

HAMPTON BEACH VILLAGE PRECINCT  
MEETING  
December 8, 2010

Present

Gary Kubik, Chairman & Commissioner  
Chuck Rage, Commissioner  
June White, Commissioner  
John Gebhart, Treasurer  
Sharon Somers, Precinct Counsel

Chairman Kubik called the meeting to order at 5:30 p.m.

The Pledge of Allegiance was said.

Chairman Kubik introduced the members of the Board.

Chairman Kubik mentioned the passing of resident Virginia Callahan and extended condolences to her family.

**BOS/MOU Review**

Commissioner Rage said a letter from Mark Gearreald, Town Counsel, was received in November regarding the Memorandum of Understanding. The Commissioners have been working on this MOU and have been trying to negotiate. Commissioner Rage said the voters told the Precinct to move forward in the best interests of the Precinct.

Commissioner Rage discussed the reverter clause. He said he felt it was necessary from a legal perspective as the best way to make sure this building remains in operation and will enable the Precinct to take repossession of the property in the event the Town decides to sell land to a third party or use it for some other purpose. While this is highly unlikely, these possibilities have to be accounted for. The reverter clause provides protection that there will always be a fire presence at the beach.

Attorney Gearreald said the Town is proposing to go out and get a bond for the construction. He said the Bond Counsel may be uncomfortable with the right of reverter clause and any uncertainty could preclude getting a bonded article.

Attorney Somers asked what problem the Bond Counsel would have and if the Town has any thoughts as to how to address the concern of the voters that the fire station be constructed and continue in operation.

Attorney Gearreald said they had responded to the draft version dated October 6, 2010. The investment of time and money in this station after a number of years of discussions about where this station should go should be sufficient security to the voters in the District that the Town is serious about this. Attorney Gearreald said if there is a reverter clause it should be in effect only until the fire station is built since this will satisfy the terms of

Article 1. It is not necessary for this clause to extend beyond June 2, 2013, at which time Article I becomes null and void if construction is not begun. Once the station is completed, the commitment the Commissioners want in order to provide fire services to the District from within the District will essentially have been implemented. Attorney Gearreald said that having a clause of longer duration than June 2, 2013 would impair bonding.

Commissioner Rage said if the Town is going to be spending that money they are not going to abandon building, and if not they should have no problems with the reverter clause.

Richard Nichols, Chairman of the Board of Selectmen, said he would bring this issue up at next Monday's Board of Selectmen meeting. He said if they were to agree it would have to be on both properties. He said if there is a good reaction from the BOS, Attorney Gearreald could run it past the bond counsel. Mr. Nichols said he could not in good conscience vote for something in perpetuity.

Discussion followed regarding the existing conditions plan and schematic site plans as proposed by Chief Silver. Attorney Gearreald said it is important that there be agreement on this. The problem is that there are two schematic site plans, one showing demolition and one not. Attorney Somers said that the plans she has do not include the plan labeled "Site 2 Precinct Buildings". She said she did not recall that this plan was presented by Chief Silver. She said the existing conditions plan and the unlabeled schematic plan are consistent with the Minutes.

Regarding demolition of the two buildings, Attorney Gearreald said the bond counsel will look at the authority for that expenditure from the Village District and the Town. If they feel there is not such authority, the bond will not be granted. Attorney Somers said the voters have reviewed the discussion of the demolition issue in the Minutes and asked if bond counsel has more recent questions. Attorney Gearreald said he had not run this by bond counsel at this time.

Attorney Gearreald discussed the escrow funds issue. Commissioner Rage said he did not feel this was a big issue.

At this time Attorney Somers suggested that the Commissioners keep a copy of the issues that they will need to discuss and decide upon.

Mr. Nichols discussed incremental costs such as fencing and landscaping, the meeting hall, storage space and an independent engineering consultant.

Commissioner Rage said there is not a need for a meeting hall for 125 people. Monthly meetings are not a problem and the annual meeting can be held in the bays.

Commissioner Rage said having some storage space is important and losing parking spaces is not an option.

Mr. Nichols said that in addition to the reverter clause he would bring up the fencing and storage issues with the BOS at next Monday's meeting. Mr. Nichols said he felt the independent engineering consultant was a waste of money. Commissioner Rage said this was important due to the flooding issue.

Attorney Gearreald asked what was the point of extending the current lease only to the point of substantial completion. The new station must be fully complete and operational before the current station can be vacated. Commissioner Rage said they were only implying that they want a seamless transition. Attorney Gearreald said the term should be "occupancy" and this should be reviewed by Chief Silver.

On the issue of Insurance, Attorney Gearreald said he could assure the Commissioners that the Town insures projects very well.

The requirement for an assembly permit for the meeting room was discussed. Fred Welch, Town Manager, said a Permit of Public Assembly has to be provided by the Fire Department every two years.

Mr. Nichols said time is of the essence in resolving these issues. Otherwise it will not be possible to get this on the warrant.

### **Public Comment**

Andrew Guthrie, resident, came forward. He said he believed the reverter clause would protect the interests of the Precinct. He also said he felt the Town should pay for an independent engineering consultant and that money should be put in escrow.

### **Marketing Update**

John Kane, Marketing Director, said plans are being made for next season. On December 31<sup>st</sup>, New Year's Eve, there will be fireworks on the beach weather permitting. Mr. Kane said when it is cold, fireworks are especially brilliant. Dates need to be set soon for 2011.

Mr. Kane said the website is being updated. Many people ask to be on the website. Mr. Kane suggested bringing the fee for those outside the Precinct down to \$399 per year. This would create some additional revenue. There is also some concern about inappropriate advertisers wanting to be included on the website. Mr. Kane asked the Commissioners to create a policy for advertising that comes from outside the Precinct.

**Moved** by Commissioner Rage, seconded by Commissioner White, that the Commissioners create an appropriate policy for advertising on the website for those outside the Precinct.

**Vote:** 3-0-0. Motion passed unanimously.

### **Old Business**

Commissioner Rage said the State is giving \$15,000 towards the stage and tents for next year. They are asking the Precinct to come up with an additional \$15,000. Sponsorships can be used to help fund this amount. The amount, however, will have to go in the budget.

### **New Business**

Commissioner Rage discussed the charitable gaming operation coming to the beach. He suggested the Precinct establish "Friends of the Precinct" as a 501c3 non-profit and take advantage of this. This could raise money for playgrounds, etc. Richard Reniere noted that he believed the 501c3 status would have to be held for two years to take advantage of this.

**Moved** by Commissioner Rage, seconded by Chairman Kubik, to have Attorney Somers investigate the possibility of forming a 501c3 non-profit known as "Friends of the Precinct".

**Vote:** 3-0-0. Motion passed unanimously.

It was then decided that the Commissioners would first investigate the Ashworth Fund since it is an existing fund and might obviate the need to set up a new fund.

### **Public Comment**

Tim Jones, 16 Dustin Avenue, asked if the Precinct fell under Chapter 52. Attorney Somers said that it did.

Mr. Jones said he would like to have more empirical data on visitors to the website. Commissioner Rage said this information can be made available each month at the monthly meeting.

**Moved** by Commissioner Rage, seconded by Chairman Kubik, that the Commissioners will provide on a monthly basis at the monthly meeting empirical data on the website.

**Vote:** 3-0-0. Motion passed unanimously.

Mr. Jones said there is nothing at this point in time to keep inappropriate advertising off of the website. He said he felt a policy should be set to prevent this.

**Moved** by Commissioner Rage, seconded by Chairman Kubik, to suspend advertising from outside of the Precinct until a policy statement is set.

**Vote:** 3-0-0. Motion passed unanimously.

At 8:11 p.m. the Commissioners and Attorney Somers went into a non-public session to discuss unresolved issues in the Memorandum of Understanding.

At 8:46 p.m., the Commissioners and Attorney Somers left non-public session and the public meeting continued.

Attorney Somers presented a summary of the Commissioners' consensus on the following issues:

#### Escrow Account

The Commissioners are concerned that all monies necessary to proceed with the Precinct construction actually be available for such construction and do not end up being spent on the other fire station because the budget runs over or some other such reason. To accomplish this goal, and as an alternative to an escrow account which holds funds, the Commissioners have authorized a purchase and sale agreement which would reference as consideration a specified dollar amount for the amount of the bond related to the Precinct costs as opposed to the cost of the other fire station.

#### Fencing and Gate

There is consensus that these items are needed.

#### Need for an Additional Warrant Article to Precinct Voters on Demolition of Existing Fire Station and/or Garage

The Commissioners agree that it would be best at this time to wait for bond counsel to read the minutes from the June proceedings and indicate his/her thoughts as to the need, from a bond opinion perspective, for a clarifying vote and we can proceed from there.

#### Meeting Room

The Commissioners agree that the proposed meeting room in the fire station will work for their monthly meetings. They also want clear language that for annual or special meetings, the bays of the Precinct Fire Station and/or space at the Precinct Fire Station will be made available to them. In other words, that space be made available to them within the Precinct in either of these referenced town buildings, to conduct the annual or special meetings as needed.

### Storage

The Commissioners want a storage closet in the fire station meeting room, and also need additional storage area for the various items in the garage. They will work with the Town staff to come up with possible places in which the garage contents can be stored.

### Insurance

This item was inadvertently omitted from the discussion with the Commissioners.

### Independent Engineer

The Commissioners have agreed to an alternative proposal of having, at Town expense, an independent engineer review the proposed scope of work for the engineer and provide input for revisions to the scope so that the engineer is proceeding with the right questions and right analysis from the start.

The preceding decisions will be forwarded to the Board of Selectmen.

### **Approval of Minutes**

**Moved** by Chairman Kubik, seconded by Commissioner White, to approve the Minutes of November 10, 2010.

**Vote:** 3-0-0. Motion passed unanimously.

### **Adjournment**

There being no further business, the meeting adjourned at 8:52 p.m.

Respectfully submitted,

Joan Rice  
Secretary