

Town of Hampton



TOWN OF HAMPTON BOARD OF SELECTMEN May 18, 2009 MINUTES

PRESENT: Richard Griffin, Chairman
Richard Nichols, Vice Chairman
William Lally
Richard Bateman
Gerald Znoj
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney

7:00 PM Board of Selectmen Meeting

Chairman Griffin called the meeting to order at 7:00 PM and introduced the members of the Board.

SALUTE TO THE FLAG

I. Public Comment Period

Greg Grady, 120 Kings Hwy, here on behalf of the Hampton Beach Village District. He is looking for the Town's support for the Sand Sculpture Event. This support includes wooden snow fencing from Public Works Department, increased Police presence at event and the Fire Department filling the barrels.

The members of the Board agreed that this would not be a problem.

Ronald Deneve, 204 North Shore Road, needs the Boards help with the crosswalk on the corner of North Shore and Rte 1A. He thinks that there is a need for a crosswalk penguin.

Chairman Griffin said that the Board will look into this.

Mr. Welch explained to the Board that even though this is a State highway the cost would be to the Town since the State does not install pedestrian penguins.

Mike Lupo, 595 Ocean Blvd, he has run his business at this location for 16 years. It has been brought to his attention that the property behind his property that is used as a parking lot is owned by the Town. He owns the lot to the left and the right of the property and would be interested in leasing or purchasing the property owned by the Town since he has maintained it for the past 16 years.

II. Announcements and Community Calendar

No Selectmen's Meeting on Monday, May 25, 2009 "Memorial Day Holiday"

Mr. Znoj read a letter from Ralph Fratello, American Legion, in regards to Memorial Day Events including the parade and ending with a picnic at the gazebo in North Hampton.

Mr. Lally added that the Selectmen march in the parade every year. The Board also received an email from Betty Moore complimenting the Town on how well the grounds look around the gazebo and other areas in Town.

Chairman Griffin announced that the Hampton Energy Committee is in need of an alternate member.

III. Appointments

1. Parks and Recreation Director - Departmental Update

Ms. Martin touched on the following topics: All parks employee returning, ordered parts for playgrounds, fixed dugouts, maintenance of lawns have begun, painting ball fields, mowing and picking up trash, parking lots have been busy, Ashworth Lot has made \$15,000 so far, and have completed all hiring for the parking lots. Spoke with Unutil about lights, scheduling fields, camp counselors paperwork has begun, K2 sports in 4th session, Red Sox tickets are still available for July 8th game.

Zumba class has begun, registration begun for Christmas Market riverboat cruise, travel show for 9 day trip to Austria and Germany, registering for trips to Foxwoods, set up all summer programs and registrations have begun, 2 senior luncheon trips planned, working on commercials, cancelled day trip to NY, new trip planned to Mohegan Sun \$309 double occupancy November 29th and 30th.

The fishing derby was successful and rain free on Saturday, Block Party at the Courts was a great night, group in Town starting a tennis ladder, tickets to see Jersey Boys, overnight fall foliage trip for seniors, Flag Hill Winery trip, BBQ spectacular for seniors, flag football and soccer registration on June 2nd and June 5th at Tuck, Strawberry Festival.

Will be employing lifeguards this summer and but no applications have been received, however, we have ordered the equipment. Received donations from the following; \$500 from the Rod and Gun Club for the Derby, \$250 from United States Tennis Association for the Block Party, a storage shed from Hampton Youth Association for Tuck Field, coffee from Jump N Jacks for volunteers at Easter Egg Dig and \$15,000 for camp scholarships from Rockingham County.

Discussion

Mr. Znoj asked about cost of the trip to Austria and Germany. The cost is \$2,500 per person. Mr. Znoj thanked her for her report and commented that it appeals to all age groups.

Mr. Lally asked about the lifeguards age requirements and pay. He feels that lifeguards are needed and would like to see what can be done to get the word out. Ms. Martin does not know what else to do they are offering \$10 to \$12 per hour; she would like someone with a little experience, not someone who is 15 or 16, and they have to pass the certification test. Mr. Lally

suggested that they put the information out there over the next couple of weeks. Mr. Lally asked about the scheduling of the fields and if there is still a fee schedule in place for outside organizations. Ms. Martin does charge for use of the fields and Tuck Building but it is minimal. She does not charge the nonprofit organizations.

Mr. Bateman applauds her effort for writing the grant for scholarships.

Chairman Griffin asked if the \$15,000 covers all the children in need. Ms. Martin said that it does not cover all the cost but it helps.

2. Police Chief Jamie Sullivan and Brian Warburton, DRED – Dog Waste

Chief Sullivan updated the Board that he and Mr. Warburton have met and he has increased coverage in this area.

Mr. Warburton shared the new signs and waste bags that have and will continue to go up over time. They appear to be working already.

Chief Sullivan explained that they are going over the administrative rules and the options that are available. They will continue to work on the problem with dog waste on the sidewalks since the administrative rules do not allow for much jurisdiction on the beach.

Mr. Warburton passed out the administrative rules and how it specifically states that dogs are not allowed on State Beaches at anytime. They are allowed on the sidewalks and parking lots.

Discussion

Mr. Znoj appreciates the efforts but not sure they are aggressive enough. He wonders if newspaper articles would help educate. Mr. Znoj asked Mr. Warburton what we are going to do with dogs on the beach.

Mr. Warburton said that if we work together things can happen.

Chief Sullivan pointed out that dogs on the beach when the beaches are crowded is not an issue it is more related to dogs on the sidewalk.

Mr. Znoj wonders if the animal control officer can get involved. Chief Sullivan said that he is already involved.

Mr. Znoj said that we can educate and then we need to have a plan once the educating is done.

Mr. Lally likes the idea of the sign and the basket. Mr. Lally wonders if a business owner could purchase one of these and have their name placed on it.

Mr. Bateman thanked Mr. Warburton for the work that he and others have done to keep the beach cleaned.

Mr. Nichols wonders why the fine of \$100 is not on this new sign. Mr. Warburton said that it will be printed on the other signs that are coming.

Chief Sullivan pointed out that they have asked the Town Atty. to look into what can be done legally so DRED and the Town can work together to enforce these problems.

Chairman Griffin wondered if it is true that there is a problem with people leaving the bags of dog waste at the stairwells. It was confirmed that this has always been a problem but the State employees will continue to pick these bags up.

Additional Discussion with Mr. Warburton:

Mr. Warburton would like to bring some additional things to the Boards attention including: beach raking completed last week, Rocky Bend has not been done but will be done, beach raking 5 nights this week, commencing tonight sweeping of sidewalks and lots, filling in potholes, facing same problems as Ms. Martin in regards to lifeguards, this weekend will have lifeguards on the main beach and at the State Park, at this time there might not be lifeguards available for North Beach. Phase one of the pay stations are in place and lastly he has to reiterate that this community works so well together. He expects a great summer. His last request is for some parking spaces in one of the Town lots somewhere in the neighborhood of 12 spots for his employees.

Mr. Bateman asked if he could come up with a placard for his employees. Mr. Bateman is wondering if we might want to offer something to all young people who work at the beach like \$50 for the season to park in the Church Street Lot which is underutilized.

Chairman Griffin clarified that Mr. Warburton is looking for 12 spots for free.

Mr. Nichols does not see a problem with allowing Mr. Warburton spots in the Church Street Lot.

Mr. Znoj wonders if this would be setting some sort of precedent.

Mr. Lally does not have a problem with the Church Street Lot since it is so underutilized.

Chairman Griffin also does not have a problem with this.

Chairman Griffin asked about the weeds that grow in the sidewalks. Mr. Warburton said it was high on his priority list.

Mr. Znoj asked about the money that comes in from the parking meters. Mr. Warburton said that right now the law says that anything over \$1,025,000.00 stays in the Hampton Beach Improvement Fund. The sad thing about this is that if \$3 million comes in than more goes to the Fund, but it does not solve the other problems since it cannot be used for staffing and some other issues. This law needs to be changed.

Mr. Nichols has a question about this fund. He recently read the RSA and it says that it is a non-lapsing fund and at the end of the year the money moves from the Hampton Beach Improvement Fund into the general fund for the State. Mr. Warburton commented that it is definitely a nightmare. This is another reason why the law needs to be changed. The laws are so outdated.

It was also mentioned that the vote on the \$14.5 million for the Seashell Project is set to take place on June 4th and the final results should come in by June 25th.

3. Meeting with the Beach Village Precinct Commissioners – Beach Fire Station Lease – present Mr. Kubik, Ms. White, Mr. Rage, Mr. Gebhart and Atty. Somers.

Atty. Somers spoke of the prior meeting between the two Boards and has drafted a lease in accordance with notes from that meeting. She has put together a red lined lease agreement which was the 2006 lease agreement, and she has simply reflected the fact of the conceptually agreed upon terms, which is 36 months, for the first year, a rent payment of \$1 per year and that the \$20,000 that was voted on by the Selectmen on May 4th be allocated for a feasibility study for a station at the beach.

What they would also suggest is that in the second and third year the Selectmen would work in good faith with the Commissioners and the budget committee to come up with some monies for additional feasibility study for a beach station and put it before the voters at Town Meeting. The remainder of the proposed lease is unchanged. The only thing that she would encourage is as events unfold, the Town might want to address some of the concerns with the current building for instance the lead paint. Also, they would like to come to some sort of agreement tonight.

Discussion

Mr. Nichols appreciates their spirit and what she has presented. He sees the appropriations process being a 2-part process. He is hopeful that the \$20,000 is enough for a feasibility study and the next part would be for a bonded article to be voted on by the people. Therefore he does not feel the need to have in the lease agreement, that the Town will set aside additional money in the 2nd and 3rd year of the lease for a feasibility study.

Mr. Bateman is not so sure that we can tie the budget committee into this contract.

Mr. Znoj thinks that we need to fish or cut bait in regards to the location of the Fire Station and then to move on. It is possible, that with what is happening at the State level there might be a need to have only one station.

Mr. Lally has some questions in regards to the language and would like to refer to Atty. Gearreald.

Chief Silver brought the Board up to date as to where we are including: received 15 RFQ's, RFP's will go out, concept is to work through the feasibility which includes location, initial programming, and what do we need for space to run the operation and then go to schematic design and cost estimates. This is as far as we can go with the money we have available. If we are successful with this then next year we will be able to present a warrant article.

Mr. Nichols would see it as advantageous to have one strategy even if they ask for one station at a time.

Mr. Lally asked about article 3 of the lease and would like to change the language of the rent amount. He believes it should read the \$1 per year for each of the three years.

Atty. Somers expressed concern with some of the comments made tonight. It appears to her that we are going back to the same language as the last lease in 2002. She also added that she does not expect there to be a vote today since some of the language will need to be changed.

Mr. Lally pointed out that this Board and previous Boards have in good faith brought things forward to the voters but they have not passed.

Chairman Griffin asked about the flood insurance and if the language was the same.

Mr. Welch pointed out that the owner would have to provide the flood insurance.

Chairman Griffin thinks this would need to be removed. Mr. Welch added that the Town does not have flood insurance on any of their buildings.

Atty. Gearreald pointed out some problems with the language of the contract that need to be corrected. Atty. Somers will go over the corrections with the Commissioners.

Atty. Gearreald reminded everyone that there is a timing issue since the Board does not meet next week.

Atty. Somers and the commissioners agree to the \$1 per year lease, Atty. Gearreald could possibly work on the wording for the 2 part process as Mr. Nichols suggested, flood insurance will be removed, can't agree on the indemnifying part until they speak with their insurance company.

Mr. Lally suggested that the Board have an emergency meeting before the parade to vote.

Chairman Griffin suggested that the Board vote tonight and when the lease is complete it will be available for the Selectmen to come in and sign.

Mr. Znoj MOTIONED to accept the three year lease as defined and amended. Chairman Griffin SECONDED.

VOTE: 5-0-0

Atty. Gearreald questioned whether the Commissioners needed to have a meeting to vote on the lease also. Atty. Somers stated that they did not have to hold a meeting since the warrant article was passed and the Commissioners have the right to sign after it is revised.

Chief Silver wonders when we might have this draft. Atty. Gearreald will work on it tomorrow.

IV. Town Manager's Report

The Town has received a retirement and resignation notice from Robert Estey as Town Assessor effective June 1, 2009.

The University of New Hampshire has announced that Russell Nickerson of our Department of Public Works has achieved the status of Roads Scholar Two.

The Parks & Recreation Department in joint with the Department of Public Works has directed that the necessary lighting be installed at the Ashworth Avenue Parking Lot. Some street lights in the community will be discontinued to achieve the financial savings necessary to pay for these security lights.

Our State Senator and Representatives are being invited to your meeting on Monday, June 8, 2009.

There will be no Board meeting next Monday in observance of Memorial Day.

A bid was awarded to Pike Industries as the low of 5 bidders to provide road reclamation services for 2009.

Discussion

Mr. Lally confirmed that the Town Clerk’s Office will be closed on Wednesday for training.

Mr. Nichols spoke in regards to the disconnecting of some street lights around Town in order to provide lighting on Ashworth Avenue. Mr. Nichols informed the Board that Mr. St. Pierre who is on a street just North of Boars Head Terrace approached him and volunteered to forfeit the street light at the end of his road. Mr. St. Pierre also mentioned to him that there are some Fire Lane signs that need to be replaced since they are rusted out.

Mr. Welch said that they will check this out.

V. Old Business

1. Draft Article 5 – Parking Regulations

Mr. Welch explained that the Board was provided with a number of items to be reviewed in order to update the ordinance. This is step one and there will be additional amendments as we go through the process. They have also gone through all the votes made by the Selectmen and attempted to put them into some sort of order. Mr. Welch would like to put this into place for Memorial Day to get started and then make necessary changes as the summer goes along.

Chairman Griffin asked if Mr. Welch was requesting this to be adopted by the Board tonight. Mr. Welch confirmed that would be good, if the Board has had a chance to review it.

Discussion

Atty. Gearreald pointed out some of the changes that he has made and he has a version that contains these changes.

Mr. Nichols only input he has is the correction of the name of his road.

Mr. Znoj has a few minor comments. The resident parking stickers have to be in the lower left corner of the windshield. The no parking within 15 feet of a fire hydrant which totals 30 feet if you take both sides into consideration. He wonders if it has been on the website for residents to review. Mr. Welch does not believe it has been on the website. The police and fire have both reviewed this.

Mr. Lally thinks it is great to finally have this done.

Mr. Bateman has gone through the article and he thinks it is a wonderful thing to have the article finally be made clear.

Mr. Bateman MOTIONED to adopt the amended version of the Parking Regulations, Article Five of Chapter Three. Mr. Nichols SECONDED.

VOTE: 5-0-0

2. Request for Exemption: Saint James Building Association

Chairman Griffin announced that Mr. Page is present again.

Discussion

Mr. Nichols does not believe that Mr. Page has satisfied the obligatory requirements in RSA 72:23-1. Mr. Nichols read the RSA and article 2 of the by-laws of Saint James Building Association. Based on the case law he does not believe that makes the charitable aspects obligatory thus enforceable by the Attorney General's Office. He sees the role of this Board not as a policy making board but more as a judicial board. He does not think they should make a decision based on what they feel but instead based on the interpretation of the RSA.

Mr. Bateman commented that having missed the discussion last week, he is going to do his listening this week.

Mr. Znoj thanked Mr. Page for showing him around the lodge last Friday. However, based on article 2 of the by-laws and Mr. Page's letter dated May 12th, he does not think it is a charitable association at this time. Therefore, he will have to vote no on this.

Chairman Griffin wonders if it is true whether in the past an exemption has been granted, then the organization is responsible for paying a partial amount for police and fire. Mr. Welch commented that yes that is something that can be done, if the Board wants to place it on the table.

Mr. Lally would like to make some comments after watching this organization for many years. Many charitable events have happened there and a lot has been done by them throughout the community. He personally would vote in favor of the exemption.

Mr. Page referred the Board to article 6 subsection 3 where it states that other organizations can use the building at no cost.

Chairman Griffin questioned if this was the first time that they have asked for the exemption. Mr. Page confirmed that they asked a couple of years ago but did not provide the necessary information to the Board in a timely manner.

Chairman Griffin questioned the amount of the abatement and it is around \$8,100. Mr. Page stated that the only service they use from the Town is police and fire. Chairman Griffin asked if they would be willing to pay a partial amount for police and fire. Mr. Page stated that he would have to go back to his board but does not see this as a problem.

Mr. Nichols would like to stress the importance of sticking to the law. He is not opposed to St. James Association and if they change their by-laws to be obligatory than it would be fine, but for the time being he thinks the Board needs to stick to the law.

Mr. Page would ask the Board to grant the exemption this year and he will go back and change the by-laws before next year.

Chairman Griffin wonders what percentage of the taxes goes to police and fire. Mr. Welch said this would have to be calculated but it is not a substantial amount.

Mr. Nichols believes that it would be about 25% of the tax. He also wonders what RSA this is being done under. Mr. Welch said it is being done all over the State.

Chairman Griffin is in favor of a partial abatement.

Mr. Nichols asked Atty. Gearreald if there is anything stopping them from changing their bi-laws with the Secretary of State. Mr. Page said that they have to file paperwork and it takes about 60 days.

Mr. Bateman MOTIONED to grant the tax abatement request subject to a pro-rated sum to be determined in concert with the Town Manager; in reference to fees for police and fire service; and subject to changing article 2 of their by-laws to bring obligatory legal wording into line, and subject to another review in less than a 12 month period and replication of this if it is not done. Chairman Griffin SECONDED.

VOTE: 5-0-0

Mr. Znoj asked what Mr. Bateman means by replication. Mr. Bateman means that if Mr. Page's Board cannot agree to article 2 and the rewriting to match the RSA than the exemption would be voided.

Mr. Lally likes the motion and how it is written.

Mr. Nichols would like to make the comment that since Mr. Page came forward in January and it was not brought before the Board until now he will go along with how this motion is written.

Mr. Znoj had clarification that the abatement will be partial not the whole amount due to police and fire costs.

3. Naming of Municipal Parking Lots

Mr. Welch explained that it has been mentioned that the Town might name the parking lots in memory of deceased veterans. In fact, there is an order from Town Meeting to do this. He would not know who to pick or how to pick them so he would suggest that the Board get the American Legion to do this. Mr. Welch would request that the American Legion give a list of names and then the Board could use the list to name the municipal lots.

Discussion

Mr. Bateman thinks this is a good idea since it would be help to identify the lots.

The Board all agreed that this is a good idea. Mr. Welch will move forward with this.

4. Compliant of unauthorized parking on town property in the rear of 595 Ocean Blvd.

Mr. Lupo explained what property he owns. There is one strip of about 5 spaces behind his business that has been brought to his attention is Town property. He was unaware of this and it has been used by his customers and others for as long as he can remember. He is willing to purchase or lease the land from the Town.

Discussion

Mr. Bateman believes it is a fire lane and it should be posted as one. It should be marked as no parking fire lane.

Chief Silver added it is not presently designated as a fire lane but it should be labeled as one.

Mr. Lally clarified that Mr. Lupo is not disputing that it is a fire lane but the spaces do not block the way to the marsh. Mr. Lally questioned whether or not the Board could lease Town

property without a Town Meeting vote. Mr. Welch stated that there are a couple provisions of laws that allow the Board to lease temporarily.

Mr. Welch's only question is how the Town acquired this land and were there any restrictions placed on its use. Mr. Welch gave a breakdown of how much property Mr. Lupo owns and what is owned by the Town.

Mr. Znoj says that we have to protect the marsh. Mr. Znoj thinks that we should contact the Conservation Committee for their thoughts and based on those results possibly hold a public hearing.

Chairman Griffin concluded with that we will wait to hear from the Conservation Committee and then decide if it should be declared a fire lane.

Other Old Business:

Mr. Nichols would like to bring up some events and maybe take some action relative to HB641 dealing with the spiking agreement. Looking towards what is going to be the long term solution. There seems to be some conflicting reports on what exactly occurred in the Senate last week the Portsmouth Herald said it was set aside.

The LGC bulletin indicated it passed and it appears from reading them both it was referred to the Senate Finance Committee. He spoke with Representative Kepner who followed up with Senator Hassan who indicated it passed but there is to be a study group to look at it through the summer and fall.

SB18 had referenced that study group and it was also referred to in the Senate amended version of HB641. He thinks there is some confusion on that Boards part as to where does HB641 go from here. He is also not clear if the Senators realize the implication if they sit on this and not send it to the Governor until November or December. If they do sit on it until November or December then the Town will be stuck once again. He would like to request that Atty. Gearreald follow up on this and hopefully get some response. Atty. Gearreald will follow up on this.

VI. New Business

Mr. Lally commented that we might want to follow up with the Chief for the upcoming 90 degree weather later this week.

Mr. Znoj asked about the letter given to the Board in regards to Hampton Route 101 East Corridor enforcement controls that have been officially approved by this office. Mr. Welch explained that he copied the letter for the Board since the State has granted the money. Mr. Welch has not received the actual dollar amount yet but explained that they grant these to cities and towns that apply then they take their total enforcement money and split it among the group. It is usually around 5 or 6 thousand dollars.

Mr. Znoj asked about the letter to the Chief in regards to a stop sign down on Ashworth Ave near the Ocean Wok. Mr. Welch explained this is State property and he is sure if the Chief will refer this letter to the State.

Atty. Gearreald informed the Board that letters went out today to those who have failed to pay their Leased Land Rent. The rent was due on April 1st and the letters gave a final deadline of June 1st. If they are not paid by June 1st, Atty. Gearreald will be coming to the Board for guidance of what to do with those who do not pay. Atty. Gearreald expressed that we are serious about this issue and did take one of these cases to court last year.

Mr. Welch has sent two letters addressing the past taxes.

VII. Consent Agenda

~~1. 2008 Real Estate Tax Warrant "First Half"~~

1. Coin Operated Amusement Device License – 211 Ocean Blvd "Hampton Beach Amusement Corp" Frank & Joe Kennedy
2. Coin Operated Amusement Device License – 127 Ocean Blvd "Sea Ketch" Vincent Raciti
3. Coin Operated Amusement Device License – 225 Ocean Blvd "D. M. Sales Corp" Donald Burst 2 Kings Highway.
4. Hawkers, Peddlers & Itinerant Vendors License – 125 Ocean Blvd, Mary Fallon dba "Seaside Arts & Crafts"
5. 2008 Real Estate Tax Warrant "First Half"

Mr. Bateman corrected the order of the Consent Agenda.

Mr. Bateman MOTIONED to move the Consent Agenda with corrections. Mr. Nichols SECONDED.

VOTE: 5-0-0

VIII. Closing Comments - None

IX. Adjournment

At 9:39 PM; by roll call with all members present and voting unanimously the Board of Selectmen entered into a Non-Public meeting – RSA 91-A:3., II., (a), (b), (c), (d), (e) to discuss personnel matters.

VOTE: 5-0-0

Mr. Nichols MOTIONED to adjourn the public meeting portion. Mr. Lally SECONDED.

VOTE: 5-0-0

Meeting adjourned at 9:40 PM


Chairman