TOWN OF HAMPTON
BOARD OF SELECTMEN
MINUTES OCTOBER 13, 2008

PRESENT: William Lally, Chairman
Richard Griffin, Vice Chairman
Richard Nichols
Richard Bateman
Frederick Welch, Town Manager

REGRETS: James Workman

Chairman Lally called the meeting to order at 7:00 PM

SALUTE TO THE FLAG

Chairman Lally introduced those in attendance.

I. Public Comment Period

Mr. Art Gopalen, 21 Mill Lane, would like to make a couple of comments and recommendations about the $650,000 bill. He recommends that the Board pass a resolution stating that the Town will not be obligated to raise the miscalculated amount as it was declared an error. Furthermore, the default budget should not contain the amount as it is not declared valid and is pending correction. The town along with all the other municipalities affected by the so-called error should jointly send a letter to the State and the leaders of the House and Senate stating that the Towns will not set aside nor pay the erroneous amounts and expect them to fix the problem expeditiously.

Public Hearing on Emergency Lane and Fire Lane status for "Keefe Avenue"

Questions: None.

Mr. Bateman moved that the Board declare Keefe Avenue to be an emergency lane under RSA 231:59-a for the limited purpose only of enabling the Town of Hampton to continue to plow snow from said Avenue during snow season, effective after September 1, 2008 and until rescinded by the Board and to make the following written findings submitted herewith in support of this Motion, which is accompanied by the joint memo dated April 5, 2007 from the Public Works Director, Fire Chief, and Police Chief. And, to declare Keefe Avenue to be a fire lane as described in the written findings, based on the recommendation of Fire Chief Silver.

100 Winnacunnet Road, Hampton, New Hampshire 03842 Tel. 603-926-6766 Fax 603-926-6853

Written findings for minutes regarding designation of Keefe Avenue as an emergency lane under NH RSA 231:59-a

The Hampton Board of Selectmen make the following written findings in support of their decision to declare Keefe Avenue as an emergency lane under RSA 231:59-a to the limited extent of enabling the Town only to plow snow from said Avenue during snow season:

1. This private road is among the list of 29 or so of such roads that the Town has plowed snow on for years.
2. The homes located on the private roads like this road in the Hampton Beach area tend to be older homes that are located in very close proximity to one another with very little setback from lot lines, heightening the risk that fires, once started will spread widely and quickly unless rapidly contained.
3. The proximity of this road at Hampton Beach to the shore makes its location subject to higher winds, again heightening the risk that fires, once started, will spread widely and quickly unless rapidly contained.
4. The Public Works Director, Fire Chief and Police Chief have written the attached joint memo to this Board dated April 5, 2007 recommending that this road among others, be declared emergency lanes under RSA 231:59-a. The findings of these Departments Heads are incorporated by reference as part of these findings as they address the public need for keeping such roads passable by emergency vehicles and identify the public welfare and safety interests that surpass or differ from any private benefits to landowners abutting such roads.
5. This Board has declared this road to be a fire lane on both sides such that vehicles may be towed as necessary to enable effective plowing of snow to occur.
6. Snow plowing shall be limited to the paved width of this road.
7. No objection has been raised to this road being declared an emergency lane under N.H. RSA 231:59-a.

Mr. Griffin SECONDED.

VOTE: 4-0-0

Public Hearing on Emergency Lane and Fire Lane status for "Robin Lane"

Questions: None.

Mr. Bateman moved that the Board declare Robin Lane to be an emergency lane under RSA 231:59-a for the limited purpose only of enabling the Town of Hampton to continue to plow snow from said Lane during snow season, effective after September 1, 2008 and until rescinded by the Board and to make the following written findings submitted herewith in support of this Motion, which is accompanied by the joint memo dated April 5, 2007 from the Public Works Director, Fire Chief, and Police Chief. And, to declare Robin Lane to be a fire lane as described in the written findings, based on the recommendation of Fire Chief Silver.

Written findings for minutes regarding designation of Robin Lane as an emergency lane under NH RSA 231:59-a

The Hampton Board of Selectmen make the following written findings in support of their decision to declare Robin Lane as an emergency lane under RSA 231:59-a to the limited extent of enabling the Town only to plow snow from said Lane during snow season:

1. This private road is among the list of 29 or so of such roads that the Town has plowed snow on for years.
2. The homes located on the private roads like this road in the Hampton Beach area tend to be older homes that are located in very close proximity to one another with very little setback from lot lines, heightening the risk that fires, once started will spread widely and quickly unless rapidly contained.
3. The proximity of this road at Hampton Beach to the shore makes its location subject to higher winds, again heightening the risk that fires, once started, will spread widely and quickly unless rapidly contained.
4. The Public Works Director, Fire Chief and Police Chief have written the attached joint memo to this Board dated April 5, 2007 recommending that this road among others, be declared emergency lanes under RSA 231:59-a. The findings of these Departments Heads are incorporated by reference as part of these findings as they address the public need for keeping such roads passable by emergency vehicles and identify the public welfare and safety interests that surpass or differ from any private benefits to landowners abutting such roads.
5. This Board has declared this road to be a fire lane on both sides such that vehicles may be towed as necessary to enable effective plowing of snow to occur.
6. Snow plowing shall be limited to the paved width of this road.
7. No objection has been raised to this road being declared an emergency lane under N.H. RSA 231:59-a.

Mr. Griffin SECONDED.

VOTE: 4-0-0

II. Announcements and Community Calendar: None

III. Appointments

1. Public Works Director, Mr. Price informed the Board that all employees have completed FEMA's NIMS (National Incident Management System) program.

Mr. Price provided the Board with an update on the Department including the following topics: rubbish that should have been picked up on Labor Day was picked up on Tuesday, they have painted over the graffiti which was on Court House, they have removed the Apple Tree at Bound Rock, replaced the one way signs on M, O and Q street, power washed rubbish bins and moved them to precinct lot, repaired gravel shoulder on Towle Farm Rd, Timberswamp Rd,

Drakeside Rd and Scott Rd, have seal cracked on Woodland Rd, Cusack and North Shore Rd, leveled and paved Hobson Ave., a snow fence has been erected up at the beach and brush cutting of landfill area. Upcoming projects for the highway department include regrading the shoulders on Exeter Rd and mill out and repave the distressed areas.

Update on the Sewer and Drain including the following topics: attended pre-construction meeting with the State in regards to Drakeside Rd, cleaned catch basins, cleaned culverts on Vanderpool Dr, put out barricades and cones at flood prone areas and checked portable pumps before the predicted heavy rains.

Update on the Wastewater Treatment Plant including the following topics: took #1 primary clarifier out of service, took #1 gravity thickener out of service for annual maintenance. Upcoming projects include preparing the plant for winter operations and annual maintenance on all offline tanks.

Update on the Transfer Station including the following topics: built new cells for materials, turned over the compost piles, prepared information for future quotes or bids for surveillance equipment for the PW compound. Upcoming projects include work on old burn pile, working on implementing and return of the stickers.

Overall the department helped other departments by: installed gutters at the Ashworth Ave Lot, carried out the polling set up and removal for Town Clerk, assisted Waste Management with the recycling of 2006 ballots, paved binder course behind Station 2, repaired sewer service at Station 2, painted bathrooms at Town Office, removed newspapers from Library for recycling. Public Works also helped with outside community groups including Seafood Festival, traffic control for 911 observances, moved rock from 641 Exeter Road to Bicentennial Park for Elm Tree monument.

Notice to the Board that Public Works will start the leaf collection the first week in November and it will continue on every Monday for the month.

Questions from the Board:

Mr. Griffin thanked Mr. Price for doing a good job. Everyone seems to be happy with his work.

Mr. Lally mentioned the State sewer work is going to start at the Liquor Store and continue down Drakeside Road. This work will be done at no cost to the Town.

2. State Senate Candidates

Mr. Lally introduced the two Senate Candidates present Martha Fuller Clark and Christian Callahan.

Martha Fuller-Clark - Democrat - Ms. Fuller Clark thanked the Board for allowing her to come before them tonight. She is the current Senator and it has been a privilege to serve the people for the last 4 years.

Christian Callahan - Republican - Mr. Callahan thanked the Board for having him here tonight and explained his family runs a small business in Portsmouth.

General discussion between Board and Candidates:

Mr. Nichols updated the candidates on the thorough presentation given last week by Mr. Schwotzer, which defined what appears to be a mistake in the anti spiking provision in HB 1645. He asked the candidates if they are familiar with the problems and mistakes in HB 1645 or would they like to go over them. Both candidates confirmed that they are familiar and prepared to discuss this issue. Mr. Nichols expressed his concern with the timing and the fact that the Town has $650,000 sitting on the budget. He feels that there is a sense of urgency and the representatives last week felt that it was a hot issue and would be put on the fast track in January.

Mr. Lally pointed out that the $650,000 is for only one employee and the Town has 19 employees eligible to retire with 10 employees likely to retire.

Ms. Fuller Clark informed the Board that Representative Reagan is preparing an amendment. She feels that it would be worthwhile to run the amendment by Town's legal counsel to make sure that the problem is going to be solved. She believes that the correction needs to come through as an amendment which would need to go through the House and then to the Senate. She does feel that everyone is committed to making the necessary changes and that it will take a couple of weeks to pass the amendment through. It is important to realize that we are dealing with a retirement system that is in distress.

Mr. Nichols asked that Ms. Fuller Clark get in touch with John Reagan. Ms. Fuller Clark is happy to get in contact with Mr. Reagan and asked that Mr. Nichols forward the emails from Mr. Reagan to her.

Mr. Callahan as a candidate and a citizen and having watched all this is both alarmed and shocked. He feels the people who voted on this law should have taken out their calculators before it was passed. He feels the key thing we have to look at is that the law is passed and will have to be voted on again. The Towns that are going to benefit from this on the backs of Hampton and Portsmouth probably are not going to vote for the amendment. The same people who voted on this law are now saying that if we re-elect them they will go back and make the changes. Mr. Callahan is not sure if they have the power as the third largest legislature in the world to go back and make said changes. He is alarmed as a taxpayer and obviously if elected he will work on this issue. He pointed out that there are people who are opposed to changing this and will vote against any changes.

Mr. Welch would like to make an observation that Mr. Nichols brought up in regards to a special session. Mr. Welch agrees that it is important to bring this up because when we go into session in January whoever is going to be there to conduct the session will probably be aware of the fact that retrospective legislation is prohibited by our constitution. If we have someone retire before January 1st the Town is going to fund a deficit come January 1st. That means that by statute the amount of money that we pay will be added to the tax rate automatically by the Department of Revenue in addition to the $650,000. Mr. Welch feels that this is too big of a gamble and his basic feeling is do not pay and let them take the Town to court. Mr. Welch believes that if the Town was taken to court that the Town would win and the legislation and

state would not win. Mr. Welch thinks that this needs to be done as quickly as possible so that the communities do not suffer.

Ms. Fuller Clark responded by stating that she would be happy to continue this conversation tomorrow with the president of the senate and speaker of the house. She shares Mr. Welch's concerns and wants to make sure that people understand that this was not some sort of back door legislation.

Mr. Griffin would like assurance that something is going to happen quickly.

Mr. Nichols would like to ask a few questions other than the anti spiking provision. Some of the more reasonable parts of HB 1645 were increasing the retirement age of public service from 45 to 50, capping retirement benefits at 100% of base pay and changing make up of NHRS Board. He would like to hear the candidate's feelings about these topics.

Ms. Fuller Clark feels that we are going to have to continue to work on these topics. She believes that these are some good seeds in these issues but will need to work to get the support.

Mr. Callahan agreed that they all sound like great ideas. The taxpayers do not have as strong of a voice as they used to and he believes that they need to be heard. When we look at the retirement system, we have made promises and need to keep the promises. However, whenever we try to fix the system we end up with a problem. Mr. Callahan questioned whether his opponent would support these three issues?

Ms. Fuller Clark would take all of them under consideration. She does feel that there needs to be reconstruction of the Board. In regards to changing the age of retirement, she needs to do some more research. Not sure why the capping at 100% was changed.

Mr. Nichols read a LGC bulletin that explained the House had agreed to the 100% cap and it was in the Senate that union members stopped the passing of the 100% cap.

Ms. Fuller Clark confirmed that by no means is the Senate done with addressing the issues with the Retirement System.

Mr. Griffin feels that it does not make sense as to why there is such a difference between the State Retirement System and the Federal Retirement System. He hopes that these questions will continue to be raised.

Mr. Bateman is aghast that politicians would be practicing politics and deals in the hallways. He questioned how after the law was molded in the House and sent to the Senate, so much changed. What is the proposed deficit of the State of NH?

Ms. Fuller Clark confirmed that 16 hours were spent in the Senate with public hearings before the bill was brought to the floor. With regard to the budget currently the budget is anywhere between $100 million and $300 million in deficit. Governor Lynch has come forward to address this deficit. Ms. Fuller Clark wanted to also address the issue that the budget was actually raised by a single digit and not the 17.5% rumor.

Mr. Bateman wanted to emphasis that the employee is at no means at fault and that they have earned this benefit.

Mr. Callahan commented the deficit continues to grow. He does not believe that the 17.5% is inaccurate. He believes that the spending needs to be brought under control. The constitution says that we must balance the budget.

Mr. Griffin hopes that all the candidates keep the funding coming for the improvements to Hampton Beach. Both candidates agreed that keeping this funding available was important. Mr. Callahan did also feel that since the budget needs to be balanced we should probably look to the private community.

Ms. Fuller Clark pointed out that the Town and property owners of the beach have put into the project and now it was the States turn to step up to the plate.

Mr. Lally thanked both candidates for coming.

Ms. Fuller Clark announced that there will be a fuel aid and assistance forum in the Selectmen's Chambers on Wednesday at 11 AM.

IV. Budget Reviews

1. Library – Amanda Reynolds-Cooper, director, presented the Board with a presentation containing a five-year review. In the Personnel portion of budget both full time and part time staff will receive salary increases in accordance with the library pay scales, health insurance number down and life insurance up but calculated with formula provided. In the Operating section of the budget contracted services going up slightly, staff development slight decrease, maintenance line has increased due to a lack of maintenance over the past several years, programs and books cut over the last five years so additional funding is needed to maintain status quo, energy cost increase and technical services up due to the fact that computers are about two rotations behind. Operating expense high partly because of the 8% cut last year.

Questions from the Board:

Mr. Griffin asked about warrant articles. Ms. Reynolds-Cooper explained that this is going to be discussed at the next Trustees meeting.

Mr. Nichols asked where the 8% cut was made in 2008. Ms. Reynolds-Cooper informed him that the Budget Committee made it. He also inquired as to whether or not the library's computer support is provided by Paul Paquette. Paul has assisted but they have two members of their staff who support the computers.

2. Conservation Commission – Ellen Goethel – The operating part of the budget has not changed. They are asking for the part time conservation coordinator position that is in the Planning part of the budget be made full time. She explained to the Board what an asset to the Town this position has been. The increase for next year would be $13,000 for 40 weeks and a full year would be an increase of just over $17,000.

Questions from the Board:

Mr. Nichols explained that there is also an increase in Planning so looking at a $30,000 increase not including health insurance and retirement. So putting this all together, you are probably looking at around $50,000. Mr. Welch explained that a full time position is 32 hours. Mr. Nichols suggested that instead of making the position full time maybe increase the number of hours from 20 to 30 hours a week.

Mr. Lally agreed with Mr. Nichols about possibly increasing the hours to 30 instead of making the position full time.

3. Welfare Department – Michelle Kingsley – In the fiscal year 2008 served 182 families, which is about 52% of what she saw last year. She attributes this to the fact that in 2006 and 2007 the Town went through a run of new Welfare Officers. She does feel that there will be an increase in clients due to the fuel increases and need for food. She is asking for pretty much leveled funding. Mostly shifted some line items around.

Questions from the Board:

Mr. Nichols pointed out a lot of the direct assistance line items annualiztion amounts are very low. Mr. Schwotzer explained that we have had a light year thus far but there has been an increase in vouchers.

Mr. Griffin was glad to hear that Ms. Kingsley being here has helped to stop people from taking advantage of the system. He also complimented the food pantry.

Mr. Bateman commented that her position is a very delicate one within this community and thanked her for the last couple of years.

Mr. Lally asked about the $500 for Cross Roads is it in addition to the warrant article. Ms. Kingsley explained that this $500 has never been paid to Cross Roads and this line item predates her.

4. Legal Department – Mr. Gearreald – Pleased to present the budget for the 7th year. The budget is flat lined for 2008. Mr. Gearreald presented the Board with an analysis of the cost savings of having in house counsel for the Town. He also brought to the Boards attention the job descriptions that the Manager has put together in the last year for all departments. He went over some of the 29 duties that he has and how he has helped the Tax Collector, the Conservation Commission and the Welfare Officer. Mr. Gearreald also pointed out to the Board that over his seven years, he has been involved in over 100 litigation matters 20 of which have been tried to verdict, but a bigger figure is 656 non-litigation files.

Questions from the Board:

Mr. Nichols asked about part time wages and staff development. The annualization of part time wages is $21,000, which is $10,000 under the budget. Under staff development have budgeted $5,800 and the annualization is $11,500 and next year dropping to $2,500. Mr. Gearreald said that if you put the two items together you would not see an increase. He explained that the Litigation Assistant, who is a Certified Paralegal, has been going to Law School on a part time basis, the staff development goes towards that, and her hours have

dropped. So basically, the difference is what the Town is paying for her schooling. Mr. Nichols also went back to 2003 and compared outside counsel fees and the increase over the last five years. Mr. Gearreald said this varies by the types of matters that come up against the Town.

Mr. Bateman questioned what the Assistant's salary is and what was spent last year in staff development. Wonders if it would not be easier to pay her a salary and have her pay for her own school. Since she is arriving at the end of her school career is any portion of that legal career going to benefit the Town. Mr. Gearreald explained the process of passing the MA bar exam and NH bar exams, which will take about another year and a half. Mr. Bateman expressed concern that the Town has paid for the schooling and then she could leave within six months of completing her education. Mr. Gearreald anticipates that the Town would get the benefit of her schooling for several years and she tends to agree.

Mr. Lally explained that most departments have contractual education reimbursements for full time employees.

Mr. Griffin would like to see if we could show some restraint in the outside counsel fees. Mr. Gearreald agreed with Mr. Griffin.

Mr. Lally agreed that he would like to be conservative with the outside counsel fees.

5. Fire Department – Chief Silver – represents a 1/4% increase. Some adjustments made to maintenance of communication equipment and fuel, heating and utility cost.

Questions from the Board:

Mr. Nichols knows that one of the deputy positions was removed when Chris was promoted and wondered if wages would still be carried in the revolving fund and they will. Mr. Nichols is curious as to what is the VOC alarm system. Mr. Silver explained that this is the initial dispatch alert system and probably has not been replaced since 1999. Mr. Nichols is concerned with the amount being zero under the Capital Building Study line. He would like to see a smaller amount of money than the $475,000 that is being put in as a warrant article inserted on to this line. The objective of doing this is to come up with a location, a conceptual design, an estimate of square footage and an estimate of cost.

Mr. Bateman would like to clarify that would Mr. Nichols like to have this as opposed to a warrant article. Mr. Nichols does feel that we might want to forgo the warrant article and put this smaller amount in.

Mr. Griffin asked for Mr. Welch's opinion on this topic.

Mr. Welch feels that if we were to go about it this way we would have to do it in stages. This would be a beginning but you would be putting the fire station out at least three years. Not necessarily a bad idea since it is questionable whether any warrant articles are going to pass this year.

Mr. Lally agrees that warrant articles this year are probably not going to have a positive outcome.

Chief Silver stated that it is understandable to take this approach. However, a conceptual design does not get you a very accurate cost. So if we plan for some conceptual design we would probably be putting it out another year.

Mr. Welch stated that the timing would probably be good since the police station would be paid off.

Mr. Nichols questioned again, whether we would like to insert a number into this line. The Board agreed to add $30,000 to this line.

6. Emergency Management – same budget for several years.

Questions from the Board: None.

7. Building & Code Inspection – change here is 3% with the majority of the change lying in the gasoline line.

Questions from the Board: None.

8. Health and Human Services – Animal Control – no change

Questions from the Board: None.

9. Other Safety Services – increase is in tree removal from $4,000 to $10,000. Hydrants will increase and budgeted amount told. Overall 12% increase

Questions from the Board: None.

10. Mosquito Control – fixed amount due to contract

Questions from the Board: None.

11. Cemeteries – went up from $99,000 to $104,000. The biggest increase is in equipment which includes a few lawn mowers and weed wackers.

Questions from the Board:

Mr. Griffin commended them on job well done.

V. Vote on Budgets

Library

Mr. Nichols questioned whether the Board has the right to vote on the Library budget. Mr. Welch confirmed that the Board must vote on the budget so it can be passed on to the Budget Committee.

Mr. Griffin MOTIONED to recommend the approval of the Library Budget and forward the recommendation to the Budget Committee. Mr. Bateman SECONDED.

VOTE: 4-0-0

Other Budgets

Mr. Lally asked whether the Board would like to vote on the rest of the budgets this week or wait until next week.

Mr. Nichols asked Mr. Welch where we stand on the $515,000 cuts that the Board requested last week. Mr. Welch presented the Board with a total of $551,536 in cuts. Mr. Nichols questioned why it went from $515,000 cuts to $550,000. Mr. Schwotzer apologized he heard $550,000.

Mr. Welch explained the cuts to the Board as follows: dropped separation costs from $431,000 to $281,000; dropped compensated absences from $360,000 to $170,000; eliminated Operations Manager position in DPW; eliminated buying two new compactors for the transfer station; decreased a number of accounts dealing with gasoline and diesel fuel; and lastly decreased some equipment maintenance accounts.

Mr. Nichols suggested that we should take the $36,000 miscommunication number and put it back in separation costs. Mr. Schwotzer agreed however, he felt since the Board had agreed to add $30,000 to the Fire Department budget, there will be less net reduction in total.

Mr. Lally commented on the Operations Manager position being removed and feels it is a good thing since many people have said that the departments have been top heavy.

Mr. Nichols questioned on a bottom line for the budget. Mr. Schwotzer said that he has all the changes and he will have numbers for the Board next week.

The Board agreed that the Conservation position be added into the budget at 30 hours and not be a full time position.

VI. Minutes – October 6, 2008

Mr. Griffin MOTIONED to accept of the minutes of October 6, 2008 as submitted. Mr. Nichols SECONDED.

VOTE: 4-0-0

VII. Old Business

1. Town Manager's Report

Questions from the Board:

Mr. Nichols questioned whether the meeting with Mr. Higgins is on for next Monday. Mr. Welch confirmed that it was on for 7 pm with the Selectmen's meeting starting at 7:30 pm. Mr. Nichols thanked Mr. Price for the letter explaining the change in overtime at the transfer station since 2003. The only thing that he would like to see is Mr. Price review the staffing levels. Curious as to whether or not there have been any comments on the Trash Ordinance. Mr. Welch stated that there have not been many comments.

Mr. Griffin asked if all the possible retirees that were discussed earlier are from the fire department. Mr. Welch explained that no, they are not all from fire and therefore the anti spiking provision of HB 1645 would not be applied to non-fire retirees.

VIII. New Business

1. USS New Hampshire Commissioning Committee Donation asking communities to donate $5,000.

2. Garage, Barn or Lawn Sales Ordinance – Mr. Welch explained that the new ordinance was now more in line with the statute.
3. Mr. Lally discussed the graffiti at the beach. He informed the Board that he had sent out some emails to see if it was gang related. He also wanted the people on the beach to know that many are working to get it cleaned up.

Questions from the Board:
Mr. Griffin would like to see what was given to the USS Hampton and decide on a dollar amount. Mr. Nichols does not feel that it is appropriate to donate taxpayers' dollars to this cause. Mr. Griffin feels that we do owe something. Mr. Bateman asked if we could table this until a later date. Mr. Welch said that we have until the 25th. USS New Hampshire Commissioning Committee Donation tabled until next week.

Mr. Bateman MOTIONED to approve the Garage, Barn or Lawn Sales Ordinance Mr. Griffin SECONDED.

VOTE: 4-0-0

IX. Consent Agenda

1. Appointment of Christopher Silver as Emergency Management Deputy Director
2. Appointment of Christopher Silver as Forest Fire Warden
3. Board of Trustees of the Trust Fund request to release funds
4. No Idle Policy

Mr. Bateman MOTIONED to move the consent agenda. Mr. Griffin SECONDED.

VOTE: 4-0-0

X. Closing Comments. None.

XI. Adjournment

Mr. Bateman MOTIONED to adjourn. Mr. Griffin SECONDED.

VOTE: 4-0-0

Meeting adjourned at 10:18 PM.

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Chairman