

Town of Hampton



Hampton Board of Selectmen Minutes of March 12, 2012

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

NOT PRESENT Richard Griffin, Selectmen

6:30 PM Non Meeting with Counsel – RSA 91-A: 2,I,(c)

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

SALUTE TO THE FLAG

I. Public Comment Period

Arthur Moody told Mr. Lally that he did a good job during his six years of service. Mr. Moody commented on the Audley Company seeking permission to go across Town property to repair the State seawall. He would have thought that they would have gotten permission from the Board prior to entering into a contract. He commented on Mr. Griffin suggesting Businesses express opinions on the new facilities at the beach and concessions to the Hampton Beach Area Commission. He feels that this was wrong since that is a State commission and this Board should deal with this. It is their responsibility to enforce the deed restrictions. He finds it interesting that the Town is going to charge the State \$1.53 per 1,000 for the bathrooms at North Hampton State beach when we charge \$80 for up to 1,000 tons of septage from out of Town. In regards to the zoning articles on the ballot, he is very upset about article 4. He thinks the notes should have been on this zoning ordinance and he hopes this article is a no. Article 5 in regards to the Conservation Commission says very little on the ballot but when you actually look at the ordinance with changes it is eight pages, which raise red flags for him.

Tim Jones, 16 Dustin Ave, primarily came down tonight to thank Mr. Lally for his service to the Town. He would also like to discuss the letter from the State in regards to concessions at the Seashell complex. He asked about a comment made by Chairman Nichols in regards to the deed and would like him to expand further on this comment. Chairman Nichols stated that what the Selectmen do not intend to do at this time is to litigate the issue of the word concession but what they are doing is working with State Parks on the issue of whether or not they are competing with beach businesses. What the Director of State Parks has indicated is that this is not their intention and if it does become an issue, the Board will address it at that point. This is one of the

reasons they had suggested the HBAC as the initial forum for resolving problems there are two representatives appointed by the Selectmen and one of them is a Selectman. Chairman Nichols reminded everyone of the March 31st session and encourages anyone with concerns to show up. The Boards approach is one of working with them. Mr. Jones does not agree with the Boards interpretation of the letter from the State as just expressed by Chairman Nichols. Mr. Jones read portions of the letter that he feels express that the State does intend to compete.

Mr. Pierce pointed out that there are other opinions on the Board beside Chairman Nichols. Mr. Pierce feels that the word concession needs to be pushed to the max. He added that the deed very clearly states legally that in the beginning, they agreed to do this and not to do that and they are overstepping their bonds. This is Mr. Pierce's position.

Mr. Jones shared a book known as black laws, which is the place he suggests everyone go to for legal definitions and he read the legal definition for concessions. Mr. Jones' problem with not being able to hold members of the HBAC accountable for their actions since you cannot go to the polls and vote for these members. He brought up the fact that there is already a store open and he believes that they are violating the deed. He expressed the importance of negotiating before going to litigation.

Chairman Nichols agrees and that is what we have started to do with the meeting held and the letter that they requested. Chairman Nichols stated that he has not received any calls on this issue as of this point. Mr. Jones feels that there should be a negotiating team formed to deal with this. Chairman Nichols personal opinion at this point is that this is not black and white clear like some people believe and the court is not the place to solve this and they do have a responsibility to make sure beach businesses are not hurt by this. Mr. Jones thinks that the State needs to recognize that the Town does a lot to promote the State Park, which he listed out for the Board. He brought up article 31 and if it is to pass this will hurt the Town's ability to negotiate.

II. Announcements and Community Calendar

Mr. Pierce held up the ballots and reminded everyone to get out and vote tomorrow.

Mr. Lally first would like to turn in his keys and badge to the Town Manager. He would like to thank everyone including family, friends, employees, residents of the Town and the workers from channel 22 for six great years. He commented on how Hampton is a wonderful place to live and raise a family. He mentioned the construction that has been approved at the previous location of the Old Salt at the beach and how this is going to be great for the beach.

III. Appointments

1. Wanda Robertson, Assistant Town Attorney and Human Resources Coordinator
 - a. Personnel Policy Amendments

Mrs. Robertson explained that they have the memo in front of them and the amendments are basically clarifications. Chairman Nichols explained that it was an oversight that people who work under 40 hours were not addressed in regards to at what rate their leave or vacation time would accrue. Mrs. Robertson explained that they needed to clarify at what rate vacation time would accrue. Chairman Nichols provided the example of someone who

works 20 hours would accrue sick and vacation time at rate of 50% compared to a fulltime employee.

Mr. Pierce MOTIONED to approve the Personnel Policy Amendments as documented in the Memo of March 129, 2012 to the Board from Wanda Robertson. Mr. Znoj SECONDED.

VOTE: 4-0-0

Moved from New Business

1. 2011 Veterans Exemption & Elderly Exemption – Emery, Maureen, Tax Map 192-30

Mr. Tinker explained that the property owner has requested relief from her 2011 taxes based on the fact that the property owner filed and was accepted for 2012 elderly exemption and veteran's credit. This will lead to a minimal if not a zero tax bill for 2012. They would like the elderly exemption and veteran's tax credit to be retro back to 2011. Chairman Nichols summarized that they requested in a timely manner the 2012 exemptions and they have been granted. The request for 2011 exemptions was not made at the time. Mr. Tinker explained the options: the Board approves to retroactive the exemption and credit to satisfy the 2011 unpaid taxes or allow the property owner to make payments towards the 2011 taxes owed.

Discussion

Mr. Pierce has concerns with opening this up and how it could lead to others coming in for several previous years. He thinks this could be a huge problem potentially.

Chairman Nichols agrees with Mr. Pierce and wonders where you draw the line as to how many years you go back. He explained how there is a deadline for a reason. He can think of two scenarios in the past year when they have turned others down for not submitting in a timely manner.

Mr. Pierce pointed out that this information is on the top of the tax bill.

Mr. Tinker stated that they have been consistent with this and stuck to the deadlines since he came in 2009.

Mr. Pierce and Chairman Nichols both agreed that a payment plan could be set up.

Mr. Znoj stated that the property owner should work with Ed, Michelle, and Donna Bennett to work out a payment plan and bring it back to the Board.

Chairman Nichols summarized that there is a consensus amongst the Board that a payment plan should be worked out.

IV. Minutes of February 27, 2012

Page 3: Change "Chang to Change"

Page 5: Change the name "Woody to Moody"

Page 9: Change the vote to 4-0-1(Pierce)

Mr. Znoj MOTIONED to approve the Minutes of February 27, 2012 as amended. Mr. Pierce SECONDED.

VOTE: 4-0-0

V. Town Manager's Report

1. Ron Jillian's Ristorante Pizzeria Liquor License re-location support request to move from 822 to 825 Ocean Blvd.

Mr. Lally MOTIONED to approve the request of Ron Jillian's Ristorante Pizzeria Liquor License re-location. Mr. Pierce SECONDED.

VOTE: 4-0-0

2. R. S. Audley request for use of pathway at Ruth Stimson Park to access North Beach. If this is to be approved, they have been told that they will need to provide the proper paperwork including a certificate of insurance.

Mr. Znoj MOTIONED to approve the R. S. Audley request for use of pathway at Ruth Stimson Park to access North Beach. Mr. Pierce SECONDED.

VOTE: 4-0-0

3. A contract has been awarded to Stephens Associates Consulting Engineers, LLC following the approval of the Conservation Commission to perform the design work on the Ice Pond Dam replacement. Funding is from the Conservation Commissions funds. The cost is \$19,960 and they are the recommended engineering firm and were the mid bidder out of three bidders.

Discussion

Mr. Znoj asked about the type of dam and Mr. Welch stated that it would not be higher than 4 feet and went into further details of the dam. Mr. Znoj asked if this is preliminary design and Mr. Welch stated this is the actual construction design. There was a discussion on whether or not it would have to be placed on the ballot. They also discussed that the funding is not available at this time and would have to be put forward as a warrant article unless the money was given to the Town as a gift. Mr. Welch explained how the pond becomes so full that building a dam will help with flooding.

Chairman Nichols questioned if the Board is receiving this tonight in order to go along with the purchasing policy and the fact that there were only three bidders. Mr. Welch stated no since this is for engineering design. Chairman Nichols does not believe that this falls into the category of needing approval from this Board and the Conservation Commission does not need this Boards approval to expend these funds according to the Town's Purchasing Policy. However, he thinks his point is valid and bids for engineering firms need to meet the purchasing policy with any questions on approval coming to this Board for approval. Chairman Nichols reminded everyone how back when we had the sewer moratorium there was a drastic difference in the amounts that the bids came in for.

Mr. Welch might suggest in the future that we follow the federal guidelines. He also added that the State of NH could be helpful by taking a stand.

4. Note is made that the application for a cell tower complex is again before the ZBA for the structure at 190 Kings Highway. Departments have been requested to review the same and comment to the ZBA on whether or not it meets our emergency service needs in the north and northeast areas of the community.

Discussion

Mr. Znoj asked about the location of the cell towers and Mr. Welch provided details on what the cell towers would look like and would be placed on the roof.

Chairman Nichols shared some information on the meeting he had after attending the Zoning Board meeting.

Questions for Mr. Welch

Mr. Znoj brought up the State Liquor Store Outstanding Sewer Bill. He was not happy to see this problem with Route 95 Liquor Store and not paying the bill since 2009. Mr. Welch stated that they have actually been paying sewer bills but they have a broken meter which the Town has been asking them to replace and their answer was no. The bills are therefore estimates and are based on calls that were made to nearby rest areas and basing this bill on that. Chairman Nichols clarified with Mr. Welch that we have been billing them based on an estimate and they have been paying the recent bills based on an estimate.

Mr. Znoj read portions of the memo on these unpaid invoices and how the meter has been broken since before 2009.

Mr. Welch explained that the Town sent the bill for \$13,000 in sheer frustration from the lack of cooperation in replacing the broken meter. This bill was to bring them up to date. After issuing that bill to bring them up to date we began to bill on a regular basis and those are the invoices that have been paid by the State.

Chairman Nichols clarified with Mr. Welch that they have a bill that is an estimate covering the period from 2009 to September 30, 2011 but they have paid all bills subsequent from 9/30/11 to present time.

Mr. Pierce wonders why they did not pay the first bill. Mr. Welch stated that he was told it was too much.

Chairman Nichols stated that if they were to put in a meter after seeing actual use the Town would be willing to adjust the bill if needed.

Mr. Welch stated that Atty. Gearreald has forwarded this information to Nancy Stiles for assistance.

Mr. Pierce suggested that the Town put a meter on our own line and monitor that but Mr. Welch explained why this could not be done.

Mr. Znoj asked about the emergency number they received from Comcast and it was confirmed that the Selectmen should keep the number and it has been distributed to the public service areas in Town such as Police and Fire.

Mr. Znoj asked about some memos that went back and forth between Mr. Welch and Jane Ireland and he asked Mr. Welch to explain. Mr. Welch explained that he attended the District Solid Waste 53B meeting and brought back their financial reports for Mr. Schwotzer to review. Mr. Welch explained that in one part of the report there was a \$15,200 that was not accounted for. When they questioned this, it was discovered that they use Quick Books and something was entered twice. This has been corrected.

Chairman Nichols asked Mr. Welch to provide an update on the request in regards to Winnacunnet Impact Fees – Department of Education Reporting. Mr. Welch stated that we have received an inquiry in regards to the payment of impact fees to Winnacunnet School

District. Mr. Welch stated that one thing they have done is talk to the DRA and Department of Education and payments will not go out prior to July 1st and explained the reason why this will be done and the impact on the tax rate. This caused the school district to have their regular end of year surplus plus the impact fees of \$79,000, which will need to be reported to the Department of Education. So rather than having a \$200,000 credited against our assessment we will have a \$279,000 credit against our assessment for next year. Now whenever a request comes in prior to July 1st the payment will not be made until after July 1st. Chairman Nichols added how the total allocation of the disbursement of impact fees from the Town will be credited completely towards Hampton and not the other communities. Chairman Nichols also mentioned back in 2007 there was a similar disbursement and he thinks we need to look back and make sure 100% of this money was allocated to Hampton. Mr. Welch will look into this 2007 disbursement.

VI. Old Business

Undesignated Fund Balance – Surplus

Mr. Znoj brings this up mainly because of the discussions that have come up over the past couple of weeks during debates over the Undesignated Fund Balance. He would like to go over one more time the facts: any end of year savings unspent goes to this fund, the State of NH DRA recommends a minimum of 5% to as high as 17% of Hamptons \$55M gross appropriations (this includes the schools), an acceptable range for Hampton is \$2.7M to \$9.3M, the Town has \$5.4M which he thinks is good business, spending can only be done after voter approval and can be used to offset tax increases. The Selectmen have been consistent between 2009, 2010, and 2011 in directing the Finance Director to only use the amount needed to keep taxes from rising. He went back and shared how much was used in past years. Nothing was needed from this account in 2011. He stated that the Board has not used money from this account without voter approval. He went through additional criticisms, which he does not agree with. He reminded everyone of the problem in 2005 when the fund got down to \$300,000 because of an accounting error and he brought up some TAN borrowing. He provided an example comparing this fund to the average family and how they may have money set aside for unexpected reasons.

Mr. Znoj also reminded everyone that if all the money articles are to pass tomorrow it is an increase of \$60 per year over 5 years on the average single family home.

Mr. Pierce thinks that the Undesignated Fund Balance was explained very well by Mr. Znoj and it is clear that they are not playing around with anybody's tax money and they are trying to smooth out the tax bills as they go along.

VII. New Business – Moved to Appointments

1. 2011 Veterans Exemption & Elderly Exemption – Emery, Maureen, Tax Map 192-30

Other New Business

Chairman Nichols received an email from Representative Waddell asking for input from himself and Finance Director Schwotzer on an amendment to HB1460. He has not gotten through this yet but it is basically a very extensive amendment for a defined contribution plan. This is literally on a bill that would pass this summer. He has spoken with Mike on this and he may want to go to Concord and testify on this next Monday. He wonders if he

has the Boards support since he would be testifying on behalf of the Board. Mr. Znoj gives his support and if he is still a member of the Board he would like to go. Chairman Nichols thinks that on the surface this bill looks to be trying to run too fast. This did start out as a study committee. He has the support of the Board.

VIII. Consent Agenda

1. ~~2011 Sewer Abatements—Copy in File—~~
2. Veterans Exemptions: Royal, George Tax Map 178-74; Weddell, Richard, Tax Map 160-35-407
3. Elderly Exemption: Bilodeau, Jacqueline L. & Thomas H.
4. Leased Land Lease Renewal for 38 Ocean Blvd. Lessees: James P., Jeanne M, & James T. O'Connell

Mr. Pierce MOTIONED to MOVE the consent agenda with the exception of #1. Mr. Znoj SECONDED.

VOTE: 4-0-0

IX. Closing Comments

Mr. Znoj has seen January and Decembers recycling rate and he is unhappy with them. We are not climbing that well. He encourages people to recycle more.

Mr. Znoj stated that this is or could be his last meeting before the election tomorrow and he wants to thank all the people of Hampton for their support. He has worked hard and done his best. He has brought a business sense to the Board. He asks everyone to get out and vote. Lastly, he said God Bless all the citizens of Hampton and bless them with good health.

X. Adjournment

On motion made by Chairman Nichols and seconded by Mr. Lally to enter into a Non Meeting with Counsel – RSA 91-A:3,II,(c).

By roll call vote, the Board voted unanimously to enter into a Nonpublic Session under RSA 91-A:3,II(c).

And;

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

VOTE: 4-0-0


Chairman

Town of Hampton



AGENDA Board of Selectmen March 12, 2012

Posted: Town Offices, Library, Beach Fire Station

6:30 PM Non Meeting with Counsel – RSA 91-A: 2,I,c

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- II. Announcements and Community Calendar
- III. Appointments
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