

**HAMPTON BOARD OF SELECTMEN  
SELECTMEN'S MEETING ROOM  
FEBRUARY 4, 2008 – 7:00 PM**

**PRESENT:** Ben Moore, Chairman  
James Workman  
Virginia Bridle-Russell  
Rick Griffin  
Fred Welch, Town Manager  
Maureen Duffy, Administrative Assistant

**REGRETS:** Bill Lally, Vice Chairman

**PUBLIC HEARING**

1. **Proposed quitclaim by the Town to Malcolm E. Smith, III, pursuant to the RSA 41:14-a process, of any rights the Town may have to a certain existing drainage easement and 20' wide access easement in favor of Map 76 Lot 15, owned by the Town, but located on Map 96, Lot 1 owned by Smith, as shown on the Plan D-16604 at the Rockingham County Registry of Deeds. (The second of two required public hearings.)**

Chairman Moore opened the Public Hearing at 7 p.m.

Town Attorney Gearreald noted that this is the final hearing for the proposed quitclaim. He went on to discuss the proposal and that the Conservation Commission and Planning Board submitted their favorable comments prior to the last hearing.

The easement that is being relinquished will be replaced by the following four easements:

- the first easement is for pond maintenance, which will enable the Conservation Commission to maintain an area of the pond on Mr. Smith's land,
- the second easement is for around the dam itself,
- the third controls the water flow from the stream which crosses Mr. Smith's property and goes under a culvert on Woodland Road,
- the fourth is a temporary construction access easement over the driveway of Mr. Smith's for the purpose of constructing the dam.

It was noted that action on the quitclaim shall take place no sooner than seven days and no later than 14 days after the second public hearing. The item will be addressed at next week's meeting.

Chairman Moore closed the Public Hearing at 7:04 p.m.

**SALUTE TO THE FLAG**

**Chairman Moore called the meeting to order at 7:05 p.m. and introduced those in attendance.**

**I. ANNOUNCEMENTS AND COMMUNITY CALENDAR**

Mr. Workman encouraged citizens to take the time to vote at tomorrow's Special State Representative election.

Mr. Moore announced the next Natural Resource Outreach Coalition (NROC) meeting next Thursday, February, 7 at the Hampton Academy library starting at 7 p.m.

**II. APPOINTMENTS**

**1. MIKE ST. LAURENT – HALF MARATHON**

Mr. St. Laurent addressed the Board. He is the organizer of this Sunday's Half at the Hamptons Marathon. The event will start and finish at the Ashworth by the Sea Hotel and over 970 people have registered to participate. Mr. St. Laurent commented on the local economic benefit that the race brings to Hampton. There are hundreds of people traveling to Hampton who will be spending the night in local hotels and enjoying meals at nearby restaurants. Race organizers are purchasing water and food items from the local Hannaford grocery store. Mr. St. Laurent also noted that a portion of the proceeds will be donated to the WHS Track Team and to the University of New Hampshire to refurbish the track field. He went on to discuss the route and that Police Detail will be present to assure a safe event.

The Selectmen were pleased to hear that the event is attracting so many visitors to Hampton in February. The Board wished the event great success.

**2. FIRE CHIEF HANK LIPE – DEPARTMENT UPDATE**

Chief Lipe reported on the 2007 operations summary. During the year there were 1,898 EMS and 2,280 fire/rescue/service responses. The Chief noted that there was very little response deviation; each day during the week proved to be equally active.

In 2007 the Department received the following call types: 40 structure fires, 35 other fires, 1,488 rescue/EMS, 257 false alarms, 8 mutual aid, 40 Hazmat, 97 Hazards and 315 other. Chief Lipe reported that the estimated fire loss in Hampton during the year was \$1,872,926.

The Chief presented the following EMS Transport Demographic Comparison:

Age 0-14	84
Age 15-18	79
Age 19-29	205
Age 30-44	264
Age 45-64	436
Age 65+	680

The Chief also reported that the Hampton Emergency 90% fractile response time is six minutes and the average response time is four minutes.

Calls are tracked by district. There were 1,092 from the Beach, 1,020 from Town and 168 on the West-Side.

The Chief reported that last month was not too eventful other than a couple of snow storms. The Department is back to a full working force.

Mr. Moore asked about the Hazmat calls. Chief Lipe reported that 97 is a high number for that type of issue. Chairman Moore asked how many in-bound mutual aid calls there were. Chipe Lipe did not have that information available.

Chief Lipe congratulated Firefighters Jeremey Timson and Nathan Denio for completing their 18 month Paramedic Training. They worked hard to achieve this training and spent a lot of time away from home.

Last week Firefighter Adam Lebor was sworn in. He is fully trained and is excited to be here serving Hampton residents.

In 2007, Captain Matt Clark retired from the Fire Department. He is currently training to work part-time as a police officer.

### **3. CONSERVATION COMMISSION CHAIRMAN ELLEN GOETHEL – OPEN SPACE COMMITTEE**

Conservation Commission Chairman Ellen Goethel addressed the Board. She said that the Open Space Committee was disband a number of years ago and needs to be reconstituted to work with the Natural Resource Outreach Coalition (NROC). The Committee is being established to help define the direction of growth for Hampton. The Town has been working with NROC and under their guidance; the Town and many dedicated individuals have outlined the necessary steps to help with the growth of Hampton. The Committee would take some of the pressure off the Conservation Commission by working on tasks such as the open space inventory. This information could be put into digital form and placed on the Town website so people can see what property is Conservation and/or Town land.

Mrs. Geothel explained that the Committee will also be in charge of applying for grants and looking for donations for Conservation land. The Committee will be reestablished at the NROC meeting this Thursday, February 7. Mrs. Geothel encouraged anyone who is interested in participating to come to the meeting or contact Conservation Coordinator Steve Scaturro at 929-5908.

Mr. Moore asked if the Committee would be a subcommittee of the Conservation Commission. Mrs. Geothel confirmed that as being correct and that the Commission would be responsible for appointing members rather than the Selectmen.

Mr. Gearreald noted that the Town Manager wrote a letter to the Planning Board some time ago; pointing out the RSA's that allow subdivisions to be reviewed on an individual basis. The Open Space Committee could work on determining space for parks and playgrounds within these subdivisions, taking some of the workload off of the Planning Board. Mrs. Goethel noted that the Committee is not to make rules or regulations only recommendations that will go to the Conservation Commission. Items that are not under the Commission's jurisdiction will be brought to the appropriate Board.

### **4. ARTHUR NADEAU – SEAWALL**

Mr. Nadeau addressed the Board. He has been coordinating the rebuilding efforts of the seawalls for 1062 Ocean Boulevard, 1064 Ocean Boulevard and 1066 Ocean Boulevard. The Selectmen previously granted him permission to store materials on the beach until February 16. At this time it is expected that the project will take longer than anticipated. Mr. Nadeau asked the Board to consider extending the temporary storage period until March 16, 2008.

**Mr. Workman MOTIONED** to extend the temporary storage of seawall materials for the project until March 16, 2008.  
**Mr. Griffin SECONDED.**

**VOTE: UNANIMOUS FOR**

**5. MSC CIVIL ENGINEERS LAND SURVEYORS, STEVEN OLES – PERMISSION FOR DECK/PATIO ON TOWN PROPERTY**

Matt Landry, Senior Surveyor for MSC Civil Engineers Land Surveyors and property owner of 11 James Street, Mark Maollica addressed the Board. They have come before the Selectmen to request permission to construct a patio on Town property that lies between the Mollica property and the Atlantic Ocean. Mr. Mollica inadvertently constructed a new deck in 2007, which was an addition to the existing deck (built in 1997) without realizing he was on Town property. He is removing the new portion of the deck (as directed by the Building Department) and would like to construct a patio in its place.

Building Inspector Kevin Schultz addressed the Board. He mentioned that if the Selectmen approve the patio he will require additional information for the site plan demonstrating the highest observable tide line along the Town's 50 foot and the State's 100 foot buffer areas. Work in these areas will require review and approvals from the Hampton Conservation Commission, Planning Board and NH Department of Environmental Services (DES).

Mr. Workman questioned the existing deck, flagpole as well as the post and rail fence on Town property. Attorney Gearreald noted that this is a similar situation to the stairs that go down to the beach. They are structures that have been built on Town property with no authority. The Attorney voiced his concern about liability and policing issues when it comes to unauthorized structures on Town property. The existing deck and the proposed patio are on public property.

Conservation Commission Chairman Goethel addressed the Board. She said that the Commission has not looked at this particular property and proposed patio. From the provided diagrams the patio project would be a DES violation. Mrs. Goethel said that the Commission would not accept the proposed since the area is encroaching on the sand dunes. She is very much against the proposed patio and urged the Selectmen to deny the request.

Mr. Griffin voiced his concern about unauthorized structures on Town property. He believes that it opens the Town up to liability and it doesn't appear that Mr. Mollica's neighbors have expanded as much towards the ocean.

Mr. Workman believes that the Board needs to consider the Conservation Commission's concerns and that the deck/patio in question must be removed and the area returned to its natural state.

**Mr. Griffin MOTIONED** to deny the 11 James Street patio request. **Mr. Workman SECONDED.**

**VOTE: UNANIMOUS FOR**

Town Manager Welch pointed out that there are additional structures on Town property. Mr. Mollica said that they were there when he purchased the property. Mr. Schultz mentioned that people interested in purchasing property should consult with the Building and Assessing Departments. Either of these Departments can provide accurate information about property that may alter purchasing decisions. Mr. Welch noted that any encroachment on Town property without authorization is illegal (according to State law). He noted that a permit should be issued for the structures that were built when he purchased the property. Attorney Gearreald noted that the property owner cannot put a "no trespassing" sign on the deck as it is on public property.

Building Inspector Schultz said that the basic rule for existing nonconforming structures is that they may remain but cannot expand and can only be maintained. Mrs. Bridle-Russell asked what the difference is between “maintain” and “replace”. Mr. Schultz said that maintaining would be minor improvements such as a few planks changed rather than the entire structure being completely rebuilt.

**Mr. Griffin MOTIONED** to permit the existing structures at 11 James Street (the smaller deck leading to the beach, the larger deck west of the small deck, the post/rail fence, the concrete wall, stairs to the beach and flagpole), that was there when Mr. Mollica purchased the property. **Mr. Workman SECONDED.**

**Discussion:**

Attorney Gearreald asked for clarification if the motion is to authorize him to create a license agreement to hold the Town harmless of any liability and a certificate of insurance obligation.

Arthur Moody addressed the Board and noted that all the property in the area being discussed was sold by the Town many years ago. Each property should have a file in the Assessors office with a form based on a survey done at that time. All encroachments were removed before the Selectmen would sign the deeds.

Mr. Welch expressed his concern that the structures are in violation of NH law.

Glyn Eastman addressed the Board. He said that in the 80's he was among those who collaborated to sell the leased land along Hampton Beach. When the vote was taken to sell the lease land they looked at the properties. If there was a structure violation on Town land it was permitted to stay in its original position. If the property owner wanted to redo/rebuild a structure they were not allowed. Mr. Moore asked what type of vote it was. Mr. Eastman said that it was a Town Meeting vote that occurred in 1982.

**VOTE: UNANIMOUS FOR**

### **III. MINUTES – JANUARY 28, 2008**

Page 1 – Rick Griffin should be under regrets.

The January 28, 2008 minutes stand approved as corrected.

### **IV. OLD BUSINESS**

#### **1. TOWN MANAGER'S REPORT**

Town Manager Welch reported that there will be a Special Election tomorrow at the Marston School to fill the Hampton State Representative vacancy. This is a very important election for the Hampton voters. Mr. Welch encouraged residents to get out and vote for their candidate of choice. He discussed the many important issues before the Legislature this year, which may affect property taxes. The polls are open from 7 a.m. to 8 p.m.

Mr. Welch reported on the next NROC meeting this Thursday, February 7, 2008 at the Hampton Academy from 7 p.m. to 9 p.m. The meeting snow date is February 19<sup>th</sup>.

The Town Manager congratulated Boy Scout Troop 177. The group is celebrating their 75<sup>th</sup> Anniversary of providing young men with training to become better citizens.

He also reminded voters that it is time to register dogs for 2008. To avoid late fees go to the Town Clerk's Office and register early.

## 2. DELIBERATIVE SESSION

According to State law RSA 31:95-d Article 58 of the Warrant will require a public hearing which will need to occur 15 to 30 days prior to the March 11 vote.

### Article 58

*“...to restrict 20% of the gross lease and rental income from the Town’s parking areas located within the Hampton Beach Village District to expenditures for the purpose of infrastructure improvements within the Village District boundaries and for properties which are owned by the Town...”*

**Mr. Griffin MOTIONED** to schedule the public hearing according to RSA 31:95-d for Article 58 on February 25, 2008. **Mr. Workman SECONDED.**

**VOTE: UNANIMOUS FOR**

The Board discussed the fiscal notes on the warrant and whether or not to leave them on. It was mentioned that at the Deliberative Session a positive vote was taken to determine if residents are in support of the fiscal note. Attorney Gearreald stated that the NH Department of Revenue Administration does not have any issues with fiscal impact notes displayed with articles and that the note may set precedence but is not legally binding.

**Mrs. Bridle-Russell MOTIONED** to place the fiscal impact note immediately under the Warrant Article after the Selectmen and Budget Committee recommendations. **Mr. Workman SECONDED.**

**VOTE: UNANIMOUS FOR**

At the Deliberative Session the Selectmen were asked to post the union contracts on the website. The existing contracts are considered public information and it was the consensus of the Board to post on the Town’s website.

## 3. WEDDING CELEBRATION REQUEST AT RUTH STIMSON PARK

The Selectmen received a request in December regarding the use of Ruth Stimson Park for a wedding ceremony. There were a few issues that the Selectmen had with the last request that were addressed in a letter to the father of the bride. The current request is for a reception in Ruth Stimson Park on June 28, 2008 from 6 p.m. to 9 p.m. which includes a tent with tables and chairs. There will be no alcohol served. The family requesting permission understands that parking must be on a space available basis in the conjunction of parking at St. Magnus Condominiums.

Attorney Gearreald suggested that perhaps a fee could be charged to hold the event. Mrs. Bridle-Russell is not sure the Town wants to set precedence for receptions at Town parks. Mr. Griffin noted that many other communities permit special occasions to be held at public parks and that perhaps a fee could be considered at a later date if the event proves to be a success.

**Mr. Griffin MOTIONED** to permit the wedding reception at Ruth Stimson Park with the condition that there is Police Detail present and a signed hold harmless agreement. **Mrs. Bridle-Russell SECONDED.**

**VOTE: UNANIMOUS FOR**

#### 4. LEASED PARKING LOT POLICY

The final document is not ready yet. It will be presented next week.

#### OTHER OLD BUSINESS

**Mr. Griffin MOTIONED** to not have a Selectmen's meeting on February 18, President's Day. **Mr. Workman SECONDED.**

**VOTE: 3 FOR  
OPPOSED: Bridle-Russell**

#### IV. NEW BUSINESS

##### 1. UTILITY TRUCK BID

A bid was received for the 1991 Ford Utility Truck (a.k.a. Fire Department - Line Truck or Bucket Truck) for \$751.

Chairman Moore was under the impression that there was a liability concern regarding the truck and that the vehicle was to go to a salvage yard. The Town Manager said that the truck will not pass a motor vehicle inspection and that it is not merchantable. The Selectmen declared the vehicle as surplus at the January 7, 2008 meeting.

It was the consensus of the Board to proceed with the bid to purchase the utility truck. A disclaimer will be added to the bill stating that the Town does not take any responsibility for its condition or whether the vehicle can be made operable or merchantable.

#### OTHER NEW BUSINESS

Chairman Moore noted that the Selectmen received notice from the NH Liquor Commission stating that Gradin LLC, located at 169 Ocean Boulevard, Unit 1 has applied for a beer and wine liquor license. The Chairmen requested that residents may submit any concerns of this license to the Selectmen or Town Manager.

Mr. Moore asked if the Selectmen would like to discuss the Warrant and replay it on Channel 22. Mr. Griffin mentioned that the Board has met in the past on Saturday mornings and believes that it was ineffective. Mr. Welch said that the articles could be read out loud, recorded and rebroadcast on Channel 22.

Mr. Moore asked that a document be generated with a "yes" and "no" category and be provided to voters to help them in their decision process.

Town Manager Welch suggested that next year the Town should send the Warrant out via mail.

**Mr. Griffin MOTIONED** to enter into a nonpublic session under RSA 91-a immediately after tonight's meeting. **Mr. Workman SECONDED.**

**VOTE: UNANIMOUS FOR by roll call**

Attorney Gearreald noted that Jay Diener is ready to present the final Hampton Handbook to the Selectmen at next week's meeting. Mr. Diener is working on getting print costs.

**V. CONSENT AGENDA**

None

**VII PUBLIC COMMENTS**

Arthur Moody (3 Thomsen Road) mentioned that Al Gore received permission to use Bicentennial Park during his presidential campaign. There was also a tent set up for a political fundraising dinner. Mr. Moody said that he is glad that the Town received a bid to purchase the line truck and that the Selectmen approved it. Mr. Moody asked which paper the bid request was published in. Mr. Welch reported the Hampton Union. Mr. Moody believes that the address pertaining to the liquor license is the Casino.

**VIII. CLOSING COMMENTS:**

None

**IX. ADJOURNMENT**

**Mrs. Bridle-Russell MOTIONED** to adjourn to a nonpublic meeting at 8:46 p.m. **Mr. Griffin SECONDED.**

**VOTE: UNANIMOUS FOR**

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**Chairman**