



**Office of the Board of Selectmen
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NEWTON BOARD OF SELECTMEN

DATE: TUESDAY, MAY 3, 2022

TIME: 6:00PM

**LOCATION: NEWTON TOWN HALL, 2 TOWN HALL ROAD and
ZOOM CONFERENCE CALL**

PUBLIC MEETING MINUTES

Zoom Conference phone number 929-205-6099

Meeting ID 818 7979 5674

<https://us02web.zoom.us/j/81879795674>

I. Call to Order

Chairman Burrill called the meeting to order at 6:00pm. In attendance were Selectmen Matthew A. Burrill; Chairman, Edwin Crnolic; Vice-Chairman, Charles R. Melvin Sr., Robert Marchand Jr. Town Administrator Nancy J. Wrigley, and Selectmen's Secretary Diane M. Morin. The non-public session was audio taped. The public meeting was videotaped; the public meeting minutes were transcribed and typed by Secretary Morin. The non-public session minutes were transcribed and typed by Town Administrator Wrigley.

Selectman Lawrence Foote was not present.

Selectman Crnolic attended the meeting via Zoom due to a conflict. He stated no one else was in the room with him.

Nonpublic Session under RSA 91-A:3 II (a) – Promotions, Compensation, (b) – Hiring New Employee, (c) – Reputation

Selectman Melvin moved to go into Non-Public Session at 6:00pm under RSA 91-A:3 II (b) Hiring Public Employee. Seconded by Selectman Marchand with a roll call vote: Melvin – aye, Marchand – aye, Crnolic – aye, Burrill – aye.

Selectman Marchand moved to close the non-public at 6:23pm. Seconded by Selectman Melvin with a roll call vote: Melvin – aye, Marchand – aye, Crnolic – aye, Burrill – aye.

Selectman Melvin moved to go into non-public at 6:23pm under RSA 91-A:3 II (a) Promotion & Compensation. Seconded by Selectman Marchand with a roll call vote: Melvin – aye, Marchand – aye, Crnolic – aye, Burrill – aye.

Chairman Burrill moved to close the non-public at 6:45pm. Seconded by Selectman Melvin with a roll call vote: Melvin – aye, Marchand – aye, Burrill – aye.

Chairman Burrill moved to go into non-public at 6:45pm under RSA 91-A:3 II (c) Reputation. Seconded by Selectman Melvin with a roll call vote: Melvin – aye, Marchand – aye, Burrill – aye.

Selectman Marchand moved to close the non-public session at 7:01pm. Seconded by Selectman Melvin with a roll call vote: Melvin – aye, Marchand – aye, Burrill – aye.

II. Scheduled Business

A. Seal non-public minutes

Chairman Burrill moved that the Board just came out of a non-public session under RSA 91-A: 3 II (a), (b) and (c) and that they keep all matters discussed confidential until in the opinion of the majority of the Board the circumstances no longer apply except to release the necessary information to the Bookkeeper under (a) – Promotions and Compensation. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

B. Update on investigation

Chairman Burrill reviewed the events leading up to tonight's update on the investigation of alleged misconduct by Selectman Lawrence Foote. He read a portion of the Board of Selectmen's minutes from March 7, 2022, regarding complaints from 2 residents that were received by the Town. The next day, Selectman Foote sent an email stating that he was handing over his Town issued laptop to Selectman Melvin to return to the Town. He also stated in the email that the phone was his and he would not be handing it over to the Town. Chairman Burrill explained that the bill from Verizon is mailed to the EMD office and then turned over to the Bookkeeper who then pays it. In 2017, the Town paid for a smartphone for Selectman Foote for his use as the Emergency Management Director. The Town cannot verify if the current phone is the same one purchased in 2017 without having the physical phone.

The Board then asked Town Administrator to engage the law firm of Jackson and Lewis to investigate the complaints.

Chairman Burrill stated that the Board has received the initial report that was written by Attorney Nancy Oliver of Jackson and Lewis Law Firm. He then asked the other members if they would like the report to be read in public.

Selectman Melvin moved to have the Chairman read the report. Seconded by Selectman Marchand. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Chairman Burrill read the report which is attached to the end of these minutes. The Board was notified of the report by Town Administrator Wrigley and was offered the opportunity to review prior to a conference call with Attorney Nancy Oliver on April 26, 2022. The Board discussed the report with Attorney Oliver under Attorney/Client confidentiality at that meeting.

Chairman Burrill stated that after meeting with Attorney Oliver the Board held a public meeting where he made 2 motions. One was a request to Mr. Foote that he turn over the phone and the other was to release the Verizon account information to the Town. The minutes dated April 26, 2022, reflect the outcome of those motions. Town Administrator Wrigley read the proposed letter to Mr. Foote for his signature to release the Verizon account to the Town. The letter was delivered to Mr. Foote by a Town of Newton Police Officer. When the Officer attempted to deliver the letter, Mr. Foote instructed the Officer that the letter should go to his Attorney. He refused to accept and sign the letter at that time.

Chairman Burrill stated in order to be transparent with the residents, the Board decided to provide this information to the public at this meeting.

Selectman Marchand stated that the EMD and Selectman Foote's laptops were checked for inappropriate content, and nothing was found. He would like to see the letter requesting the phone be turned over to the Town be sent to Mr. Foote and his Attorney. Once the phone is in possession of the Town, it should be analyzed for inappropriate content. If it comes back clean, then the matter should be closed to not waste more town funds. What Mr. Foote does on his own time is his own business. Unless there is a complaint filed that Mr. Foote sexually harassed a person, then the Town should not continue to waste time and money. Selectman Marchand stated that he has been asked why the Board is short one member. Selectman Marchand stated that it is Mr. Foote's choice to not be here as a Selectman and that the Board cannot sanction him.

Selectman Crnolic stated that he does not want to spend additional funds on this matter.

Selectman Melvin stated that he is staying out of it. He stated that the Board did suspend Selectman Foote as a Selectmen. Chairman Burrill stated that is incorrect and that the Board cannot suspend another Board member.

Chairman Burrill stated he is not looking for a specific outcome but as an agent for the Town he is obligated to investigate any and all complaints. He stated that the Board needs to remain neutral in these matters. He believes the investigation is not complete without having the phone. He stated that the Board must follow the process no matter the outcome or threat of action by any accused person. If the Board does not follow the process what would happen the next time a complaint is filed. In summary, he believes there's more that needs to be done.

Mr. Mike Pivero of Maple Ave addressed the Board. He believes the investigation is not complete. He stated that there have been 4 complaints filed against Selectman Foote. One from himself, another from a woman in Canada and the 2 residential complaints. He does not believe that any were fully investigated. He stated that the woman's complaint was swept under the rug. He also stated that the cost should not factor into completing the investigation. He stated that the 2 residential complainants names should have been redacted prior to releasing the complaint. He stated that one of complainants received a threatening text message from Mr. Foote and that it was reported to the Police. Selectman Melvin stated that it was he said she said and that he has not seen the police report. . He stated the investigator did not ask for the police report and should have.

Mr. Pivero stated that the Board are the investigators. Chairman Burrill and Selectman Melvin both stated that the Board is not the investigator. Mr. Pivero suggested the Board ask the County Attorney or State Attorney General to investigate the complaints that were filed. Selectman Melvin stated he has no problem with that. Mr. Pivero closed out with stating that he is looking for the truth. Selectman Melvin stated that the report is the truth.

Mr. Pivero brought up the fact that the complaint filed by the woman from Canada was not investigated. Selectman Melvin stated that he instructed Town Administrator Wrigley to email the complainant that a complaint form needs to be filed with the Town. Then it would be investigated. After 2 weeks and no response, Selectman Melvin instructed Town Administrator Wrigley to send an email stating that the matter is closed.

Mr. Pivero is requesting that the Board continue the investigation utilizing the proper authorities, such as the County Attorney or State Attorney General's offices. He stated that depending on how the matter is handled, he will be re-evaluating his elected position with the Town.

Mr. Anthony Levin, Newton NH expressed concerns that the accounts were hacked because the dates do not line up. He stated that the social media accounts that were deleted can easily be recovered in a matter of minutes. He stated that having a qualified person perform the investigation would be the best course of action. There should be a forensic analysis done on any Town owned laptop and or smart phone that Mr. Foote utilized. He questioned the policy that the Town allows employees to use their own phone for town related business. Chairman Burrill stated that is something that needs to be investigated. He asked Town Administrator Wrigley to contact Primex to see if they have a policy that the Town could use.

Mr. Levin stated that the current IT service provider, RMON Networks, outsource 98% of the services to a company named Icon Technologies located in India. Secretary Morin stated that she spoke with RMON about both laptops, and they did the forensic analysis. They found no evidence of inappropriate content. She stated that one laptop hasn't been on for 2 years and is in the vault. The other one is in the EMD office at the Fire/Rescue Station.

Mr. Levin asked the date that the reporter notify Mr. Foote that his social accounts had been hacked. Chairman Burrill stated April 1, 2020, is in the report. Mr. Levin questioned the timing of the alleged hacking and if the Town was going to recover those accounts.

Mrs. Lisa Gonyer of North Main Street addressed the Board. She reminded the Board that the phone service that Mr. Foote phone is on is paid for by the Town. He does not receive a stipend for it. The Town pays for the service directly to Verizon. If Mr. Foote, went out to purchase a new phone and used the sim card from the old phone that is now a gray area of who owns the phone.

Selectman Marchand stated that what Mr. Foote does on his own time is not our business. If he is sexually harassing anyone as an employee or elected official of the Town, then we need evidence of this misconduct. So far there has been no hard evidence of the misconduct.

Mrs. Gonyer stated that it is misuse of Town property.

Mr. Pivero stated that as an elected official you should be held to a higher standard and be held accountable.

Mrs. Laura Hillard of West Main Street addressed the Board. She stated that she did not meet with the Town's attorney as she felt it was a waste of time. The information she presented is available online. She stated that Selectman Melvin should read the Police report she filed against Mr. Foote. She stated that if the investigation reveals that the threatening text message, she received from Mr. Foote was from the phone that the Town refused to take from him, she will be speaking with an attorney.

Selectman Melvin moved to send the report on the investigation to Mr. Foote's attorney. Seconded by Chairman Burrill for discussion.

Chairman Burrill stated that the report was read out loud and has no issue sending it to the Attorney.

The motion passed. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Selectman Marchand moved to continue the investigation. Seconded by Selectman Crnolic for discussion.

Selectman Marchand stated that the phone needs to be retrieved

Selectman Crnolic asked how we proceed. The Board discussed how to proceed.

Town Clerk/Tax Collector McCullough reminded the Board that Mr. Pivero has already suggested they engage the County Attorney's Office. This is what that office is setup to do.

Mrs. Gonyer asked if there was any proof that Mr. Foote was hacked or that he sent out notices informing his contacts that he was hacked. That might prove Mr. Foote innocence.

Selectman Crnolic agrees that the County Attorney is the next step.

Police Chief Jewett addressed the Board and informed them that they County Attorney could investigate this issue. He stated that the Newton Police cannot investigate our own people. He stated that the usual process is to go to the State Police or County Sheriff's Department.

Chairman Burrill reiterated that the Board cannot do the investigation. He would like to have the State Attorney's Office in the motion in case the County Attorney cannot investigate.

Chairman Burrill offered the following friendly amendment to add Jackson and Lewis Law Firm for recommendations for a forensic investigation.

Selectman Melvin offered the following friendly amendment to add State Attorney General before going back to Jackson and Lewis Law Firm.

Selectman Marchand and Crnolic accepted the friendly amendments. The motion now reads as follows:

Selectman Marchand moved to continue the investigation by engaging the Rockingham County Attorney and/or the State Attorney General's Office. If needed, to ask for a recommendation from Jackson and Lewis Law Firm for a forensic investigator. Seconded by Selectman Crnolic.

Mr. Levin addressed the Board and stated that the social media accounts are town owned. Chairman Burrill stated that they are not Town accounts. Mr. Levin stated he can recommend a forensic investigator for the laptops and phone.

The motion passed. Burrill – aye, Crnolic –aye, Melvin – aye, Marchand – aye.

Chairman Burrill moved that the Board sign the letter and send it to the EMD Director and his attorney to turn in the phone which the Board believes is Town property. Seconded by Selectman Marchand. Burrill – aye, Crnolic – aye, Marchand – aye. Melvin – nay.

C. Request to purchase Town owned land 12-1-1 – Mr. Ryan Norman

Mr. Ryan Norman of Peaslee Crossing Road addressed the Board. He is looking to purchase a town owned parcel of land off Thornell Road that is landlocked. The tax map id is 12-1-1. He is looking to encompass the land and make it one large parcel of land as a family homestead. His plan is to have a private road onto the property and to subdivide the lot into a few homes for family.

Selectman Marchand asked if the Town uses it as part of the Peanut Trail. Mr. Norman stated that the parcel is not abutting the trail. You would need to cross private property to access it.

Chairman Burrill stated that the parcel was taken for taxes owed.

Selectman Melvin stated that the parcel should be offered to all abutters. He stated that the Selectmen have the authority to sell Town owned property.

Chairman Burrill stated that Mrs. Gonyer asked if there was an offer on the table. No offer is on the table.

Mrs. Tricia McCarthy, Conservation Commission, addressed the Board. She informed the Board that the Conservation Commission will be discussing this property at their May 11, 2022 meeting. They are concerned if the property is a corridor for animals. She asked Mr. Norman how many houses will be built on the property? Mr. Norman responded that he is thinking 3-5 houses.

Mrs. Marcella Vincent of Thornell Road expressed concerns about the increase in traffic on Thornell Road and hopes the Board takes this into consideration.

Chairman Burrill proposed an announcement be placed on the Town's website that the parcel is up for sale. Selectman Melvin stated that it is landlocked and only the abutters would be able to access it.

Mrs. Gonyer stated that the land is 5 acres of undeveloped land with wildlife habitats. If it is sold and then developed the animal habitat would be lost. She recommends that the if the Town decides to sell the parcel that a stipulation be in place that the parcel cannot be developed.

Chairman Burrill moved to send a letter to the abutters of tax map ID of 12-1-1 informing them of the intent to sell and if interested submit a sealed letter of interest. Seconded by Selectman Crnolic for discussion.

Selectman Melvin stated that there should not be any restrictions on what can be done with the land. Selectman Crnolic stated that can be dealt with at a later time.

Mrs. Gonyer stated that the Board should decide whether or not to sell the property.

Mrs. McCarthy stated the Board should wait until the Conservation Commission gets the results from DES if there are any endangered species on the property.

Secretary Morin stated that she agrees with Mrs. McCarthy that the Board should wait until the Conservation Commission gets the results from DES. Depending on the results, it may affect what the parcel can be used for.

Chairman Burrill rescinded his motion.

Town Administrator Wrigley asked if there was a possibility of acquiring land from Mr. Norman's parcel that abuts the Peanut Trail. Mr. Norman stated that was a possibility.

Mr. Norman stated that he didn't want to purchase the land for profit. He hopes to keep the property in his family.

D. ARPA/EOC update

Emergency Management Director (EMD) Trisha McCarthy read the US Treasury guidelines for using ARPA (American Rescue Plan Act) funds to provide premium pay or a stipend to essential employees who worked during COVID-19 pandemic. Police, fire, EMS, transfer station workers, highway workers, lifeguards, election workers and sanitation workers are all defined by the US Treasury as essential employees. She reported that the ARPA committee is looking at various needs of the Town and will report back to the Board with their recommendations. Some of the needs will need to go out to bid due to the cost. The committee is requesting a list of items that are paid from the General Government Buildings budget.

The committee is recommending to the Board the following stipends be paid out on the next payroll manifest. For all election workers, not including elected officials, a onetime stipend for each event they worked in 2022 the sum of \$125.00. To the transfer station manager and assistant manager, a onetime stipend for 2022 in the amount of \$2,485.71 and for the attendants a onetime stipend for 2022 in the amount of \$1,242.80. No stipend can be paid to the employee that passed away, but the Federal Government is offering funeral reimbursement. The family should contact EMD McCarthy for guidance.

The committee submitted its first quarterly report for the ARPA funds spent up to the end of March 2022. Funds were approved to cover the cost of vaccine clinics held in 2021 and 2022 which totaled up to \$17,069.06. Funds were approved for EOC administrative cost for 2021 and 2022 in the amount of \$4,721.75 and for technology upgrade in the amount of \$2,799.98. Total amount spent thus far from the grant is \$24,590.79 with a balance of \$491,319.80. These funds are being spent on items that the Town could not normally afford but they must be COVID-19 related.

She reviewed the latest statistics of COVID-19 cases.

Selectman Marchand moved to pay a onetime stipend in 2022 to election workers in the amount of \$125.00 per event. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Selectman Marchand moved to pay a onetime stipend in 2022 to the transfer station manager and assistant manager in the amount of \$2,485.71 and parttime attendants in the amount of \$1,242.80. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

EMD McCarthy stated that the amount of stipend comes from the State.

A discussion took place about paying the transfer station workers who setup and take down the voting booths whether they could receive the \$125.00 stipend as well. EMD McCarthy stated that those individuals were not in contact with the public and would probably not qualify for that stipend. She will get clarification from the State.

E. Request for update on plans for additional storage of Town records – Mr. Joe Simone

Mr. Joe Simone addressed the Board looking for an update on securing storage. He recommends the Board look into offsite environmental controlled storage.

Town Clerk/Tax Collector (TC/TC) MaryJo McCullough addressed the Board. She stated that as the Town Clerk, her office is responsible for record keeping. She has reached out to the those that should be on the Municipal Records Committee and has scheduled a meeting for May 16, 2022, at 5:00pm. She has heard from Chairman Burrill only. She will reach out to the Assessor and Treasurer about the meeting.

Selectman Marchand asked if each department should review their records. TC/TC McCullough will hand out copies of RSA 33:A to each department, board, committee, and commission. RSA 33:A lists which records need to be retained and for how long. Selectman Marchand stated that once they go through the records it might reduce the amount of storage needed.

TC/TC McCullough stated that once the department, board, committee, or commission determines that a record is no longer needed, they bring it to the Municipal Records Committee for final approval to destroy the record.

TC/TC McCullough stated that there is still a need for record storage and the Town should keep working on where the records are going to be stored.

Selectman Crnolic asked if a climate controlled storage unit could be used. He did some website searching and found a 24' climate controlled container goes for about \$15,000.00. The container could be moved if needed. TC/TC McCullough stated that could work.

Chairman Burrill stated that after the May 16th meeting, he will take the action item to inform the Board of the next steps needed.

TC/TC McCullough stated that if anyone has questions on what records need to be kept reach out to her office.

Mr. Simone stated that he is pleased the Board is acting on resolving this issue. For those departments that have not responded to TC/TC McCullough, the Board should reach out to them and inform them that this is part of their responsibility.

F. Capital Improvement Plan update

Secretary Morin stated that she only knows of the Cemetery Trustees having responded to the request for input.

Chairman Burrill would like to have an email sent to the CIP committee asking for a list of who has not responded.

Chairman Burrill will write the CIP for the Town Hall.

G. Update on Marshall property

Secretary Morin stated that the insurance adjuster was onsite, and we are waiting to hear back from Primex on the report.

H. Review Facilities Maintenance Technician job description

EMD McCarthy stated that any disinfecting and sanitization may be covered under the COVID-19 protocols. She stated that a janitor's job is considered an essential worker.

Selectman Marchand would like to keep some of the cleaning requirements. Secretary Morin recommends that the Board keep the current cleaning service and remove the section of the job description pertaining to cleaning. She suggested that the cleaning service could provide the disinfecting and sanitization as needed.

Chairman Burrill stated that having the current cleaning service do the disinfecting and sanitization would be best. They would be able to provide invoices with separate billing for disinfecting and sanitization. This

would make it easier to pay the bill using the ARPA funds. EMD McCarthy agreed with that. EMD McCarthy stated that any supplies would be covered as well.

Secretary Morin reviewed the changes she proposed. She suggested removing the requirement of being available 24/7/365.

Selectman Marchand moved to accept the proposed changes to the job description for the Facilities Maintenance Technician and to place a want ad in the local newspaper. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

I. IT – Upgrading to new security platform

Secretary Morin reviewed the proposal from RMON Networks to upgrade the antivirus and add security for Office 365 Exchange. The recommendation is for Town Hall, Fire Department and any other PC's excluding the Police Department. They would need a different product that would bring them into compliance with the Federal Government.

Mr. Anthony Levin addressed the Board stating that Windows Defender is not adequate solution for the Town as well as the product proposed for the Police, Sentinel One. He would recommend doing a cost analysis of other product offerings. He volunteered to assist with this.

Selectman Melvin asked to review the numbers for the costs. Secretary Morin will go back and review her numbers again.

J. Quote – Municipal Resource Inc. for Town Administrator position

Chairman Burrill stated that the Board at their April 26, 2022, meeting motion to have the chairman reach out to Municipal Resources Inc.(MRI) for a quote to assist them in recruiting a suitable replacement for Town Administrator Wrigley. He received the quote for not to exceed \$5,000.00 that will cover develop an ad, make recommendations where to advertise, will research MRI's database and network for potential candidates, will receive and hold in confidence all resumes, and will conduct a telephone interview of qualified candidates. The cost for advertising will be a separate bill. They offer an optional in depth background check on the final candidate for a flat fee of \$1,500.00.

Selectman Marchand moved to accept the quote from Municipal Resources Inc. not to exceed \$5,000.00 for the Recruitment Assistant package. Funds to come from the 2022 Legal Budget. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Chairman Burrill will reach out to schedule a meeting with MRI for next week.

K. Review 2022 Selectmen Goals

Chairman Burrill reviewed the goals for the Selectmen.

- Take the Budget Workshop when offered (assigned to all Board members)
- Develop a strategy for the future of Town buildings.
- Host Quarterly meetings with department heads and a selectman
- Reach out to residents and asking them what they want/ regular Informal meetings where residents can speak to the Board.

All the Board members will take the Budget Workshop.

Mr. Simone stated that the culture of the Town needs to change. The Town can no longer operate in the 1990's. There will need to budget increases so that the infrastructure can be brought into the 2020's.

Selectman Marchand will take on the informal meeting with Town residents.

Selectman Crnolic will meet with the department heads.

Selectman Melvin stated that he lost what he wanted which was a new building that houses a bathroom and a new well at the transfer station. Chairman Burrill asked him how he lost it. Selectman Melvin stated that the ARPA Committee removed it from the list of projects. EMD McCarthy addressed the Board and stated that it was still on the list.

Selectman Melvin will take on developing a strategy for town buildings.

III. Other Business

Mr. Simone recommends that the Town policy for phones and computers be sent to employees as a reminder. Chairman Burrill stated that an extensive policy needs to be put in place.

Mrs. McCarthy announced that there will be a cleanup day along the Busch Trail on May 15 from 10am to 1pm. They are looking for volunteers and will supply most of the tools needed. They are also looking for donations of pallets, contractor garbage bags and other items. If you can assist, please contact Conservation@NewtonNH.net or attend the May 11th meeting.

Mr. Simone asked if there was an inventory of phones and computers. Town Administrator Wrigley is working on the list.

Chairman Burrill asked Town Administrator Wrigley to check in with Primex if they have any recommendations for a policy.

Chairman Burrill stated that there is an employee on paid administrative leave. He read a portion of the memo from the Bookkeeper:

"As a follow-up to my memo dated April 25, 2022, I'd like to confirm that as of March 3, 2022 through April 23, 2022, the most current payroll processed, this individual has been paid in full per the Board's decision on March 21, 2022."

Chairman Burrill stated that this individual submitted additional unpaid timesheet for a March 13 COVID vaccine clinic and March 23 State of New Hampshire Radiological Emergency Preparedness quarterly meeting. He asked the member how they want to respond to this.

Selectman Melvin stated to pay him.

Selectman Marchand stated to not pay him and that the funds were supposed to come from the ARPA account.

Chairman Burrill stated the total amount is \$600.00 and the funds would come from the funds as stated by Selectman Marchand.

Selectman Crnolic stated to pay him.

Chairman Burrill moved to proceed with payment on the March 13 COVID vaccine clinic, March 23 State of New Hampshire Radiological Emergency Preparedness quarterly meeting and the April 6th State of NH REP drill as described in the Bookkeeper's memo from May 2, 2022. Seconded by Selectman Melvin for discussion.

Chairman Burrill stated that he will vote yes but it is killing him to do so but it is in the best interest of the Town. Selectman Marchand stated that the individual has been paid along.

The motion passed. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

A. Manifest

Selectman Marchand moved to sign vendor manifest dated May 3, 2022, in the amount of \$799,091.71 of which \$731,037.00 went towards the Sanborn Regional School District May payment and \$28.19 went towards Joseph A. Simone Jr. for reimbursement for ARPA committee supplies. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Selectman Marchand moved to sign Cable Revolving Fund vendor manifest dated May 3, 2022, in the amount of \$1,369.91. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

Selectman Marchand moved to sign payroll manifest pay period April 10 – April 23, 2022, with a pay date of April 28, 2022. Total payroll is \$47,942.57 which includes \$602.91 ARPA administrative costs. Seconded by Selectman Melvin. Burrill – aye, Crnolic – aye, Melvin – aye, Marchand – aye.

B. Requisitions

Selectman Marchand moved to sign requisition #1036FD in the amount of \$520.92 for 4 grippy floor mats with logo and 1 grippy floor mat without a logo for the Fire Station in the amount of \$520.92. Funds to come from the General Government Building budget. Seconded by Chairman Burrill for discussion.

Chairman Burrill asked why the funds are coming from the General Government Building budget. Selectman Crnolic stated that the reason is because the mats had more wear and tear due to elections and that they are part of the building.

Selectman Marchand rescinded his motion.

Selectman Crnolic moved to sign requisition #1036FD in the amount of \$520.92 for 92 for 4 grippy floor mats with logo and 1 grippy floor mat without a logo for the Fire Station in the amount of \$520.92. Funds to come from the Town Buildings Capital Reserve Fund. Seconded for discussion by Chairman Burrill.

Chairman Burrill stated that if the funds are going to come out those reserve funds it should stay with the building. With the logo on the mats, it would go with the Fire Department should they move.

The motion failed. Burrill – nay, Melvin – nay, Marchand – nay. Crnolic – aye.

Chairman Burrill recommended Chief Alcadinho attend a Board of Selectmen's meeting to discuss this requisition.

IV. Approval of Minutes

Selectman Marchand moved to accept the non-public and public meeting minutes dated April 19, 2022, as written. Seconded by Chairman Burrill. Burrill – aye, Crnolic – aye, Marchand – aye. Melvin – nay

Selectman Marchand moved to accept the public meeting minutes dated April 26, 2022, as written. Seconded by Selectman Crnolic for discussion.

TC/TC McCullough stated the Board posted the agenda which had no public items on it only non-public. But the Board did not go into non-public and had a public meeting without public notification. She stated this could be considered an illegal meeting.

Chairman Burrill stated that every motion that was made on April 26, 2022, was discussed at tonight's meeting.

Burrill – aye, Crnolic – aye, Marchand – aye. Melvin – nay

V. Announcements

Chairman Burrill stated that he will be late for the next Board meeting, May 17, 2022. Selectman Crnolic stated that he may not be able to be there but will keep the Board apprised.

Chairman Burrill was asked to review the 5 finalist for the essay contest held by the Recreation Commission.

VI. Adjourn

Selectman Melvin moved to adjourn at 10:00pm. Seconded by Selectman Marchand.

Respectfully submitted,

Diane M. Morin
Board of Selectmen Secretary

JacksonLewis

Jackson Lewis P.C.

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April 12, 2022

VIA ELECTRONIC MAIL

Nancy J. Wrigley
Town Administrator
2 Town Hall Road
Newton, NH 03858

**CONFIDENTIAL DOCUMENT
ATTORNEY CLIENT PRIVILEGED**

Re: Larry Foote

Dear Nancy:

You contacted me on March 8, 2022, and asked me to conduct an investigation regarding complaints made by Laura Hillard, a Town resident, and Ryan Higgins, a Town resident, against Larry Foote, the Town's Emergency Management Director and an EMT, as well as a Selectman for the Town. Specifically, the Town residents submitted as their complaints documentation allegedly representing conversations from Mr. Foote's Twitter account of arguably inappropriate interactions with various women online.

The evidence was reviewed, compared and analyzed under a preponderance of the evidence standard to determine whether the allegations were with or without merit.

"Preponderance of the evidence" for purposes of this report, means that the evidence on one side outweighs or is more than, the evidence on the other side. The conclusions in this report are drawn from the totality of the evidence and a thorough analysis of all of the facts and, where necessary, credibility determinations were made. If additional relevant information becomes available to me, I reserve the right to and expect to supplement this report.

The timing within which the investigation was conducted was determined to be reasonable, given that Mr. Foote's attorney was not available to meet for an interview for three weeks due to scheduling as well as health issues.

The Town and its representatives allowed me complete discretion to conduct the investigation as I determined to be necessary with no attempt to influence or direct the process or

Nancy Wrigley, Town Administrator

April 12, 2022

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outcome of the investigation. I was given complete access to all witnesses and documents requested. Mr. Foote was a cooperative witness and was interviewed in person at his attorney's office. I contacted both Ms. Hillard and Mr. Higgins requesting interviews, and both declined to meet with me.

I. INTRODUCTION

A. Interviews

- Larry Foote (March 31, 2022) in person at his attorney's office
- Laura Hillard and Ryan Higgins declined my requests for an interview.

B. Documents reviewed:

- Complaint of Laura Hillard
- Complaint of Ryan Higgins
- The Town's Complaint Policy
- Emails regarding complaint
- The Town's Social Media Policy
- The Town's Computer Electronic Mail and Internet Access Policy
- The Town's Code of Ethics Policy
- The Town's Anti-Harassment Discrimination Policy
- Timesheets of Mr. Foote

C. At the beginning of each interview, each witness was told that:

1. The Town received a complaint about Mr. Foote.
2. I was hired as a neutral independent investigator to do factfinding.
3. The Town expects all witnesses to cooperate in this investigation and to provide
4. accurate and truthful information to the best of the witness' ability.
5. I had not reached any conclusions and would not do so until all the facts are gathered.
6. This investigation is a confidential one – it will only be reported to those who need to
7. know it. As a result, you should not attempt to influence the investigation by trying
8. to persuade others to support a particular viewpoint. Also, you should not tamper
9. with or destroy any evidence that is related to the investigation.
10. The Town strictly prohibits any retaliation against anyone who raises a complaint or
11. who participates in the investigation. Witnesses were told that if they believed they
12. have suffered retaliation, to please contact me immediately.
13. I would be taking notes during our interview and would not be recording the
14. interview.

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II. BACKGROUND

After review of the complaint documentation received from Ms. Hillard and Mr. Higgins, I contacted both individuals by email to request that they meet with me to discuss their complaints in person. Mr. Higgins declined to meet with me, sending the below email:

Honestly not much to talk about. The complaint I filed was for the attached folder of information that was given to me by someone else (the other complaint that was submitted). I searched the proper way to give the information to right

person and the complaint process through the town administrator was it. The information submitted are not my findings. My intent was because I was informed the previous complaint wasn't considered "official" so that's why I submitted it so the proper steps are taken.

Ms. Hillard initially agreed to meet with me. However, several hours later, she sent the below email:

I apologize for the inconvenience but after sending the email earlier I have had some time to think and I'm not going to be meeting with anyone for this issue at this time. I am going to seek the advice of a lawyer.

Honestly I'm not sure why I would help the town investigate this issue at all... I turned in some thing that is publicly available. I did so hoping to remain anonymous. Mr. Foote got my info and my friend who also came forward and then contacted and threatened me. The police have the copy of the report and the threat. At this point I only continue to abuse myself by participating in this situation. I felt very strongly that the things that I found on him should be brought up to protect the town. I agonized over the decision and spoke with my friend Ryan for advice who has been dragged into the situation also.

I came forward with the information only because I thought that there may be other victims out there of his behavior this has proven to be true as I have been contacted by several. I feel the town is responsible for the fact that these people will not come forward now.

As I stated at the select board meeting Monday that I am single, disabled, and have a son to take care of and I have been put in danger by this situation.

Thank you.

Ms. Hillard's complaint documentation contained a letter which stated that she had recently viewed a video of the meeting Candidate's Night and witnessed comments that concerned her. Road Agent Pivero spoke of a "hypothetical" situation that could have arisen with a Selectman being accused of sexual harassment. The comment triggered some thoughts, which caused her to search for a conversation she had seen on Twitter between Mr. Foote and another person online she believed to be a female. Ms. Hillard described what she viewed as a

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sexually graphic photo and Mr. Foote offering the person money to meet up in "real life," and stating how much the person was worth. This occurred on March 27, 2020. Ms. Hillard attached several pages of messages, stating that there are many replies to sexually graphic tweets including photos of gender or transgender individuals. She describes some of the threads as Mr.

Foote trying to get the person to meet for sex.

Ms. Hillard stated in her letter that she was saddened by what she found. She claimed that one account of Mr. Foote used a profile photo she claimed she knew was taken in the Fire Station bathroom. Ms. Hillard further stated that she hoped that these things did not negatively affect the Town, especially the Fire Department. She stated that she did not feel that anything inappropriate such as this would be tolerated.

The Complaint form from Mr. Higgins stated "binder attached with supplemental info." The documentation submitted by Mr. Higgins was basically repetitive of the documentation submitted by Ms. Hillard. The documentation of both parties consists of alleged conversations that took place on social media on March 27, 2020, and in April 2021. Neither complaint specifically alleges that Mr. Foote used Town equipment to make the posts they attribute to him, nor do they specifically allege that Mr. Foote made the posts they attribute to him during working hours for the Town. The complaints seem to imply that the alleged online actions of Mr. Foote are inappropriate and reflect negatively on the Town, which is why they felt that the Town should know about the posts.

Mr. Foote stated that he has a full-time employment position as a dispatcher at the Lawrence, MA Fire Department. He is in his ninth year as a Selectman for the Town of Newton, an elected position. He is also the Town's Emergency Management Director and he works as an EMT for the Town. He receives a salary from the Town for his position as Selectman, and is paid for the hours that he actually works for the EMD and EMT positions. He has no set hours for the positions he holds with the Town.

Due to his position as the EMD, Mr. Foote followed various threads on Twitter, Instagram and Facebook relating to public safety issues. He stated that he was a passive follower and did not post content himself.

Mr. Foote follows a reporter from the Eagle Tribune in Methuen, MA, Jill Harmaniski. Mr. Foote and Ms. Harmaniski became friends. In April 2020, Ms. Harmaniski called Mr. Foote's partner at the Lawrence Fire Department and told him to tell Mr. Foote to check his Twitter account because, based on the content she had recently viewed, she believed that Mr. Foote's account had been hacked. When Mr. Foote checked the account, he saw the posts that comprise the complaint documentation, and therefore deleted the account. His Instagram account was also hacked. Mr. Foote stated that once an account is hacked, the best thing to do is delete the account. That is why the accounts cannot be found now, because he deleted them once he discovered the hacks.

Mr. Foote provided me with a copy of a text exchange between him and Ms. Harmaniski from April 1, 2020 in which he texted her to thank her for warning him of the content that was appearing on his Twitter account, and stating that he had deleted the account. Ms. Harmaniski

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responded "no worries on my part. I figured you got hacked and didn't want you to be embarrassed." Mr. Foote called Ms Harminiski during our interview, and although she declined to speak with me on the phone, I could hear the conversation in which she confirmed notifying Mr. Foote's partner regarding the alleged hack, as well as the text communication between them. Mr. Foote noted that around this time his Instagram and Facebook accounts were also hacked.

Based on the foregoing, Mr. Foote denies making any of the arguably inappropriate posts, stating that his account has been hacked. As soon as he learned of the content, he deleted the account. Mr. Foote believes that an issue is being made of these posts now, more than a year after the last arguably inappropriate post, because there are individuals in the Town who do not like him and want to embarrass him.

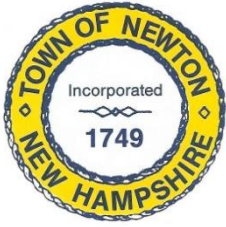
III. CONCLUSION

I do not find by a preponderance of the evidence that Mr. Foote engaged in inappropriate actions on social media. Given the corroboration from Ms. Harminiski through her text message from April 1, 2020 and her telephone conversation with Mr. Foote during our interview that she viewed content on his Twitter account in 2020 that led her to believe that he had been hacked, I find Mr. Foote's contention that his Twitter account had been hacked credible. I likewise find credible his contention that he did not post the arguable offensive content, and that this was created by the individual who hacked his account. Neither Mr. Higgins nor Ms. Hillard have provided evidence that it was Mr. Foote himself who made the arguably inappropriate posts, and it is possible that a person's account could be hacked and content made that was not created by the account holder.

Since I find Mr. Foote's explanation regarding the hacking of his account credible, there is no need to determine whether or not the content was posted using Town equipment or on Town time. I will note, however, that Mr. Foote stated that he and not the Town purchased the past two phones he has owned, and that the Town provides him a stipend for the phone bill. However, he owns the phone. The Town stated that it purchased Mr. Foote a phone in 2017, however it is unable to now account for this phone.

Thank you for asking me to conduct this investigation. Please let me know if you have any questions,

Very truly yours,
Nancy E. Oliver
Nancy E. Oliver
NEO/vo
4869-1424-7963, v. 1



TOWN OF NEWTON
EMERGENCY MANAGEMENT DEPT.
8D Merrimac Road
Newton, NH 03858



April 26, 2022

Verizon
PO Box 489
Newark, NJ 07101-0489

Verizon:

RE: EMD Verizon Acct.

I, Lawrence B. Foote am requesting you transfer my Town of Newton, Emergency Management Dept., Verizon mobile Account # 686065876-00001, Phone number (978) 804-0529, Account Owner's SSN 3744, to the Town of Newton, 2 Town Hall Road, Newton, NH 03858, effective immediately.

Respectfully,

Lawrence B. Foote

Emergency Management Director

Date