, school district, school administrative unit, village district, or other political subdivision, and that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

91-A:2 Meetings Open to Public. –

I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. "Meeting" shall also not include:

(a) Strategy or negotiations with respect to collective bargaining;

(b) Consultation with legal counsel;

(c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or

(d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications.

II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings, school district meetings, and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and

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place of such meeting as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

91-A:2-a Communications Outside Meetings. –

I. Unless exempted from the definition of "meeting" under RSA 91-A:2, I, public bodies shall deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in meetings held pursuant to and in compliance with the provisions of RSA 91-A:2, II or III.

II. Communications outside a meeting, including, but not limited to, sequential

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communications among members of a public body, shall not be used to circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

91-A:2-b Meetings of the Economic Strategic Commission to Study the Relationship Between New Hampshire Businesses and State Government by Open Blogging Permitted. –
[Repealed 2012, 232:14, eff. Dec. 1, 2012.]

91-A:3 Nonpublic Sessions. –

I. (a) Public bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information, or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No public body may enter nonpublic session, except pursuant to a motion properly made and seconded.

(b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.

(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.

II. Only the following matters shall be considered or acted upon in nonpublic session:

(a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against the public body or any subdivision thereof, or by or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

(f) Consideration of applications by the adult parole board under RSA 651-A.

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county or state correctional facilities by county correctional superintendents or the commissioner of the department of corrections, or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency

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functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

(j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.

(k) Consideration by a school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general public or the school district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations. A contract negotiated by a school board shall be made public prior to its consideration for approval by a school district, together with minutes of all meetings held in nonpublic session, any proposals or records related to the contract, and any proposal or records involving a school district that did not become a party to the contract, shall be made public. Approval of a contract by a school district shall occur only at a meeting open to the public at which, or after which, the public has had an opportunity to participate.

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

91-A:4 Minutes and Records Available for Public Inspection. –

I. Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.

I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, VI(a)-(d), or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.

II. After the completion of a meeting of a public body, every citizen, during the regular or

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business hours of such public body, and on the regular business premises of such public body, has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

III. Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the governmental records pertaining to such public body or agency shall be kept in an office of the political subdivision in which such public body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.

III-a. Governmental records created or maintained in electronic form shall be kept and maintained for the same retention or archival periods as their paper counterparts. Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III. Methods that may be used to keep and maintain governmental records in electronic form may include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.

III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.

IV. Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If a public body or agency is unable to make a governmental record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not

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be provided.

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

91-A:5 Exemptions. – The following governmental records are exempted from the provisions of this chapter:

I. Records of grand and petit juries.

I-a. The master jury list as defined in RSA 500-A:1, IV.

II. Records of parole and pardon boards.

III. Personal school records of pupils.

IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a public body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.

V. Teacher certification records in the department of education, provided that the department shall make available teacher certification status information.

VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.

VIII. Any notes or other materials made for personal use that do not have an official purpose, including but not limited to, notes and materials made prior to, during, or after a governmental proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of the members of a public body.

91-A:5-a Limited Purpose Release. – Records from non-public sessions under RSA 91-A:3, II(i) or that are exempt under RSA 91-A:5, VI may be released to local or state safety officials. Records released under this section shall be marked "limited purpose release" and shall not be redisclosed by the recipient.

91-A:6 Employment Security. – This chapter shall apply to RSA 282-A, relative to employment security; however, in addition to the exemptions under RSA 91-A:5, the provisions of RSA 282-A:117-123 shall also apply; this provision shall be administered and construed in the spirit of that section, and the exemptions from the provisions of this chapter shall include

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anything exempt from public inspection under RSA 282-A:117-123 together with all records and data developed from RSA 282-A:117-123.

91-A:7 Violation. – Any person aggrieved by a violation of this chapter may petition the superior court for injunctive relief. In order to satisfy the purposes of this chapter, the courts shall give proceedings under this chapter high priority on the court calendar. Such a petitioner may appear with or without counsel. The petition shall be deemed sufficient if it states facts constituting a violation of this chapter, and may be filed by the petitioner or his or her counsel with the clerk of court or any justice thereof. Thereupon the clerk of court or any justice shall order service by copy of the petition on the person or persons charged. When any justice shall find that time probably is of the essence, he or she may order notice by any reasonable means, and he or she shall have authority to issue an order ex parte when he or she shall reasonably deem such an order necessary to insure compliance with the provisions of this chapter.

91-A:8 Remedies. –

I. If any public body or public agency or officer, employee, or other official thereof, violates any provisions of this chapter, such public body or public agency shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter, provided that the court finds that such lawsuit was necessary in order to enforce compliance with the provisions of this chapter or to address a purposeful violation of this chapter. Fees shall not be awarded unless the court finds that the public body, public agency, or person knew or should have known that the conduct engaged in was in violation of this chapter or if the parties, by agreement, provide that no such fees shall be paid.

II. The court may award attorney's fees to a public body or public agency or employee or member thereof, for having to defend against a lawsuit under the provisions of this chapter, when the court finds that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.

III. The court may invalidate an action of a public body or public agency taken at a meeting held in violation of the provisions of this chapter, if the circumstances justify such invalidation.

IV. If the court finds that an officer, employee, or other official of a public body or public agency has violated any provision of this chapter in bad faith, the court shall impose against such person a civil penalty of not less than \$250 and not more than \$2,000. Upon such finding, such person or persons may also be required to reimburse the public body or public agency for any attorney's fees or costs it paid pursuant to paragraph I. If the person is an officer, employee, or official of the state or of an agency or body of the state, the penalty shall be deposited in the general fund. If the person is an officer, employee, or official of a political subdivision of the state or of an agency or body of a political subdivision of the state, the penalty shall be payable to the political subdivision.

V. The court may also enjoin future violations of this chapter, and may require any officer, employee, or other official of a public body or public agency found to have violated the provisions of this chapter to undergo appropriate remedial training, at such person or person's expense.

91-A:9 Destruction of Certain Information Prohibited. – A person is guilty of a misdemeanor who knowingly destroys any information with the purpose to prevent such information from being inspected or disclosed in response to a request under this chapter. If a

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request for inspection is denied on the grounds that the information is exempt under this chapter, the requested material shall be preserved for 90 days or while any lawsuit pursuant to RSA 91-A:7-8 is pending.

Procedure for Release of Personal Information for Research Purposes

91-A:10 Release of Statistical Tables and Limited Data Sets for Research. –

I. In this subdivision:

(a) "Agency" means each state board, commission, department, institution, officer or other state official or group.

(b) "Agency head" means the head of any governmental agency which is responsible for the collection and use of any data on persons or summary data.

(c) "Cell size" means the count of individuals that share a set of characteristics contained in a statistical table.

(d) "Data set" means a collection of personal information on one or more individuals, whether in electronic or manual files.

(e) "Direct identifiers" means:

(1) Names.

(2) Postal address information other than town or city, state, and zip code.

(3) Telephone and fax numbers.

(4) Electronic mail addresses.

(5) Social security numbers.

(6) Certificate and license numbers.

(7) Vehicle identifiers and serial numbers, including license plate numbers.

(8) Personal Internet IP addresses and URLs.

(9) Biometric identifiers, including finger and voice prints.

(10) Personal photographic images.

(f) "Individual" means a human being, alive or dead, who is the subject of personal information and includes the individual's legal or other authorized representative.

(g) "Limited data set" means a data set from which all direct identifiers have been removed or blanked.

(h) "Personal information" means information relating to an individual that is reported to the state or is derived from any interaction between the state and an individual and which:

(1) Contains direct identifiers.

(2) Is under the control of the state.

(i) "Provided by law" means use and disclosure as permitted or required by New Hampshire state law governing programs or activities undertaken by the state or its agencies, or required by federal law.

(j) "Public record" means records available to any person without restriction.

(k) "State" means the state of New Hampshire, its agencies or instrumentalities.

(l) "Statistical table" means single or multi-variate counts based on the personal information contained in a data set and which does not include any direct identifiers.

II. Except as otherwise provided by law, upon request an agency shall release limited data sets and statistical tables with any cell size more than 0 and less than 5 contained in agency files to requestors for the purposes of research under the following conditions:

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- (a) The requestor submits a written application that contains:
 - (1) The following information about the principal investigator in charge of the research:
 - (A) name, address, and phone number;
 - (B) organizational affiliation;
 - (C) professional qualification; and
 - (D) name and phone number of principal investigator's contact person, if any.
 - (2) The names and qualifications of additional research staff, if any, who will have access to the data.
 - (3) A research protocol which shall contain:
 - (A) a summary of background, purposes, and origin of the research;
 - (B) a statement of the general problem or issue to be addressed by the research;
 - (C) the research design and methodology including either the topics of exploratory research or the specific research hypotheses to be tested;
 - (D) the procedures that will be followed to maintain the confidentiality of any data or copies of records provided to the investigator; and
 - (E) the intended research completion date.
 - (4) The following information about the data or statistical tables being requested:
 - (A) general types of information;
 - (B) time period of the data or statistical tables;
 - (C) specific data items or fields of information required, if applicable;
 - (D) medium in which the data or statistical tables are to be supplied; and
 - (E) any special format or layout of data requested by the principal investigator.
 - (b) The requestor signs a "Data Use Agreement" signed by the principal investigator that contains the following:
 - (1) Agreement not to use or further disclose the information to any person or organization other than as described in the application and as permitted by the Data Use Agreement without the written consent of the agency.
 - (2) Agreement not to use or further disclose the information as otherwise required by law.
 - (3) Agreement not to seek to ascertain the identity of individuals revealed in the limited data set and/or statistical tables.
 - (4) Agreement not to publish or make public the content of cells in statistical tables in which the cell size is more than 0 and less than 5 unless:
 - (A) otherwise provided by law; or
 - (B) the information is a public record.
 - (5) Agreement to report to the agency any use or disclosure of the information contrary to the agreement of which the principal investigator becomes aware.
 - (6) A date on which the data set and/or statistical tables will be returned to the agency and/or all copies in the possession of the requestor will be destroyed.
- III. The agency head shall release limited data sets and statistical tables and sign the Data Use Agreement on behalf of the state when:
- (a) The application submitted is complete.
 - (b) Adequate measures to ensure the confidentiality of any person are documented.
 - (c) The investigator and research staff are qualified as indicated by:
 - (1) Documentation of training and previous research, including prior publications; and
 - (2) Affiliation with a university, private research organization, medical center, state

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agency, or other institution which will provide sufficient research resources.

(d) There is no other state law, federal law, or federal regulation prohibiting release of the requested information.

IV. Within 10 days of a receipt of written application, the agency head, or designee, shall respond to the request. Whenever the agency head denies release of requested information, the agency head shall send the requestor a letter identifying the specific criteria which are the basis of the denial. Should release be denied due to other law, the letter shall identify the specific state law, federal law, or federal regulation prohibiting the release. Otherwise the agency head shall provide the requested data or set a date on which the data shall be provided.

V. Any person violating any provision of a signed Data Use Agreement shall be guilty of a violation.

VI. Nothing in this section shall exempt any requestor from paying fees otherwise established by law for obtaining copies of limited data sets or statistical tables. Such fees shall be based on the cost of providing the copy in the format requested. The agency head shall provide the requestor with a written description of the basis for the fee.

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Partial List of Selectmen's Duties & Responsibilities

The following is a partial list of the Selectmen's duties and responsibilities, as compiled from New Hampshire Practice, Local Government Law by Peter J. Loughlin, Knowing the Territory by the New Hampshire Local Government Center and the Town of Newport Annual Town Meeting records

Further clarification of the obligations of the Board of Selectmen with regards to implementation of its authority can be found in the Town of Newport Personnel Policies, Collective Bargaining Agreements (union contracts) and the compilation of Town of Newport Ordinances and Regulations.

- (1) Appoint, direct and supervise the Town Manager (RSA 37:2, 37:3)
- (2) Accept, Refuse to Accept & Convey Tax Deeds (RSA 80)
- (3) Accept Donations & Approve Gift Expenditures (RSA 31:19)
- (4) Accept Town Streets (RSA 674:40-a)
- (5) Act as Agents to Expend Capital Reserve Funds (RSA 35:15) when specifically authorized by Town Meeting.
- (6) Adopt an Administrative Code (RSA 41:8)
- (7) Adopt Personnel Rules (RSA 41:8)
- (8) Adopt Police Policies (RSA 105:2-a)
- (9) Adopt Purchasing Policies (RSA 41:9)
- (10) Adopt Welfare Guidelines (RSA 165:1)
- (11) Appeal Wetlands Permit Decisions of the NH Department of Environmental Services (RSA 482-A:10)
- (12) Apply For, Accept & Expend Unanticipated Money (RSA 31:95-b)
- (13) Appoint, Direct & Control an Emergency Management Director (RSA 21-P:39)
- (14) Appoint Election Inspectors (RSA 658)
- (15) Appoint Town Counsel & Manage Litigation (New Hampshire Practice §486)
- (16) Appointments & Removals to Boards & Committees (RSA 669:75)
- (17) Appraise Taxable Property & Issue Abatements & Approve Exemptions (RSA 72, 74-76)

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- (18) Approve Appointments of Deputy Town Clerk-Tax Collector & Deputy Treasurer (RSA 41:29-a, 45-c)
- (19) Approve Budget Line Item Transfers (RSA 32:10)
- (20) Approve Expenditures from Revolving Funds (RSA 31:95-h)
- (21) Approve the Acquisition of Real Property Interests in the Name of the Town by the Conservation Commission (RSA 36-A:4)
- (22) Assessment of Betterments (RSA 231:29)
- (23) Assessment of Current Use Change Taxes (RSA 79-A)
- (24) Assessment of Timber Taxes (RSA 79)
- (25) Assessment & Payment of Educational Taxes (RSA 194:7, & 198)
- (26) Assign Names to Town Streets (RSA 231:133)
- (27) Authorize the Use of Sidewalks and Local Highways for OHRV's (RSA 215-A:6)
- (28) Call Special Town Meetings (RSA 39:1)
- (29) Convey Town Land (RSA 41:14-a)
- (30) Encumber Unexpended Funds (RSA 32:7)
- (31) Enforce Remedies & Penalties for Injuries Done by Dogs (RSA 466:22)
- (32) Enforcement of Zoning Ordinances (New Hampshire Practice §483)
- (33) Establish & Maintain Internal Control Procedures (RSA 41:9)
- (34) Establish Boards & Committees (RSA 41:8)
- (35) Establish the Default Budget (RSA 32:5 & 40:13)
- (36) Establish Fees (RSA 41:9-a)
- (37) Fill Vacancies in Elective Offices (RSA 669:61-75)
- (38) Issue an Extent Against a Tax Collector (RSA 85:5)
- (39) Issue a License to Carry a Loaded Weapon or Designate Such Duties (RSA 159:6)
- (40) Issue & Negotiate Tax Anticipation Notes (RSA 33:7)

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- (41) Issue Licenses for Use of Streets (RSA 31:99, 100, 102-a, 286:2)
- (42) Issue Permits for Charity Raffles (RSA 287-A:7)
- (43) Layout Town Highways (RSA 231)
- (44) Negotiate Collective Bargaining Agreements (RSA 273-A)
- (45) Negotiate Inter-Municipal Agreements (RSA 53-A:1 & 162-G)
- (46) Negotiate a Payment Schedule for Library Appropriations (RSA 202-A:11)
- (47) Nominate the Appointment of a Health Officer (RSA 128:1) & Approve Appointment of Deputy Health Officer (RSA 128:5-b)
- (48) Notify the Public, Hold Public Hearings & Issue Orders on the Operation of Dams & Flumes (RSA 482)
- (49) Order the Cutting or Removal of Trees within a Designated Scenic Highway (RSA 231:158)
- (50) Order Reconstruction of Railroad Crossings over Local Highways (RSA 373:2)
- (51) Perambulation of Town Boundaries (RSA 51:2)
- (52) Prepare Budget Recommendations (RSA 32)
- (53) Prepare the Annual Town Report (RSA 41:13-14)
- (54) Prepare Town Meeting Warrants (RSA 39:2)
- (55) Propose Amendments to the Zoning Ordinance, Historic District Ordinance or Building Code (RSA 675:3)
- (56) Regulate Entertainment and Dancing for On-Premise Liquor Licensees (RSA 179:19)
- (57) Regulate Fireworks (RSA 160-B)
- (58) Regulate Hazardous & Dilapidated Buildings (RSA 155-B)
- (59) Regulate Junk Dealers (RSA 322:1)
- (60) Regulate Junkyards (RSA 236:115)
- (61) Regulate Noise (RSA 31:39)

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- (62) Regulate the Operation of Snowmobiles (RSA 215-C:31)
- (63) Regulate Pool Tables & Bowling Alleys (RSA 286:6)
- (64) Regulate Town Highways, Sidewalks & Commons (RSA 41:11)
- (65) Regulate the Town Landfill & Recycle Center (RSA 149-M:17)
- (66) Regulate Town Property (RSA 41:11-a)
- (67) Regulate Trash Collection & Transportation (RSA 149-M:17)
- (68) Regulate Voluntary Recycling (RSA 149-M:17)
- (69) Request a Special Election to Fill a State Representative Vacancy (RSA 661:8)
- (70) Remove Elected Officials from Office for insanity or incapacitation (RSA 41:12 or for cause [RSA 41:16-c (Town Clerk) 41:26-d (Treasurer) and 41:40 (Tax Collector)]).
- (71) Revise School District Boundaries (RSA 194:52)
- (72) Serve as Election Officials (RSA 658:9 & 659:95)
- (73) Serve as Local Governing Body (RSA 672:6)
- (74) Serve as Sewer Commission & Adopt Sewer Regulations (RSA 149-I)
- (75) Sit on Board of Health & Adopt Health Regulations (RSA 147)
- (76) Sit on the Municipal Records Disposition Committee (RSA 33-A:3)
- (77) Submit Reports to NH Department of Revenue Administration (RSA 21-J:34)

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Town Manager's Job Description

The Town Manager's job description is subject to change by the Board of Selectmen within the parameters of State Law. The following is the most current version of the job description.

TOWN OF NEWPORT - JOB DESCRIPTION TOWN MANAGER

GENERAL DESCRIPTION

The Town Manager is responsible for the efficient management and operation of the affairs of the Town in accordance with State law, Town ordinances and such directives, regulations, and policies as the Board of Selectmen (Board) may from time-to-time adopt. Specifically, the Town Manager shall have the powers and duties enumerated in RSA Chapter 37 and shall exercise these powers and duties in the manner required by that chapter, including but without limitation, RSA 37:3, 5, 6, and 7.

Town Meeting continues to be the legislative body of the Board. The Board remains vested with the responsibility to manage the prudential affairs of the Town; provided, however, that the Town Manager shall have the managerial and administrative responsibilities established by law.

SUPERVISION RECEIVED

The Town Manager shall be appointed by the Board and shall in all matters be subject to its direction and supervision and shall serve at the will of the Board, to the extent, subject to removal for cause in accordance with RSA 37:3. The Town Manager shall be appointed for a specified term that may be renewed only upon mutual agreement. The Board shall determine compensation and the Town Manager may be appointed by means of an employment agreement that further specifies the terms of employment.

SUPERVISION EXERCISED

The Town Manager exercises direct supervision over the following departments:

- Recreation
- Finance
- Planning & Zoning
- Fire/EMS
- Police
- Public Works
- Buildings, Cemetery & Grounds
- Airport

The Town Manager exercises indirect supervision over all appointed staff and departments within the Town of Newport.

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RESIDENCY REQUIREMENT

It is desired that the Town Manager will make a long term commitment to Newport by residing within the Town of Newport.

ESSENTIAL DUTIES

Perform all duties outlined in RSA 37:6 and such other duties, consistent with this office, as may be added or modified by a majority vote of the Selectmen. In addition to those duties and in some cases modification of those duties Town Manager shall perform the following:

- Duties outlined in RSA 37:6 V (Expenditures & Income) are due by 31st day of January of each year.
- Town Manager is required to sit on several boards and committees which from time to time may be modified, such as: ECON, Newport Area Chamber of Commerce, TIFF District, etc.
- Partner with residents, businesses, local and state organizations, and local and state government where applicable to identify and promote the strengths of Newport such as but not limited to: recreation opportunities, historical relevance and inventory, geographic location, and culture.
- Partner with residents, businesses, local and state organizations, and local and state government where applicable to identify and improve the weaknesses of Newport.
- Maintain and enhance an environment that encourages dialog, communication, and transparency both from within government and between government and its citizens.
- Be easily accessible to the community, engaged with it, and responsive to its needs by:
 - Actively participating in community events and organizations
 - Quickly responding to phone, email, and other correspondence
 - Developing action plans based on community input, especially input developed through a committee or other community group, and upon Board of Selectmen approval, overseeing those plans through to completion.
- Promote policies which encourage: reuse of existing structures, energy efficiency, environmental awareness, local business, and local agriculture.
- Promote smart economic growth while maintaining the small town historic feel of Newport.
- Be familiar with and recognize the importance of the Town of Newport Master Plan.
- Be an advocate for the Town of Newport at the State & Federal level.

(End of Job Description)

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CANDIDATE DEMONSTRATES

Characteristics

- Straightforward, honest, ethical, capable, creative, energetic, proactive, and relentlessly positive qualities.
- Personal and professional integrity which manifests itself as respect, honesty and a willingness to listen in all interactions.

Leadership

- Ability to establish and maintain trust in numerous internal and external relationships.
- Ability to ensure sound fiscal responsibility of allocated funds.
- Ability to delegate responsibility effectively.
- Ability to establish and maintain *effective* working relationships.
- Ability to interpret and apply policies, procedures, ordinances and statutes.
- Ability to exercise creativity and initiative to resolve complex problems.
- Willingness and capability to shape a workplace culture and attitude that expects, delivers, and rewards excellence.
- Ability to adapt and respond well to planned and unplanned change *effectively*.
- Ability to effectively lead GROUPS to:
 - Articulate a shared vision
 - Set measurable objectives and achieve them
 - Work cooperatively towards effective and positive solutions

Management

- Effective oral and written communication skills, including the ability to provide concise and accurate information about complex issues to staff, media, and citizens.
- Excellent strategic planning skills.
- Well-developed negotiation skills.
- A high level of fiscal acumen, and a sense of responsibility, accountability and stewardship for the financial resource and assets of the Town.
- A strong commitment to the human resources of the Town, and to provide for and promote staff diversity, career progression, succession planning, and a safe and respectful workplace environment.
- Respect for and embraces a community-driven and inclusive decision making process while providing expertise to improve and streamline processes where appropriate.
- Builds, maintains, and empowers a strong leadership team, delegates appropriate authority and responsibility to them effectively, and uses their expertise in operations, management, planning, and problem solving.

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- Ability to implement policies and directives from the Board of Selectmen which may be in conflict with one's personal beliefs.
- Experience and expertise in performance-based management.

Experience

- Collaboration on key issues and services across governmental jurisdictions (e.g. Newport School District).
- A successful track record of creating and driving the implementation of effective solutions to organizational operations and processes.
- A successful track record with seeking grants.
- Experience with economic development.
- Five years senior management experience (preferably in municipal government); OR any equivalent combination of education and experience that demonstrates possession of the required knowledge, skills and abilities.
- Bachelor's degree in Public Administration or related field, with Masters degree preferred.

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TOWN OF NEWPORT, NEW HAMPSHIRE RESOLUTION

A RESOLUTION TO A CODE OF ETHICS

- WHEREAS** municipal employment, elected or appointed, as a position of public trust, carries with it a duty to keep the public welfare as its primary focus; and
- WHEREAS** public confidence in and respect for all public officials, members, employees, and volunteers is to be expanded and retained through:
- (a) the fair, impartial and equal treatment under the law of each citizen; and
 - (b) the avoidance by officials of conflicts of personal interests and the public interest whether they be actual or (merely) potential; and
- WHEREAS** the Newport Board of Selectmen acknowledges that a Code of Ethics for Town officials, members, and volunteers will serve as a guide for the appropriate conduct of all those engaged in municipal government, and any elected public body or appointed personnel of the Town shall honor the public trust allowed them when he or she was elected or appointed to their respective position by making an honest effort to refrain from making any innuendos, inferences, derogatory remarks to any individual present or absent at any meeting of a public body, or question his or her integrity or intelligence; and
- NOW,**
- THEREFORE** be it resolved that all Town officials, members, volunteers, boards and commissions whether paid or unpaid, appointed or elected, should conduct themselves in accordance with this Resolution.

CODE OF ETHICS

Section I. DEFINITIONS

- 1.1 **Official or Employee**: any person serving in a public office or a public body of the Town, whether paid or unpaid, appointed or elected, full-time or part-time.
- 1.2 **Public Body**: office, department, commission, committee, agency or board of the Town.
- 1.3 **Interest**: any privilege, profit, gain or advantage one stands to receive if certain actions or events occur.
 - a. **Financial Interest**: any interest which, either directly or indirectly, promotes or obtains a monetary or material benefit due to its exercise (other than the authorized salary for public service to the Town) to the official or employee, the immediate

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family of the official or employee, or to anyone retaining the services of the official or employee.

- b. **Personal Interest:** any interest created due to blood, marriage, close business relationships, political associations, or household residence (either relatives or live-in boyfriends or girlfriends) regardless of whether or not a financial interest is involved.
 - c. **Immediate Family:** spouses, dependents, anyone residing in the person's household and who, by virtue of blood or marriage is such a direct relation as to be a parent, child, grandparent, grandchild, brother, sister, or in-law
 - d. **Pecuniary Interest:** any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.
- 1.4 **Disclosure:** the revelation of secretly known information that would either bias or change the result of a municipal decision if not fully admitted. Disclosure must be public and must be confirmed in writing. Where appropriate and where time permits, disclosure is to be made to the Board of Selectmen, both orally and in writing, before the public body having jurisdiction meets on the matter.
- 1.5 **Construction:** the use of "he" or any other pronoun is to be considered a neutral term, not designating a particular gender but applicable to all persons in general.

Section II. FAIR AND EQUAL TREATMENT

All municipal officials, employees and agents shall give each and every person fair and equal treatment. No official, employee or agent shall give any person special consideration, advantage or favor as a result of public status, wealth, position, religion, family, personal or financial interest.

Section III. CONFLICTS OF INTEREST

- 3.1 **Financial and Personal Interest:** no person serving in a public position shall have, either for himself or for an immediate family member or for any other person, any personal, financial or pecuniary interest in any business, contract, or other transaction with any public body without the complete prior disclosure to the Board of Selectmen showing the full extent and nature of his interest.
- 3.2 **Disclosure and Disqualification:** no public official shall advise, deliberate and/or vote on any matter in which he holds any interest, whether it be personal, financial or pecuniary, and must publicly disclose to the public body with jurisdiction the nature and

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extent of that interest, and must disqualify himself from advising, deliberating and/or voting on the matter.

- 3.3 **Incompatible Employment**: no official shall be active in private employment with, or render services for, any private citizen, immediate family member or household member having business contracts or transactions with any public body unless and until he publicly and fully discloses the nature and extent of his interest.
- 3.4 **Representations of Private Persons**: no person serving in a public position shall represent any private citizen other than himself or an immediate family member before any public body of the Town without disclosures.
- 3.5 **Gifts and Favors**: no gifts, whether they be money, favors, things, loans or promises, are to be accepted by any public official, employee or board member while acting in his capacity as a public servant of the Town.
- a. **Exceptions**: any discounts provided to a whole class which has been appropriately authorized by the Board of Selectmen, and three other exceptions:
1. Unsolicited advertising or promotional materials of nominal intrinsic value such as pens and calendars;
 2. Awards for meritorious civic service contributions;
 3. Unsolicited consumable (except alcoholic beverages) items that are donated to an entire work group during holidays, and are consumed on the premises.
- b. **Election Contributions**: this section shall not apply to election contributions or other gifts given to any person running for public office in accordance with applicable Federal and State Laws.
- 3.6 **Confidential Information**: no public official shall disclose any confidential information regarding any other official, employee, board member, commission member, person, property or governmental affairs of the Town unless and until prior approval by the public body having jurisdiction or the Board of Selectmen permits disclosures.
- Regardless of whether disclosure is involved, no official shall allow or use any confidential information to advance his own personal gain or that of any other person.
- 3.7 **Nepotism**: The Selectmen shall insure that the interests of the community and fairness to all seeking employment are the primary considerations.
- a. **Public Officials and Boards**: no person serving in a public position shall appoint or vote for appointment of any person in his/her immediate family to any public position. If a proposed appointee is a member of the immediate family of any

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Board member, that member shall remove himself/herself completely from the appointment process.

- 3.8 **Voting:** no Town board or commission member, or authority is permitted to *vote* on appointment of a person with or in whom he has a personal or financial interest.

Section IV. CRIMINAL LIABILITY

New Hampshire law provides that a person is guilty of a Class B Felony if he either offers or accepts a bribe while acting as a public servant. In addition, a public servant may also be guilty of a Class B Felony if he fails to report any bribes offered him while in the course of public service.

Section V. IMPLEMENTATION

To facilitate conduct in accordance with this resolution, a copy of this resolution shall be made available to Town officials, employees, volunteers, boards and commissions upon hiring, appointment, or election to office and at such other times as may be necessary.

This resolution shall take effect upon its passage on **May 16, 2016; May 15, 2017; June 4, 2018; May 20, 2019.**

NEWPORT BOARD OF SELECTMEN

Jeffrey F. Kessler

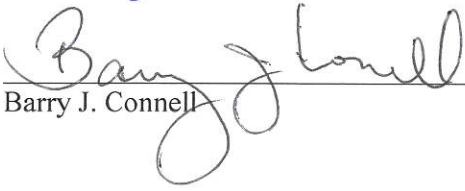


Todd M. Fratzel



William T. Wilmot, Jr.

John H. Hooper II



Barry J. Connell

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