Hampton Board of Selectmen
Minutes of October 31, 2011

PRESENT: Richard Nichols, Chairman
William Lally, Vice-Chairman
Richard Griffin, Selectmen
Gerald Znoj, Selectmen
Michael Pierce, Selectmen
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney
Wanda Robertson, Assistant Town Attorney

SALUTE TO THE FLAG

I. 7:00 PM Public Meeting – Selectmen's Meeting Room, Downstairs Town Offices

II. Public Hearing RSA 41:14-an "Acceptances of Falcone Circle Easements (2)"

Atty. Gearreald provided an overview including this is the first of two public hearings that this Board will have before accepting these two easements. He pointed out the two-easement areas, which are both drainage easements. This was shown on a plan that the Planning Board originally turned down and went through the court system. The Board has received input back from both the Planning Board and Conservation Commission and we are now at the point of this first public hearing. He has drafts of what these easements might look like from the attorney for the client. The drafts were made after receiving input from DPW. He discussed the maintenance cost involved with these easements and the primary cost will fall on the property owners, and the Town would be the backup and if the Town did have to perform these duties, the cost would be recouped.

Discussion

Mr. Znoj wonders if the property owner will be made aware of their responsibilities prior to purchasing these lots. It was stated that through a title search they would see this information.

Mr. Znoj asked if this is recommended by the Planning Board. Atty. Gearreald explained that the Planning Board voted to recommend that the Board accept the drainage easements. The Conservation Commission was a bit more specific and noted that at the time DPW's input had not been sought. Since then DPW has been consulted and in the draft provided to the Board it has DPW's comments. They discussed in further detail the drainage in this area and buildable lots.

Chairman Nichols stated that we are going through the legal steps to accept the easements.

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

Comments from the Public

Mr. Moody asked if these are in the Residence A, or the Industrial Zone. Atty. Gearreald stated one is in zoning district Residence A and the other lot is partially in the Residence A zone, and partially in the Industrial zone. Mr. Moody is trying to figure out if these lots are even legally sized to build. Chairman Nichols believes that they must be of size to build if they were approved by the Planning Board and been through the court system. Mr. Moody commented on the responsibility the court case has put on the Town and he thinks it should have been appealed. He shared some history on a subdivision approved by the Planning Board with an illegal lot size 25 years ago. Chairman Nichols clarified that to the best of Atty. Gearreald's knowledge no variances were issued before the Planning Board approval, therefore the lots should be of the proper size to build. Atty. Gearreald explained that the square footage in the RA zone is 15,000 sq ft. and the lot to be built on is 26,153 sq ft. Mr. Moody wonders if this is being done under the correct RSA, he explained this RSA for the Board. It was clarified that the Town is acquiring interest in land.

Chairman Nichols summarized that this is for the easements, not the legality of the lots, and that this is the first of two hearings with the second hearing being scheduled for November 14th.

Other discussion

Mr. Griffin asked about money being held by the Planning Board and the Town Treasurer in escrow. He has asked that these accounts be looked into. Atty. Gearreald is not involved in the Planning Board escrow accounts. Mr. Griffin does not think that these accounts have good records and that we need to look into these types of accounts.

Chairman Nichols asked if these types of money is in the general fund and Mr. Welch stated that these amounts cannot be comingled with the general fund and must be kept separate.

Mr. Griffin wants to know if there are other types of accounts like these escrow accounts sitting around Town. Mr. Welch explained how bonds are different from these escrow accounts. Mr. Welch will look into this and get the information for the Board.

Public Comment Period

Mr. Moody asked about the 2012 warrant articles on the agenda and the $50,000 for the T-intersection at Winnacunnet Road and Rte 1. He commented how this is to come out of surplus along with two new vehicles all in a year of a Default Budget. He discussed possible reasons why this was turned down in previous years by voters and he thinks it should go to the voters again before any work is done there. He discussed the number of lights in this short span of roadway. Mr. Pierce agrees that this should be put to the voters again. He also disagrees with making this a T-intersection.

Chairman Nichols believes that Mr. Moody has brought up three separate issues and wonders if Mr. Welch would like to comment on any of them. The first is the need of the legislative body to approve a traffic light and Mr. Welch confirmed that there is not a statutory need. The other issue was that there was a prior warrant article that included in addition to selling off land to the Galley Hatch Restaurant the T-intersection, and does he see this as a problem going forward and Mr. Welch does not since this is as a different proposal and is based on the grant application. The third issue was the funding of this and the fact that it was going to be done over several years as explained by Jamie Steffen at an earlier meeting and therefore

funded through the operating budget. Mr. Welch explained that the warrant article was removed since the Board had decided to fund this through the budget since it was to be done over several years and at an amount that is not going to significantly impact the budget in any given year. Chairman Nichols thinks there is a lot of confusion as far as the granularity of detail that is required in a budget for funding and how in a budget you cannot have every single transaction that you propose. Mr. Welch explained in detail the line items you have in a budget and how these line items cannot be changed at Town meeting. He also explained how the Selectmen can change line items in a Default Budget. Mr. Pierce wonders what happens to the land if this intersection is squared off and the land is still the Town's property. They also discussed the location of the sign and if it would be moved. They discussed in further detail the two warrant articles and the contents of each of these articles. They discussed the study done on Rte 1 from MA boarder to Portsmouth. The plan is in the design phase at this time and the funds have been approved by the State and the Federal Government. They discussed how a roundabout is not an option for this location.

III. Announcements and Community Calendar

Mr. Pierce announced that Mary Louise Woolsey fell and broke her hip and is currently in Exeter Hospital and will be moved to rehab later in the week.

Mr. Znoj wishes Ms. Woolsey good health. Mr. Znoj brought up a public hearing at the Academy last Wednesday that he and Mr. Pierce attended. He explained the tour they were given and the decision they are facing to gut and rebuild with an addition or to build a new school over on Towle Farm Road. The estimate is $26M to renovate and $28M to rebuild. Mr. Znoj expressed to the architect the need for the public to see the details. We will be hearing more and more about this over time. Chairman Nichols questioned if they were still looking to put this off until some of the debt has been paid off for Centre and Marston and this was discussed. They discussed how large this amount is and the huge effect on the tax rate. Mr. Znoj added that something will have to be done.

Mr. Lally commented on the flag at Bicentennial Park being in very bad shape and needing to be replaced. Mr. Welch will look into having this replaced.

IV. Appointments

1. Ann Kaiser, Mosquito Control Commission
   a. Mosquito Control Bid Award

Richard Reniere here tonight with Ms. Kaiser. They have met as a board and have decided to again go with the higher bid, which Mr. Reniere explained to the Board. Mr. Reniere made the following comments: only received two bids once again, explained what was included in the RFP and the low bidder did not provide one of the major portions of the RFP.

Discussion

Chairman Nichols wonders what component was missing and it was the adulticiding. The low bidder only planned to do the adulticiding on an emergency basis not on the schedule provided in the RFP. Ms. Kaiser explained in detail why the low bidder felt that he would not need to perform this adulticiding.

Mr. Znoj clarified that the low bidder did not meet the bid requirements. Mr. Znoj is very happy with the current vendor.

Chairman Nichols would like to know the prices, the low bidder was $49,635, and Dragon Mosquito Control was $102,250, which is the same as last year. The bid was broken into the four categories and Dragon's amount for the adulticiding was $34,000. Chairman Nichols asked if they had references from the other company and wonders if they do any of the surrounding communities. Ms. Kaiser explained that they do Greenland and Portsmouth but do not provide the reports to Portsmouth like the Town gets from Dragon. Mr. Reniere went through the details of the reports that they receive.

Mr. Znoj asked who Dragon serves and it is 27 communities including Seabrook and North Hampton. Dragon Mosquito is located in Brentwood.

Chairman Nichols asked about the threats of EEE and wonders if they are still growing. Ms. Kaiser stated that there were not as many pools where they found the West Nile virus this year, as in the past or in human cases. She went through the forms she has to provide to the State in regards to West Nile and the money we get back from the State starting in 2006 through 2010.

Ms. Kaiser stated that we also have to discuss the funding of this and the rewriting of this warrant article contingent on a Default Budget. Mr. Welch has rewritten this article so that if the Town goes with a Default Budget this money will be protected.

Ms. Kaiser would like to have $103,000 between the Budget and the Warrant Article. This would be $43,000 for the warrant article and $60,000 in the budget.

Chairman Nichols confirmed that we do not enter into this agreement until after the election.

Mr. Lally MOTIONED to Award the Mosquito Control Bid to Dragon Control. Mr. Pierce SECONDED.

VOTE: 5-0-0

2. Keith Noyes, DPW Director
   a. Departmental Update

Not present this evening due to the recent storm

Mr. Lally would like to bring up the old Court House sign being placed outside the Selectmen's meeting room and he thinks this would be a good idea. Mr. Welch stated that the sign was given to Judge Fraiser upon his retirement.

V. Minutes of October 17, 2011

Page 4, 3rd paragraph, 6th line.

Remove the wording "and once this is done the electric cost should not rise."

Page 10, 1st paragraph, remove "and will not be signing any of them" and add "had he been on the previous Board, he would not have signed them."

Mr. Pierce MOTIONED to approve the Minutes of October 17, 2011 as amended. Mr. Znoj SECONDED.

VOTE: 5-0-0

VI. Town Mangers Report

1. The NH Municipal Association has awarded the Town of Hampton the 2nd Place winner in the population category of 7501+ the New Hampshire Local Government Center's Excellence in Annual Report Awards Contest. A special thanks to all the Department Heads, Elected Officials and the members in the Town Hall who helped proof read the report. Also Kristina Ostman the Administrative Assistant for the tremendous amount of work that she put into the report and a job well done.
2. The Board has received an Engineering Report from Public Works concerning drainage solutions in the Tuck and Cogger Street area. The Deputy Director has been asked to continue to work on this problem. The estimated cost is $32,000.
3. Work has been completed on removing the mold type influence in the lower level of the Town Hall. Improvements to the lavatories in the Town Office have been partly completed with the repair of toilets and sinks to stop leakage.
4. The Office is in the process of preparing warrant articles for Board and Counsel's review.
5. Filing deadlines for petitions for amendments to the Zoning Ordinance - November 14th and 5PM December 14th; petitions for Warrant Articles until 5PM January 10th.
6. The Department of Public Works will be making an announcement in the paper this week that a storm special debris curbside pickup the week of November 7th through the 11th. Also, the Transfer Station will accept storm debris at no charge during this week.

He would like to compliment the Police, Fire, and DPW for the great work they have been doing during the outages from the storm. As of today, there are still 846 customers without power in Hampton. He went through the areas that were still without power and the many different crews in Town.

Trick or Treating will continue tonight as planned and beware of wires on the ground.

Those who are running generators should be careful of the carbon monoxide that is created from their use. The Building Department did travel through some of the hard hit areas today to make sure the properties were ok and no one had any wires pulled from their houses.

Discussion

Mr. Pierce asked about the Woodland Road area and how it was out during the last storm. Mr. Welch explained that most of the trees are on private property and very large matured trees.

Mr. Pierce asked about the work being done in the Cogger Street area and the possibility of putting a pump in this area. Mr. Welch explained what has to be done in order to have the water flow properly they will be putting a pump in off Tuck Road. He explained why the pump is going to be at this location. He also discussed repositioning the drain at the end of Cogger Street and the possibility of running a drainpipe up Cogger Street. Chairman Nichols confirmed that in repositioning the drain Mr. Welch means that it will be lowered. Mr. Pierce expressed concerns with putting pressure on the pipes on Mill Road. Mr. Welch explained that these pipes have been cleaned and should work fine. Chairman Nichols stated that essentially we have solved the problems starting at Cogger Street, under the culvert on Mill Road and onto Barbour Road. Mr. Welch also discussed the ground water level will be lowered. Mr. Znoj does not quite understand how this is going to work. Mr. Welch

explained in detail how the piping would be placed and the water will flow. Mr. Znoj asked about the new pipe that was recently placed on Cogger Street and it will remain in this area but will be lowered. Chairman Nichols wonders if this will help the people on the west side of Mill Road and Mr. Welch does not think that this will solve that problem. He explained what would need to be done to correct the problem on Mill Road. There was more history provided in regards to drainage on Mill Road. Mr. Znoj summarized what he understands will happen in this area. Chairman Nichols asked a few questions relative to costs we have for option 2 for $25,000 that has to do with the culvert and then we have option 3 which is the pump station and the total cost is the combination of the two is$32,000. The warrant article was for $40,000 so we have $17,000 more that needs to be spent so some of the spending will come from the Operating Budget.

Mr. Pierce confirmed that even though the weather was bad this past weekend we still plan to complete the scheduled paving.

VII. Old Business

1. 2011 Warrant Articles – Chairman Nichols asked for questions on warrant articles.

Mr. Znoj commented on the Recreation Infrastructure Special Revenue Fund and he sees the tennis courts in there. He remembers having a conversation with Mrs. Martin about chasing down the vendor to see if this was covered under warranty. He did not have an update on this. Mr. Welch stated that if we can get the work done under warranty we will, but the money will be earmarked for maintenance in case it is needed. Chairman Nichols walked the courts this weekend and did not see any cracks. Mr. Welch believes that the vendor did come out and make some temporary repairs. Chairman Nichols agrees with Mr. Znoj about the warranty and the fact that any tennis court is going to have cracks. He feels that these courts are in good shape and does not understand what we are trying to do here. Mr. Znoj feels that with the amount of money spent on these courts should not warrant repairs at this time. The Board agreed that some explanation is needed on this item.

Mr. Znoj commented that the sum has been added to Mosquito Control and Mounted Patrol ends in a question mark. Mr. Welch explained that all warrant articles end with a question mark. He also expressed that the article for the Library energy improvements is very hard to understand. He commented that he had to read the warrant article 3 times before he could understand it. He feels it is written by a lawyer for a lawyer. He thinks some explaining needs to be done for the average person. Mr. Znoj asked about the fact the Board of Selectmen are the only ones that can approve/sign for this type of loan. He discussed the savings on this project and wonders why we make it look like we are going to be spending a large amount of money under debt service on this project. Atty. Gearreald explained that we need authority from Town Meeting to borrow and when you look at the loan documents, they mention two money figures. They hope that the savings that they hope to achieve will be what they expect them to be. Chairman Nichols does not understand why we are asking to add money to the Default Budget since it will automatically be done. He does not see why the language is being included in this warrant article. He does not understand why we are adding money to the budget when they are expecting to realize more in savings than the cost. Atty. Gearreald explained that he is putting in more words than necessary in the original draft and he will be working with DRA. Mr. Znoj thinks that we should make this a no brainer for the people. Chairman Nichols is not in favor of adding money when we are expecting to

make money. Mr. Pierce stated that this is expected savings. Atty. Gearreald explained that we would be the first in the State to take advantage of this program from Unitil.

Mr. Pierce brought up the Budget Committee weekend last week and the fact that he brought them a copy of this sheet of expected warrant articles. He would like to ask about the plans for the Church Street Pump Station. Chairman Nichols stated that last week he did ask for a date for the first draft and we already have received some of the information back from Mr. Welch already. He did also ask for some more detailed plans on compensated leave fund, Five Corners Intersection, pump station, storm water improvements, Beach Fire Station and Fire Head Quarters. Chairman Nichols would like to see next week the date to expect these plans and he would like to see the plans by December 1st. Chairman Nichols is happy with the progress made from last week. Mr. Pierce explained that the other thing the Budget Committee questioned was the Fire Head Quarters. Mr. Pierce would also like to know when they plan to walk through the Court House, Chairman Nichols hopes to do this next week, and will let the Board know when he plans to go in.

Chairman Nichols would like to add three items to the list: drainage, North Hampton State Beach tying into the sewer and some sort of Solid Waste. Mr. Welch stated that storm water improvements would include drainage. Atty. Gearreald is already working on North Hampton tying into the sewer. Chairman Nichols added in terms of a plan he thinks the following should be covered: what is the benefit to the community or what problem are we trying to solve, how is it going to be solved and are there any alternatives, some level of detail on how the costs are arrived at and some sort of indication of prioritization. He has begun to work on the tax impact going out 5 years and plans to make a presentation at next week's meeting.

Mr. Pierce asked if we plan to do some more work on the WWTP. Mr. Znoj thinks this is an interesting question and the Press is right in front of them. Mr. Welch has seen some preliminary design work on the odor control. If there are funds left over from the warrant article, if we changed the plan, we have to go back to Town Meeting to get authorization to expend the funds on something else. Chairman Nichols reminded everyone of the conversation we had on repairs to the roof and not being able to do these since it was not included in the warrant article. At this time, the Board does not have a plan. He also mentioned that the DPW can only do so much and they have many open items at this time.

Mr. Lally asked about the last warrant article in regards to the unlawful selling of Cannibus. Mr. Welch explained that this article has gone down to the Police Department for review and might not even be coming back to the Board. Mr. Lally also questioned some of the streets such as Francine and Ocean Park Blvd. He questions if these streets exist. Mr. Welch believes that these streets names have changed.

Atty. Gearreald reminded the Board he meet with them in June and has been attending meetings in North Hampton in regards to the North Hampton Beach sewer. He has attended these meetings along with Chairman Nichols and Mr. Lally at different times. He explained the two items that the Town must go through to make this happen. He provided some history in regards to Rye Sewer agreement. We will need the authority from Town Meeting to allow this sewage into Hampton. He provided in detail how this would work and how the billing would work. An intergovernmental agreement would have to entered into and need approval at Town Meeting. They discussed the 1989 agreement. They also discussed that these two

items will be put into one warrant article. Mr. Znoj thinks this is straightforward. The concept of this is ok with the Board.

Other Old Business

Mr. Lally reminded everyone of the motion made on September 26th by Mr. Griffin to extend Mr. Welch's contract for 3 months and the Board agreed to this. He wonders if Mr. Welch agreed to this and the Board did not sign the agreement. Atty. Gearreald sent a draft the next day and it is ready to be signed. The Board will be signing off on this once provided by Atty. Gearreald.

Mr. Pierce reminded everyone about Mr. Lally bringing up the laptop idea and he has a laptop that he can bring in and try it out to see how it works. He will work with Mr. Paquette to see if this will work. The Board all agreed that this is a good idea.

VIII. New Business

Mr. Znoj brought up a letter they received from Leland Brennan in Hemlock Haven on the Veteran's Monuments. He is suggesting that these monuments be moved to an area where they would be more readily assessable and honored. They are currently located in front of the Court House and the Library. Mr. Brennan is willing to help with this project. Mr. Znoj wonders if maybe we should have him form a committee to work on this. Mr. Welch would suggest talking to the American Legion and maybe bring some proposals forward. Mr. Znoj suggested the High Street Cemetery but Mr. Welch reminded the Board that this was proposed and rejected at Town Meeting. The Board agreed that Mr. Welch should get the Legion involved.

Chairman Nichols brought up a letter related to problems that someone had with a motel/hotel and this is not the first letter the Board has received. The letter seemed extreme and Chairman Nichols wonders if there is any authority to influence this in a positive direction. Mr. Welch stated there is no authority but they should certainly turn the letter over to the Better Business Bureau, the Chamber of Commerce, and probably the Attorney General's Office. Chairman Nichols wonders if the renting of the room is a civil matter between the individual and the establishment or a criminal matter. Mr. Welch looks at it as a criminal matter because it looks like they are defrauding the person. The individual that was affected needs to go to the Court and file a civil case. Chairman Nichols pointed out that this is not the first letter of complaint they have received on this establishment. Chairman Nichols thinks that there are some complaints that are within the scope of the Town and should be looked into by the Town. Mr. Lally would suggest that letter also be sent to the Police Commissioner. Mr. Znoj thinks it is too bad that things like this happen.

IX. Consent Agenda

1. Raffle Permit Regulations – Amendment to comply with changes in RSA 287-A.
2. Raffle Permit 50/50 – Hampton Firefighters Toy Bank – Wally's Pub 11/17/11

Mr. Lally MOTIONED to approve consent agenda item #1. Mr. Pierce SECONDED.

VOTE: 5-0-0

Discussion

Mr. Znoj has reservations on the second item and would like to discuss it in a non-public session. Chairman Nichols does not know if it would qualify under any of the criteria under the RSA. Mr. Znoj commented on all the complaints they had during the summer at this establishment and maybe it is not the right place to hold Fire and Police functions. He explained in detail how the people making these complaints might feel their concerns are not being addressed because of this. Mr. Lally commented that he (Mr. Znoj) is assuming the complaints are legitimate. Mr. Znoj does not think this looks good in his opinion.

Mr. Lally MOTIONED to approve consent agenda item #2. Mr. Griffin SECONDED.

VOTE: 4-1(Znoj)-0

X. Closing Comments - None

XI. Adjournment

Mr. Znoj MOTIONED to adjourn the public meeting and SECONDED by Mr. Pierce.

VOTE: 5-0-0

Chairman

Town of Hampton

AGENDA
Board of Selectmen
October 31, 2011

Posted: Town Offices, Library, Beach Fire Station

7:00 PM Public Meeting – Selectmen's Meeting Room, Downstairs Town Offices

SALUTE TO THE FLAG

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II. Public Comment Period

III. Announcements and Community Calendar

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   a. Mosquito Control Bid Award
2. Keith Noyes, DPW Director
   a. Departmental Update

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