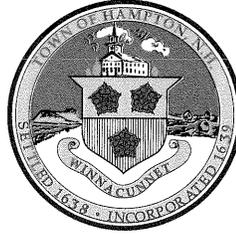


Town of Hampton



TOWN OF HAMPTON BOARD OF SELECTMEN November 02, 2009 Minutes

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

7:00 PM

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

SALUTE TO THE FLAG

I. Public Hearing "Emergency Lane Status" Depot Square – Marelli Park.

Mr. Brown owner of Depot Square objected to the "Emergency Lane Status". Atty. Gearreald explained that by refusing "Emergency Lane Status" the Town will not be able to expend any funds on this road. There was a discussion as to who has plowed this property.

Mr. Nichols, Mr. Bateman and Mr. Lally all expressed concerns about the plowing and hope that Mr. Brown understands that legally they will not be able to plow or clear the sidewalks any longer.

The owner of 38 Depot Square expressed concerns about parking and plowing and that she was not notified of the use change at 32 Depot Square which is effecting the parking in the area.

Discussion:

Mr. Nichols would request that the Town Manager inform all parties that are impacted by this that the Town will no longer be plowing. He would also request that the Planning Board be made aware of the fact that the owner of 38 Depot Square was not notified of the use change of 32 Depot Square.

Mr. Znoj's only concern is that this area is still plowed and remains safe even though it cannot be done by the Town.

Mr. Lally and Mr. Bateman both feel that there is nothing that the Board can do at this point.

Chairman Griffin thanked Mr. Brown for coming in tonight.

Atty. Gearreald feels that the main concern is parking and parking would not have been affected by declaring this an Emergency Lane. However since there has been an objection this area can no longer be plowed by the Town.

The Board took no action on this.

II. Ascertainment Public Hearing – Comcast Cable Franchise Contract Renewal

Jay Somers and Katherine Miller Representing Comcast

Public Comment Period:

Kevin Lonergan of 7 Windmill Lane commented on Comcast's basic cable package. He explained that he was unhappy with many of the choices that are provided on basic cable. Mr. Lonergan noted that of the more than fourteen thousand people who live in Hampton, there are fewer than sixty residents whose primary language is not English, yet Comcast provides three Spanish speaking channels on basic cable. Mr. Lonergan explained that even the digital starter package includes twenty six stations that are included in basic cable, and there are other stations in which he felt held no entertainment value. Mr. Lonergan then spoke about the most inclusive package Comcast offers, noting that of the 501 stations offered in this, only 251 of them are unique to the package, and that one could spend up to \$685.00 per month on cable. He said that he would like to see programming such as the National Geographic Channel, Turner Classics, Discovery Health, DIY, BBC, the History Channel, the Military Channel, the Outdoor Channel and other sports networks integrated into the basic cable package. Mr. Lonergan also expressed concern that the town is receiving only a percentage of money from the basic cable packages from Comcast, rather than receiving a percentage for every package including the digital services, he hopes to have this corrected.

Lawrence Douglass of 248 Landing Road said that he had reservations about speaking tonight, but wanted to express his concerns with Comcast's escalating basic cable prices. Though Mr. Douglass understands that prices will rise over the years for the cost of cable, he does not see why the price would raise, as there are channels being removed from the basic cable line up, rather than added. Mr. Douglass thought that if the price for service was going to increase, the actual services should also increase. He said that comparatively, his cable bill is the same as his electric bill. Mr. Douglass also detailed his concerns about blank channels such as channel 12, 17, 23 and 27 and agreed with Mr. Lonergan that certain channels such as MSNBC, CSPAN, National Geographic and the Hallmark Channel should be included in the basic cable package.

Benjamin Moore of 107 Locke Road appeared representing the Hampton Historical Society and the Tuck Museum, noting he was invited to attend the meeting by way of letter from Attorney Gearreald. He said the main concerns of the Hampton Historical Society and the Tuck Museum was they would like a hardwired cable connection for the internet. Attorney Katherine Miller noted that the hearing tonight does not include internet services.

Mary-Louise Woolsey of 148 Little River Road said that she was on the Board of Selectman during the time of the first cable contract signing in 1988 with PCNH. She said that at the time the major concerns focused around each home in the town having access to cable and that there would be local access as well. Ms. Woolsey further detailed the history of cable instillation in Hampton. She said that she would like to echo the concerns of Mr. Lonergan, Moore and Douglass in that she would like to see a consolidated basic cable package. She said the channels she wishes were on basic cable were the Weather Channel and CSPAN. Ms. Woolsey said that

Channel 22 is very in demand right now and that a second local access channel will be necessary in the future. Ms. Woolsey said that she would like to have the town receive a franchise fee for every package that is sold, not just the basic cable, as the franchise fees support the current local access Channel 22. Ms. Woolsey said she would like to see an a la carte program where people can choose the programming they would like and pay a rate that correctly reflects their choices and finally she would like to see a senior citizen discount.

Michael Pierce of 16 Hedman Avenue said that though he was happy with the level of service provided by Comcast but that there should be a conflict resolution department or some way customers can convey a problem and receive a response. Mr. Pierce discussed contract rights and that he would like to see channels which have been moved from the basic cable to the digital starter, such as National Geographic be returned to basic cable. Mr. Pierce said he did not think it fair to pay more money for less channels; he also noted that though there has been a severe financial crisis, Comcast has remained an industry leader and is doing well despite the economic climate.

Pricilla Fanning of 4 Smith Avenue echoed the concerns of Mr. Peirce and Ms. Woolsey, noting they she believed there should be a more basic level of pricing available to all customers.

Kathleen Dow of 15 Bonair Avenue noted that she was concerned with Comcast's recent signal as she has noticed a recent surge of her television not working. Ms. Dow spoke about the redundancy of the channels provided and the amount of non-English speaking channels. Mr. Nichols asked Ms. Dow if she had a chance to call Comcast regarding her signal problems, as it may be a wiring problem, she said she has not contacted them, but will in the future with problems.

Mr. Lonergan spoke again to compare his other cable company Metrocast, to Comcast.

Edmund St. Pierre appeared noting that he is on the Cable Advisory Board and he is also an employee of Verizon, and was attending the meeting in support of renewing the contract with Comcast. He said he is not attending the meeting to steer opinions in one way or another, but rather to discuss the history of the cable contract in Hampton, and that they were originally given a fifteen year contract due to their promise to invest in infrastructure. Mr. St. Pierre said that since then times have changed and competition has increased, and it may be more prudent to have a contract with a shorter term, such as five years with a five year option containing planned goals such as implementing a second public service station. Mr. St Pierre also noted that the absence of competition should not be the reason for lack of technological upgrades, and would like Comcast to commit to implementing some upgrades. Mr. St. Pierre also spoke about infrastructure upgrades and a senior citizen discount. He said that by raising the franchise fee rates, even half of a percentage, would instrumental in assisting the needs of Channel 22 and the possibility of a second public access station.

Michael Pierce wanted to add that he is not complaining about Comcast's services, but he forgot to add he believes there needs to be a second public access channel. He spoke about the benefits of town government and town business being broadcasted to the community and that transparency in town business has been appreciated by people of the town.

Bruce Demaine representing the Information Technology Department at Winnacunnet High School appeared and said that Comcast has basic cable wired in each of the school classrooms. He said that although helpful, there are few channels that can be used for educational value. He

said they would like to see more bandwidth for the internet. There was discussion about channel 13, which is internal to the school which broadcasts announcements, and the possibility of that internal channel being broadcasted to the community. The channel could feature concerts, sporting events and other student presentations; they also hope to not only have this broadcasted to the public, but to have the content On Demand as well.

Bryan Belanger, Hampton School District Technology Director noted that there are fifteen classrooms at Hampton Academy that are still not wired for cable and that the school would like to see this completed. Mr. Belanger said that the other Hampton schools do not have local access channel 13 as Winnacunnet does and would like to see one channel for the other schools. There was further discussion regarding the wiring of cable in school classrooms.

Mr. Lonergan spoke again about international language programming.

John Nickerson, Chairman of the Cable TV Advisory Committee and Operations Director for Channel 22 spoke about his experiences with Comcast. Mr. Nickerson said that the main person he deals with is Jay Somers, and he has been very helpful to the committee in the past. Mr. Nickerson said that Channel 22 has removed its videos from the Town's webpage because there was too much bandwidth. The videos have since been moved to a new, Channel 22 website. Mr. Nickerson said that recently they needed a digital conversion box and after speaking with Mr. Somers, he spoke with the corporate headquarters, who quickly responded on a Friday; he also complimented the company for notifying customers if they will be late to an appointment. Mr. Nickerson said that he is on the negotiation team looking for a second public access channel, in addition to that he would like to see the internet expanded to all the town buildings, as currently the system is old, corroded and in many locations inoperable. Mr. Nickerson said he would like to see fiber optic installed to assist in communications between computers and buildings. Finally Mr. Nickerson entered into record a certified copy from a stenographer of the December meeting.

Mr. Znoj stated that he has had trouble with his connection before and has contacted Comcast and they responded quickly and were attentive to his issues. He said that he has a bundle plan which includes the internet, cable and phone service and pays around \$150.00 per month for the plan. He does agree that many channels are being taken off the basic cable line up, and said that he personally does not use the non-English language channels.

Mr. Lally thanked the schools for attending and noted he was unaware that half of the classrooms in Hampton Academy were not wired for cable. He agreed that WHS should have their own channel, assessable to the public. Mr. Lally also said he was most concerned about the differences between the basic and digital cable packages.

Mr. Bateman noted that part of the reason there are so many Spanish speaking channels are because by Federal law they are required to have them within a fifty mile radius of certain broadcasting areas, in this case Lawrence, MA. Mr. Bateman said that he was impressed by Comcast but would also like Hampton Academy to be wired for cable, and would like a second community access channel. Mr. Bateman discussed the benefits of the public access channel, noting that every committee and board would like to be broadcasted, but with one channel it is not possible currently to do so. He said the second public access channel could also be used for other local specials and types of programming. Mr. Bateman complimented Channel 22 for their use of tabbed topic jumping with the meetings available online with their new website.

Mr. Nichols questioned the process for collecting input and bringing the recommendations to the negotiations, there was also discussion about the power of the Board of Selectmen and the FCC.

Attorney Miller said that Hampton has been engaged in negotiations for some time now and that Comcast is regulated mainly by Federal law, which limits the items that are on the table for negotiation. Attorney Miller stated that Comcast is an economic monopoly within the town as there is no competition, and that the contracts are not required to be exclusive. Competition leads to better services and lower prices, but when small communities have an existing cable provider; they find that they cannot compete in such a small market. She said that though some FIOS was installed, Verizon pulled out of negotiations and transferred to Fairpoint, who just filed for bankruptcy. Fairpoint has had a difficult time meeting benchmarks set for the internet and phone services and with the lack of a video service or bundle package as Comcast does, Fairpoint may still have a difficult time turning the corner economically. Attorney Miller said that there will be a number of changes in the future as the Town is currently engaged in the process of evaluating the performance in terms of the current contract, and was surprised to learn about Hampton Academy, noting this may be addressed with the current franchise agreement.

Attorney Miller also noted that there are certain topics that are not on the table for negotiations, and are not regulated by the Board of Selectmen, which include the channel selections, the migration of channels and price structures offered. There was discussion about minimum tier pricing and that if more than fifteen percent of the subscribers in the community have satellite the FCC will deregulate it. She thanked the public for their stated concerns, but noted that most of them were not up for negotiations. Mr. Znoj asked why the channel lineup was not up for negotiation and Attorney Miller said that they are currently working on a matrix to identify the existing agreement and topics brought up at tonight's meeting in order to come back with a proposal for renewal that reflects the communities interest. Mr. Nichols said that he did not realize that the FCC regulates many of these negotiations, and also noted in terms of process recommendations there has been only one cable committee meeting in the previous thirteen months, and that perhaps there needs to be more frequent correspondence with Mr. Nickerson.

Mr. Welch asked for the record to remain open for sixty days. He spoke about the comments from the Hampton Historical Society, several citizens in the community, the schools and the Parks and Recreation Department and their needs from the cable system and additional services for the community. Mr. Welch also spoke about the old network in the community and the need for this to be rebuilt to serve the municipality and state facilities at the beach. Mr. Welch would like to see a provision for a third public access channel as currently they one channel is over its penetration limit and he expects the same to happen once a second channel is introduced. Finally, Mr. Welch was concerned about the franchise fee, noting that this should increase and be resolved in conjunction with the license requirement.

Chairman Griffin said that he knows that an al la carte programming system is not possible, but does hope for competition to Comcast. He said that the last contract was for fifteen years and that the terms of the new contract should be shorter unless there is some commitment to improve infrastructure or the value of packages for people in Hampton.

Jay Somers representing Comcast said that he looks forward to renewing the contract with the town. Mr. Somers addressed people's concerns about the migration of channels noting that the reason for this was the industry has changed, and it is a digital world. The driving force to move the channels to the digital side is analog channels take up a large amount of bandwidth and by

moving them to the digital menu there is more room for HD channels, and the need for those channels is driven by market forces. Mr. Somers also responded to Mr. Loneragan's comments about cable bills reaching \$685.00 per month, saying that this is unreasonable considering the package containing internet, phone and cable is only \$199 per month. Mr. Lally said that he understood the migration of channels to digital but hopes the billing would reflect a loss in channels by a decreased rate.

The Board continued the Public Hearing.

III. Public Comment Period

Ben Moore, 107 Locke Road, would like to comment on the setting of the tax rate. He would like to urge them to resist using the Undesignated Fund Balances when setting the tax rate. He feels that the money should be left on the books. Mr. Nichols commented that the municipal tax rate has been set and is down from \$6.57 to \$6.41.

IV. Announcements and Community Calendar

Mr. Nichols mentioned that the Fire Station Advisory Committee will be having a meeting tomorrow night at 6:30 at the Beach Fire Station.

V. Appointments

1. Richard Bergeron – History of Leased Land and Real Estate Tax.

Mr. Bergeron, 4 M Street. He provided the Board with some history as to how the Leased Land Tax began. He commented on the misconception that leased land owners only pay for the leased land when in actuality they pay for the leased land plus the taxes on the land. This causes the leased land owners to pay much more than the average property owner. Mr. Bergeron thanked the Board for their time and attention to this matter.

Discussion:

Mr. Nichols would like to point out one thing Mr. Bergeron is missing when comparing taxes is that a property owner has a mortgage on the land and the leased land resident does not have a mortgage on the land. Therefore the leased land holder is paying the 2% without having to pay a mortgage. Mr. Nichols believes that they are much better off financially paying the 2% as opposed to the cost of a mortgage on the land.

Atty. Gearreald explained that the 2% has been in place since 2006 and was done by Town Meeting vote. It is not something that can be set by this Board.

Mr. Bergeron understands this and was hoping that the Board would petition a warrant article.

2. Carl McMorran and Harry Hibbard – Aquarion Water

Mr. McMorran and Mr. Harry Hibbard provided the Board with a presentation on the recent rate case. Mr. Hibbard explained there are two items they would like to address this evening. The first is a public announcement that they have a customer advisory council which they invite members of the public and Town Officials to meet with them four times a year to share feedback. They are actively trying to recruit any interested individuals. The second is the rate increase. The current increase is 17.7% and the effect for the average person per month is about \$6 per month. The increase is retroactive to December of last year. He explained a pilot program they

have started to capture a return on capital investment. They also explained some of the projects that will hopefully take place in Hampton.

Discussion:

Mr. Nichols questioned the 17.7% and clarified that this includes the 7.8% temporary increase. Mr. Nichols asked in arriving at the 17.7% increase what return on invested capital did the PUC allow them and it was 9.75%. There was an additional discussion in regards to the risk involved.

Mr. Znoj spoke about comments received in regards to rate increases and lack of communication/input from public about the capital plans. Mr. Hibbard explained that they have engineers who do a capital efficiency study and prioritize the areas that need reconstruction. Mr. McMorrان added that this is why they are looking for more individuals to join the customer advisory council.

Mr. Lally would just suggest that people who are upset should inquire about the customer advisory council.

Chairman Griffin would just like to say that the PUC has disappointed us once again.

Atty. Gearreald just wants to make sure that the citizens know that the Selectmen did not consent to these increases. There was a discussion about the recapture period and how the increase for this time will be higher than the 17.7%. It was decided that this period will be for one year. Atty. Gearreald explained the WICKA process in a little more detail since it is new to New Hampshire. This will give municipality's information ahead of time and the right to provide some input into projects.

Chairman Griffin thanked them for coming tonight.

VI. Minutes of October 13, 15, 19, and 22, 2009

Minutes of October 13, 2009

No changes

Mr. Nichols MOTIONED to approve the minutes of October 13, 2009. Mr. Bateman SECONDED

VOTE: 5-0-0

Minutes of October 15, 2009

Page 1: Mr. Nichols requested that the following be added to the minutes.

“During the review of the Fire EMS Fund 027, it was identified that the Chief was planning to add a new full-time EMS position, which would be funded by the FUND 027. The Board indicated that they did not want to add new positions, and requested feedback from the Fire Department.”

Mr. Znoj MOTIONED to approve the minutes of October 15, 2009 as amended. Mr. Lally SECONDED

VOTE: 5-0-0

Minutes of October 19, 2009

Page 2: Mr. Bateman request that the name Eva to correct to “Ava”.

Page 4: Mr. Nichols requested that the word Bided be corrected to "Bid"

Page 6: Mr. Nichols requested that the following motion be inserted after the last sentence and before part VII. Old Business of the minutes.

Mr. Lally MOTIONED to waive the bidding process for the Generator. Mr. Bateman SECONDED.

VOTE: 4-1-0 (Nichols)

Mr. Bateman MOTIONED to approve the minutes of October 19, 2009 as amended. Mr. Lally SECONDED

VOTE: 5-0-0

Minutes of October 22, 2009

No changes

Mr. Bateman MOTIONED to approve the minutes of October 22, 2009. Mr. Znoj SECONDED

VOTE: 5-0-0

VII. Town Manager's Report

A reminder that the informational meeting on the repair or removal of the Taylor River Dam will be held on Tuesday, November 10, 2009 beginning at 6:30 PM in the Hampton Falls Town Hall.

The purchase of the generator for the Town Hall has been placed on hold temporarily. The additional documents for the original pricing canvas cannot be found and if not found, a bid will be prepared and issued.

The order to re-organize the Assessing Office has been completed and the information provided to the Board as required.

A reminder to change the batteries on your smoke and CO2 detectors now that our annual fall time change has been completed.

Curbside leaf collections began today. Residents should place their yard waste (leaves, grass clippings, pine needles, etc.) at the curb in either biodegradable paper bags or loosely packed containers that can be easily dumped out. Pickups will occur on Mondays beginning November 2nd continuing through Monday November 23rd barring snow storms.

Discussion:

Mr. Nichols clarified that it should be CO detectors.

Mr. Lally questioned if the leaves were picked up since there are still a lot of bags curbside. Mr. Welch confirmed that it has begun however they have possibly fallen behind and will get to the uncollected bags.

VIII. Old Business

Chairman Griffin shared information received from the Precinct in regards to the Fire Station. The next meeting will address their opinions on the new Fire Station. They are conducting a survey as to what should be done with the old station for anyone who would like to participate.

They have hired an expert to advise them of what the possibilities for the old station are so someone will be going through to determine uses.

Mr. Nichols questioned what this will do to contribute to the loss of parking spaces. In the plans the old station was to be removed and replaced with parking spaces to help offset the loss.

Chairman Griffin hopes that they just put it to vote for the voters in the Precinct.

Mr. Lally agrees that it should be left up to vote.

There was an additional discussion about parking and exactly what the voters would be voting on in the Precinct District.

Mr. Nichols from a sense of urgency going forward he thinks that discussions need to take place on more of a regular basis as opposed to once a month.

Mr. Znoj would like to remind everyone about the legislative session opening and closing and the need to have all thoughts shared with the legislators before these dates. He wonders if all the Boards desires have been expressed.

IX. New Business

1. Authorization and Action on the 2009 “Second Half” Real Estate Property Tax Warrant

Mr. Welch stated that the warrant is in the amount of \$24,348,498.54.

Discussion

Mr. Nichols questioned the math since the amount is lower than the first warrant for the year. Mr. Welch stated that this is the correct amount.

Chairman Griffin MOTIONED to authorize the issuance of the 2009 “Second Half” Real Estate Property Tax Warrant. Mr. Lally SECONDED.

VOTE: 5-0-0

X. Consent Agenda

1. Taxi License – Rose DiCicco “Driver” for ABBA Taxi
2. Use of Town Property adjacent to 28 Beach Plum Way (Aaronian) – Shaw Street
3. Use of Town Property adjacent to 2 Beach Plum Way (Cull) – James Street

Discussion:

Atty. Gearreald would suggest removing item 3 for further discussion.

Mr. Nichols would like to remove item 2 for further discussion.

Mr. Znoj MOTIONED to move item 1 on the Consent Agenda and remove items 2 and 3 from the consent agenda for further discussion. Mr. Bateman SECONDED.

VOTE: 5-0-0

Atty. Gearreald explained that a plan was submitted to the Administrative Assistant for construction purposes. One of the construction areas near the concrete wall appears to be on Town property. Mr. McGrail explained that since there is such little space available this area

could possibly be used for storage of construction supplies like ladders. Atty. Gearreald does not believe that it appears this is one of those situations where licensing would be required.

Mr. Nichols commented on the letter from Mr. McGrail it states that any possible damage would be repaired. Mr. Nichols wonders if this is something that would require a bond. Atty. Gearreald stated that in situations like this in the past the Town has been named as an additional insured.

The remainder of the Board agreed that they do not have a problem with this.

There was not a consensus amongst the Board to require the Town be named as an additional insured.

Mr. Znoj MOTIONED to approve items 2 and 3 of the Consent Agenda. Mr. Lally SECONDED.

VOTE: 5-0-0

XI. Closing Comments - None

XII. Adjournment

Mr. Lally MOTIONED to adjourn. Chairman Griffin SECONDED.

VOTE: 5-0-0

The Board adjourned at 10:00 PM


Chairman

The Board went into a Non-Meeting with Legal Counsel under RSA 91-A:2., I., (c)