

# Town of Hampton



TOWN OF HAMPTON  
BOARD OF SELECTMEN  
March 01, 2010 Minutes

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

6:30 PM Non-meeting with Legal Counsel - RSA 91-A:2., I., (b)

7:00 PM

## SALUTE TO THE FLAG

- I. Public Hearing – Road Acceptance “Baron Road” - Postponed
- II. Public Comment Period - None
- III. Announcements and Community Calendar

Chairman Griffin announced the passing of Jack Knox. He did many things for Hampton and worked hard for the Village Precinct for years.

Mr. Znoj would like to thank Police, Fire and DPW for the work that they have done since the storm hit us and the fire happened. They really stepped up and performed excellently.

Mr. Lally would like to reiterate that he knows they worked their tails off. He thinks that Unitil really stepped up compared to the Ice Storm.

Mr. Bateman shared a letter from a citizen who stated that the firefighters saved his life for which he will be eternally grateful. He would like to thank the following fire employees Lang, Murray, Felch, Wahl and Lavigne. Mr. Bateman would like to point out that this is what they do daily and this is an important segment of our professional community.

Mr. Nichols would like to echo the comments made about Police, Fire and DPW over the weekend. He mentioned the exceptional job done by the fire department fighting the fire at the beach on Thursday night and how unbelievable the fire was to watch.

Mr. Nichols would also like to mention that he ran into an individual down at the beach from NH Division of Economic Development and he came across an article in the Portsmouth Herald

which he shared with the Board. The article informed business owners who to contact to report any damage that the storm caused to their business including loss of business not just damage to the business.

Chairman Griffin would also like to thank Police, fire and DPW for the job that they did over the weekend. He does not agree with Mr. Lally in regards to Unitil he thinks that they still could have done a better job.

#### IV. Appointments

##### 1. Robert Landry, NH DOT & DES Representatives – Taylor River Dam Removal

Mr. Landry brought with him tonight Bernard Hayes. Mr. Hayes is the expert on the sediment management plan that is in the draft feasibility report. Based on discussions in the past Mr. Landry figured that would be some of the Board's comments tonight.

Chairman Griffin added that with the Board tonight are Tupper Kinder and Atty. Gearreald. Mr. Kinder asked if Mr. Landry would like to give the Board an update.

Mr. Landry stated that they are at the point where they are looking for comments on the final draft of the feasibility report. There was a public information meeting in the Hampton Falls in November. Here tonight in response to a letter sent by the Town in December that reiterated the facts that Mr. Welch had brought to the November meeting. In turn it asked if they wished to discuss, to set something up and that is why they are here. They are hoping that after what they hear tonight to review that associated with some other comments that they have later in the week with their project partners. Then hopefully by mid April they will be ready to come back out to the public and put forth their preferred alternative to move forward with. The alternatives are either to restore the dam or remove the dam.

Mr. Kinder asked if Mr. Landry would comment on the report provided to them by Exponent in regards to comments made about the feasibility report and alternative plans.

Mr. Landry commented that they agree with a lot of the points brought forward by Exponent however they think that a lot of these things should be taken care of during the design phase. He spoke about the dam replacement option and the dam removal option and that the cost involved with the dam removal of course are much higher.

Mr. Kinder commented that they were a little surprised that they did not receive any written responses to the Exponent report and he wonders if there were any written responses. Mr. Landry stated that there is nothing formally written up but there are emails that he can provide them with.

Mr. Kinder expressed that the concern that the Town has is the same one that they seemed to have just articulated which is a wise use of funds is something that always makes a lot of sense. The problem that the Town sees at present is that they are try to choose between alternatives at least in part by cost and the Exponent report suggests that they do not have sufficient data to determine what the cost of alternative C would be. Similarly they also do not have enough information about the sediment grain sizes or the hydro/water velocities in that regime as they're going to be effected by both tidal flow and rain fall events. Without this information in their report they have some cost of sediment management for, example on page 54 of report, have a cost of \$685,000 for removal and disposal and Mr. Kinder does not believe that there is any real scientific basis for this number.

Mr. Hayes responded that this is only a feasibility study and sediment is only one of the components there are many others that must be taken into consideration such as property values. He thinks that the number of sediment samples collected for the report was adequate. There was a discussion as to the chemicals that they found other than pesticides. The parameters of concern were the pesticides.

Mr. Kinder clarified that the \$685,000 for sediment removal and disposal is an estimate and it could go up with the additional studies that must be done. Mr. Hayes added that the disposal amount could change depending on how it is disposed such as in a landfill or elsewhere. Mr. Kinder questioned what happens if the choice that they make ends up costing a lot more than expected once they begin conducting the other necessary studies would they go back and revise the decision.

Mr. Landry stated that they could. Mr. Landry added that if it comes out in the design plans that the plan choice made by DES was low balled to have the choice rise to the top then Mr. Landry said another plan will have to be put into place.

Mr. Kinder thinks that this is the concern of the Town that once an administrative agency like DES or DOT makes a decision it becomes extremely difficult to get the train off the track and if it turns out there are not significant dollars to do their alternative in a way that is responsible there is a tendency to cut some corners. The Town is very concerned with the impact of sediments being transported into Hampton Harbor. The sediment management in this report is not sufficient to ensure protection of that resource.

Mr. Landry wonders if Mr. Kinder has spoken to Exponent and if this concern is seen under either alternative plans or just Plan C. Mr. Kinder commented that from the Towns perspective the Town believes it would be much wiser for DOT to actually do the study work that they say will be done if they choose alternative C so that there is a fair comparison of the costs between alternative B and C which is replacing the dam or not replacing the dam.

Mr. Nichols wonders if the study that they would do would be similar to the study done by Exponent.

Mr. Hayes stated that it would be similar in concept and they have people with expertise in this area. Mr. Landry disagrees with the comment that once the train starts the track cannot change. If the additional studies come back showing unexpected information or cost involved the plan can be changed. Mr. Landry expressed that cost is not the only thing that many other components are important and taken into consideration.

Mr. Nichols concern is that if an inadequate analysis is done on the impact of the sediment you won't know until a number of years down the line. Mr. Landry commented that you do not know anyway. Mr. Landry does not have a problem going this route and if the Town feels strongly that the right way to move forward is to spend the additional \$150,000 for the studies then that can be done. Mr. Landry stated we can start this process but it will delay the project significantly. There was a discussion about the cost of the study to get the information that Exponent has suggested is necessary before choosing an alternative plan.

Mr. Welch disagrees with the comment that the project will be delayed by doing this study first because either way the study will need to be done. Mr. Landry commented that with alternative B only a quarter of the study would need to be done. Mr. Hayes talked more about the study. Mr. Landry stated that how about they make their decision as to which alternative and once that

is done they will do what Exponent has suggested and come back to the Town and Hampton Falls with the results before any design plans are made.

Mr. Kinder does not think that the Town is ready to make a decision if that was a proposal or that Mr. Landry can make such a proposal without others authority. Mr. Landry agrees with Mr. Kinder's comment.

Mr. Kinder thinks that there is still a concern that they have this momentum of a decision that's made without the total amount of information needed to understand the adverse impacts of getting started in a certain direction. Mr. Kinder referred to the decision making matrix in their report and if it is the opinion of DOT or Louis Berger. Mr. Landry stated that is the opinion of the public along with the project partners.

Mr. Kinder asked if the matrix will be revised now that they have received comments from the public hearings held and comments of the Selectmen here tonight. Mr. Landry stated that this can be done. Mr. Kinder believes that these decision making matrix are very subjective.

#### Discussion

Mr. Bateman commented that one of the things he was looking forward to this evening was them instilling him with some confidence and he has not found it. Mr. Bateman expressed concern with the recreation component of this area and the hazardous sediments. Mr. Landry expressed that there is no way that DES would allow sediment passage that would damage that Harbor. Mr. Bateman likes that statement.

Mr. Lally has the same concerns with sediment going down stream.

Mr. Znoj has a question in regards to their samples. He asked about the grain size samples and he wonders if the results suggested that the sediment would be mobile. Mr. Hayes stated this was looked at in one part of the feasibility study but the more in depth results would come from the next study. At this point they are not alarmed.

Mr. Nichols thought that their suggestion that if option C were selected that the more extensive study as proposed would be front end loaded prior to the beginning of design work. Mr. Nichols would like Mr. Landry to propose this to the higher powers to be to see if they find it acceptable and get back to the Board and let them know.

Mr. Landry would like to know if the Selectmen's opinion is to replace the dam as was the opinion of Hampton Falls.

Mr. Kinder does not think that the Selectmen have taken a side but instead that the concern is that the Harbor needs to be protected. It just so happens that replacing the dam is less of a risk to the downstream sediments. Mr. Kinder and Mr. Welch both agree that there are good points on either side of this discussion.

Mr. Welch appreciates that they want to protect the Estuary. Mr. Welch shared some concerns with the dam and the work done by the State. There needs to be a clear understanding that there is potential danger to the communities that abut the river. There was an additional discussion on who built the dam and who is to blame for the contamination.

Mr. Welch thinks that the contamination should be removed before any work begins so there is no chance of it moving downstream. He thinks that another level of caution needs to take place by the State before they proceed. Mr. Welch thinks removing the dam is fine or replacing the

dam is fine but he thinks the material needs to be removed before anything else is done. Something needs to be done as a permanent measure to protect the environment.

## 2. Ed Tinker – Assessing Departmental Update

Mr. Tinker explained that they have gone through and reviewed every file in the office. They are correcting issues as they go. He explained when doing this review they came across what is called a quantity discount adjustment that was given to many condominium units many years ago. In typical assessing practice when we do adjustments they are based on unfinished or under construction properties. Once a property is complete under statute they are not allowed to get any discount or reductions unless there is a specific issue with the property itself.

When construction is complete the property should be assessed at its full and true value. They have found approximately 335 condominiums as of 2009 are receiving a so called quantity discount. The adjustments range from 5% up to 45% reduction on individual units. It appears that if an owner owns 2 or more units they were receiving this discount. Under statute these discounts are not allowed once a unit is fully built. He would like the Selectmen's approval to remove these discounts as of April 1, 2010. This change would be reflected in the June tax bill.

Mr. Nichols MOTIONED to approve the elimination of what Mr. Tinker has defined as not legal the quantity discount also known as in the past the developer discount or DD. Mr. Bateman SECONDED.

VOTE: 5-0-0

### Discussion

Mr. Znoj would like to know how much we gain. Mr. Tinker stated initial numbers show that as of the end of 2009 it is around \$11M.

Mr. Lally wonders if there are certain owners that this will really affect if they own several condos. Mr. Tinker stated that there are several developers who own multiple properties some of which are being rented.

Mr. Znoj and Mr. Lally wonder how they are going to notify these individuals. Mr. Nichols thinks that a letter should be sent to these property owners.

The Board agreed that these owners will be notified.

Mr. Znoj clarified that this is what should be done legally and we will not run into the same problem we did last year.

### Update on revaluation:

Mr. Tinker commented that they have hired two new employees in the department who are still training but have been out in the field doing measure and list. Vision Appraisal has also been out reviewing the sales and is up to date on that. They have assisted on permits also. They have been taking photographs for a couple of weeks. Everything is going smoothly with Vision. The database has been sent down to Vision and is being updated.

### Discussion

Mr. Znoj wonders when for the public's information is the process supposed to end. Mr. Tinker believes that notices for new values should go out the end of July with hearings being in the middle of August. They are hoping to implement new values September 1<sup>st</sup> or October 1<sup>st</sup>.

Mr. Nichols would like to request that once a month Mr. Tinker comes in and give the Board updates.

3. Jay Diener, Conservation Commission & Carl McMorran, Aquarion Water Company – Rain Barrel Program.

Mr. Diener from the Conservation Commission explained that he was contacted by Carl McMorran to partner up with him this year for their Rain Barrel Program.

What Aquarion will do is help with publicizing and distribution of the rain barrels. Last year we sold 28 rain barrels through this program. Mr. Diener explained how the rain barrels work and the many uses. The price is \$75. There will be flyers in the Town Hall and information will be put on the Town website. Orders will be taken through the end of April and distribution will be on May 8<sup>th</sup>. They hope to convince people that this is a good way to help conserve water.

#### Discussion

There was a discussion amongst the Board as to how these barrels should be set up and how the water can be reused. They also discussed storage in the winter.

Chairman Griffin thanked them for coming.

4. Chief Sullivan and Chief Silver for an Emergency Management update.

Chief Sullivan explained they are here to give a quick update. As of earlier today Unitil believes that substantial power restoration has taken place. They are still dealing with some individual services. The North Shore area was the hardest hit. In general Unitil was much more responsive. We continue to deal with flooding with these significant high tides.

The other issue when we move from the response to the recovery there was some discussion on the types of potential FEMA money coming back. The estimates will be due in this week. There is a public section and an individual section and property owners and business owners can find information on the individual section on the website.

Chief Silver stated that they had one of the most significant and historic fires for Hampton Beach occur over the same period of time of the storm. Chief Silver gave a recap of about a 24 hour period during the storm that impacted us pretty significantly. At about 8:30 several of them went out to survey the high tide. During the storm the winds peaked out at about 75 miles an hour or higher along the beach.

The calls started out with lines down, trees down and power outages. The first fire they had was in a basement on Winnacunnet Road. The generator at the beach station failed and had to relocate all operations to Winnacunnet Road station.

One pumper was locked in the beach station since they could not get the doors open. When the incident at the Surf was reported it was initially reported as fire alarm activation and with everything being tied up as it was they had one pumper respond and it was about a 5 minute response time. Upon investigation by the first responders they called a first alarm but were essentially there alone for close to 10 minutes.

The three factors that contributed to this large fire were delayed response time, limited personnel and high winds. It was clear that the fire was progressing so rapidly and it was necessary to take a defensive stand. There were 45 pieces of fire apparatus from various communities. They flowed 1.5 million gallons of water.

During the same period of time we had 75 other incidents to respond to and that is why a task force was called in early on through the State Wide Mutual Aid. Chief Silver listed many of the communities that helped with the additional calls. All calls were answered during this period of time. They will be putting together a good after action report.

#### Discussion

Mr. Nichols wants to make sure that the damage at the cemeteries is included in the FEMA estimates.

Mr. Bateman would turn to the Town Manager and on the Boards behalf would like letters generated to all of these communities thanking them. Mr. Welch stated that the process has already been started.

Mr. Nichols commented on how fast the fire seemed to explode. Chief Silver commented on the winds and how lucky they were that they changed as quickly as they did.

Chief Sullivan spoke about the evacuation of nearby properties and how they held over a shift and called in additional help. Chief Sullivan explained that as things continued to escalate they had to call in additional resources and they called in the Seacoast Emergency Response the SWAT team they are a part of.

Chief Sullivan reiterated that during this fire there were still so many other calls that came in. Chief Sullivan added how impressed he was with how the employees really come together and get things done in this Town when things need to be done. The employees need to be recognized for all that they do.

Mr. Znoj asked who gives these other community's assignments as they come in to help. Chief Silver explained the process and how a command post is set up. Chief Sullivan explained how the EOC process works for the various events that are going on. Chief Silver added that an officer is also placed with the dispatchers.

Chief Silver reported that fortunately there were no major injuries. Two firefighters were transported for observation and released and one firefighter was treated for a hand injury and released but given a few days off to allow his hand to rest.

Mr. Znoj clarified that the start of the fire is still under investigation. Chief Silver commented on how the process of the investigation is progressing.

Mr. Lally echoes that they did a wonderful job and the men and women who work for the Town did a great job. Mr. Lally hopes that the property owners can rebuild.

Chief Silver informed the Board that one of the pumpers did receive damage and we do need a pumper replacement which is on the ballot next week. The department is currently down two pumpers.

Mr. Bateman commented on the wind speed reported around the area at 92 and 95 miles per hour and the manner that this was choreographed by the Chief is amazing.

Chief Silver commented that credit also needs to be given to Deputy Chief Benotti who made many of the decisions in the first five minutes which were crucial.

Chairman Griffin thanked them again for doing a great job. He also would like to know how far we have gone to provide mutual aid. Chief Silver stated that the furthest he can remember was Alton.

Mr. Bateman wonders if police can be trained on down wires and what's hot and what's not. Chief Sullivan explained that there is talk of training in this. Chief Silver has discouraged this because of the risk involved.

#### V. Minutes of February 22, 2010

Mr. Bateman MOTIONED to approve the minutes of February 22, 2010 as submitted. Mr. Lally SECONDED.

VOTE: 4-0-1 (Nichols)

#### VI. Town Manager's Report

Before his report Mr. Welch stated that there is a representative here from the Rye Beach Landscape. Mr. Welch was approached last week sometime in regards to three emergency applications to do seawall repairs over on Thornton Street number 7, 11 and 19. Permits had previously been issued but expired before the work was completed.

Mr. Welch has received a call from the State indicating that these walls are in danger of imminent breach and need to be prepared immediately. If the Board does not approve this the State and the Army Corp are simply going to order it to be done.

##### Discussion

Mr. Lally commented that all bonds are in place.

Mr. Nichols wonders if this is a result of the storm. Mr. Welch stated that it is not related to the storm and that permits had been issued in the past.

Mr. Znoj clarified that all necessary permits will be in place.

Mr. Bateman MOTIONED to approve the repairs to the seawall on Thornton. Mr. Lally SECONDED.

VOTE: 5-0-0

The reverse E911 system approval contained in House Bill 213 has passed the House on a floor vote of 317-34 and now moves to the Senate. Support for the bill will provide reverse E911 capabilities to the Town for emergency notifications to residents.

Please contact our Senator and request support for this bill. If the bill does not pass the Town will be filing a grant application through the Fire Department for the \$94,000 to fund the system for Hampton.

We have received through the Fire Chief notice that the generator for the Town Offices and Channel 22 is on schedule for delivery and the transfer switch has been received by the generator supplier for installation.

The Fire Chief is working on an application for an FM radio transmitter license for in Town emergency notices and expects to have an application ready for review by the end of March or the beginning of April.

Certainly this past week is one to remember. As we sit here tonight power should be restored to the Town and our residents and businesses. Until prepositioned in advance of the storm a large number of line crews that made restoration much quicker than our previous experience with the ice storm a year ago. By 5 AM this morning 97% of customers were restored.

If you note a neighbor without power check to see if the weatherhead that attaches the incoming electrical service to the structure is not pulled away from the house. If it is please advise your neighbor that they need to contact an electrician to repair the damage before power can be reconnected.

Until had over 220 crews working their service areas to restore power. They provided crews to us on Thursday and Friday to work with our Public Works crews so that we could open streets with downed trees allowing restoration work to progress quickly. The performance was greatly improved over our previous experience.

The Transfer Station will remain open all week for trash, recycling and tree debris disposal. Branches and limbs should be kept separate from logs for disposal. Piles will be designated for drop-off.

The Public Works Director has indicated that we will establish a schedule for the pickup of downed branches later in the week. Please keep posted on the Town Website for information on disposal.

#### Discussion

Chairman Griffin is glad to hear that we will have pickup around Town. There was a discussion on siding and other items and whether or not they will be picked up. Mr. Welch stated that street cleanup is first then we will work on picking up other types of debris.

Mr. Bateman commented on having learned from the past let's make sure that a stop date is also put in place in regards to the pickup of debris.

Mr. Znoj would like Mr. Welch to explain the reverse E911. Mr. Welch explained it is a valuable tool used in many communities. He gave the example that if there was a power outage on let's say 4 streets in Town a message could be sent out to just those residence letting them know.

Mr. Welch stated that the problem with reverse E911 is that people must have a phone line in the house that does not require power. Therefore the Town will also be putting in place an FM station just for the Town so residents can tune to that station.

Mr. Lally is glad that we will have pickup again.

There was additional discussion on the picking up of shingles. Mr. Welch stated that we will be picking up everything once we get started.

Chairman Griffin hopes that the Town will do everything possible to speed up the process of developing this land. There was an additional discussion amongst the Board as to the empty lots on the Beach.

## VII. Old Business

### 1. 2010 Warrant Articles

The Board agreed that it was not necessary to read each individual article. Mr. Welch broke the articles down as follows:

Article 1 is the election of offices;  
Articles 2, 3, 4, 5, 6 and 7 are the zoning amendments;  
Article 8 is the budget;  
Article 9 is the pumper;  
Article 10 is the appropriation for Human Service Agencies;  
Article 11 mosquito control;  
Article 12 funds the Public Works Capital Reserve Fund;  
Article 13 is in regards to repairs to a number of streets;  
Article 14 street lighting in the Village District;  
Article 15 Salt Shed;  
Article 16 revenue generated from the cable company;  
Article 17 police forfeiture fund;  
Article 18 reconditioning hockey rink and back stops at Tuck Field;  
Article 19 money generated from lot sales at the cemetery to be placed in cemetery burial trust fund;  
Article 20 rescinds the direction given to the Board in regards to Rye Sewer;  
Article 21 violations of enforcing Town Ordinances;  
Article 22 tax credit for surviving spouse of a veteran;  
Article 23 the Deliberative Session voted to kill the article;  
Article 24 would amend the Solid Waste Ordinance;

Article 25 authorize the Selectmen to lease or rent property for up to 5 years without a vote;  
Article 26 in regards to the access road at the end of Tide Mill Road making it officially a Town road;  
Article 27 this is the so called Galley Hatch Amendment;  
Article 28 is for the Tree Warden;  
Article 29 Entertainment Ordinance;  
Article 30 is the Taxi Ordinance;  
Article 31 Littering Ordinance;  
Article 32 amends the Beaches and Parks Ordinance since there are two and they do not match each other;  
Article 33 petitioned article to accept Lyons, Francis and Williams Street as public roads;  
Article 34 article for Disability Exemption;  
Article 35 petitioned article to sell 152 square feet of Town land to June White;  
Article 36 petitioned article returns to using outside counsel and eliminate the in house legal department;  
Article 37 in regards to defining marriage in the State;  
Article 38 petitioned article to discontinue the Cemetery Trustees;  
Article 39 petitioned article to amend the Solid Waste Ordinance;  
Article 40 petitioned article to remove a deed on a property; and  
Article 41 is a petitioned article to repair and restore the markers in the Pine Grove and Ring Swamp Cemeteries.

All of the article are online and in the Town Report.

Mr. Bateman would encourage voters to do their homework before going to the polls.

#### Discussion

Mr. Welch made note that Article 8 the budget is not recommended by the Board.

In regards to Article 9 for a new pumper there was an additional discussion as to the need for a new pumper truck.

Mr. Bateman pointed out that Article 10 for Human Service Agencies have been passed in the past and are now being condensed into one article to save time for the voters.

The Salt Shed is fully funded from a surplus. Chairman Griffin stated that a lot of people are in favor of this and others are against. Mr. Welch commented on the fines that could be assessed on the Town in regards to the current storage method of the salt.

Mr. Znoj pointed out that Articles 12, 13, 14 and 15 will not affect anyone's taxes.

Mr. Znoj pointed out the importance of Article 20 Rye Sewer Agreement and the revenue that it generates for the Town. Chairman Griffin and Mr. Bateman both agree that this is an important article and that we all need to work together on this.

Mr. Welch commented on how Article 21 will cut down on the need for a court case when a violation of a Town Ordinance occurs.

Mr. Welch pointed out that Article 22 the credit for the surviving spouse of a veteran is something that is currently being done but was omitted from the warrant in the past.

Mr. Bateman thinks that seeing that Article 25 is in accordance with an RSA that we are not the only entity having trouble with land rent and he thinks it is smart to make the change.

The Board agreed that Article 27 for the Galley Hatch would be good for everyone and the Town would receive money in taxes for this property.

Mr. Bateman commented that Article 29 is long but is a housekeeping item in regards to the Entertainment Licenses. This ordinance will solve a lot of problems.

Mr. Welch commented that Article 31 in regards to the Littering Ordinance will help to clean up the Town.

The Board discussed that by passing Article 33 the Town would have to repair and maintain these 3 streets. Mr. Welch explained that they do not meet any of the criteria.

Chairman Griffin pointed out that the land in Article 35 is currently designated as the sidewalk.

Mr. Nichols pointed out that the sidewalk is currently on the opposite side of the street. Mr. Welch stated it is in the area in which the Town would construct a sidewalk.

Mr. Lally commented that Article 36 is not about eliminating the legal department but instead eliminating Atty. Gearreald. Mr. Lally discussed how warrant articles can be manipulated.

Chairman Griffin added how this individual is currently involved in a lawsuit with the Town.

Mr. Nichols would like to comment towards the financial aspect and he believes the cost to outsource this would be greater. There was a discussion how some of the numbers used in the article are for damages and settlements. The Board agreed that this article is very personal.

Mr. Lally just hopes that the people see that this is not a legitimate article and facts are not accurate. Mr. Welch added that in his 47 years of service this is the dumbest article he has seen.

Mr. Bateman commented on how he has found it a wonderful way to serve the community as a Cemetery Trustee. Article 38 is once again a personality conflict. Mr. Welch pointed out that this will cost the Town a small fortune. Mr. Lally pointed out that this article should state that it has a tax impact. Mr. Nichols commented that it could have been amended at the Deliberative Session.

In regards to Article 39 it was amended at the meeting but Mr. Welch believes that it still goes in a circle. Mr. Nichols thinks that if it passes it will be hard to enforce. Chairman Griffin thinks that this is the stupidest article he has seen.

## VIII. New Business

### 1. Approve and Authorized proposed 2008 & 2009 Assessing Settlement Agreements

Mr. Tinker explained that there were three appeal settlements. The three settlements are for the following properties 11 O Street, 29 Jones Court and 803 Ocean Blvd. Mr. Tinker visited these properties and these properties had not been inspected and the values have changed. He explained how 803 Ocean Blvd should go back to a residential structure.

Chairman Griffin MOTIONED to authorize the Town Manager to sign the necessary form to be sent to the Board of Tax and Land Appeal on the three settlement Agreements for 11 O Street, 29 Jones Court and . Mr. Nichols SECONDED.

VOTE: 5-0-0

Mr. Nichols MOTIONED to approve and authorized the 2008 & 2009 Assessing Settlement Agreements. Mr. Bateman SECONDED.

VOTE: 5-0-0

### 2. Approve and Authorized the 2010 Leased Land Rent Warrant

Mr. Tinker provided the Board with an updated copy of the warrant. The amount of the warrant is \$174,110. Mr. Tinker explained that the last page includes the properties that do not pay the land rent since the lease was signed prior to 1996.

Mr. Nichols explained that they will eventually have to pay when their current lease expires and they have to renew their lease. Mr. Nichols explained that in 1996 there was a warrant article requiring the leased land property owners to pay this additional 2%.

Mr. Nichols MOTIONED to approve and authorized the 2010 Leased Land Rent Warrant. Mr. Bateman SECONDED.

VOTE: 5-0-0

### 3. Approval of Frost and Gardner vs. Hampton Settlement Agreement

Atty. Gearreald explained that last year he brought before the Board two settlements totaling \$119,000. Those two cases were not cases that were lost but instead a judgment made by the Board to not take the risk of a trial. This case is another case being held by outside counsel. This is a civil rights case about alleged violations made against are police officers.

Atty. Gearreald gave the Board some background on how civil rights cases work and if the Town was to lose they would be responsible for the attorney fees on both sides. Atty. Gearreald gave some additional background on the fees expended thus far and the types of risk involved.

The attorney involved is recommending a settlement be reached at this time in the amount of \$2,100 in compensatory damages to each of the plaintiffs, annulments to their criminal records and pay \$999 in fees. These amounts would be paid by LGC not the Town however the Town has expended \$8,000 thus far in the case.

Discussion

Mr. Nichols would like to comment that by doing this it is not going to drive the Town's premiums up.

Mr. Nichols MOTIONED to approve the Gardner vs. Hampton Settlement Agreement. Mr. Znoj SECONDED.

VOTE: 5-0-0

IX. Consent Agenda

1. Parade & Public Gathering License – Reach the Beach Relay
2. Red Cross Month Proclamation
3. Limousine License – Robert Grande dba Seacoast Executive Transportation LLC

Mr. Bateman wonders if it is possible to assign a fee for this Parade & Public Gathering License. He brings this up in response to the problem that was discussed last week in regards to the race that held up traffic on High Street. Mr. Welch does not believe the current ordinance allows for fees. This will be reviewed by Mr. Welch.

Mr. Znoj MOTIONED to Move the Consent Agenda. Mr. Lally SECONDED.

VOTE: 5-0-0

X. Closing Comments – None

XI. Adjournment

Meeting adjourned at 10:29.

Mr. Znoj MOTIONED to adjourn. Mr. Bateman SECONDED.

VOTE: 5-0-0



Chairman

