

Hampton Board of Selectmen
Minutes of June 11, 2012

PRESENT: Richard Griffin, Chairman
Richard Nichols, Vice Chairman
Michael Pierce, Selectmen
Ben Moore, Selectmen
Philip Bean, Selectmen
Frederick Welch, Town Manager

7:00 PM

SALUTE TO THE FLAG

I. Public Hearing – RSA 31:95-b HUD Community Challenge Planning Grant Program

Mr. Steffen, Town Planner - Mr. Steffen explained the purposes of the Grant. The goal is to make the Downtown more livable; to create new land use regulations for a mixed-use urban environment; develop a physical improvement plan to make the Downtown more pedestrian friendly. Mr. Steffen is applying for the two-year grant; the first year is data collection and analysis; the establishment of an advisory committee; the formulation of new zoning/land use regulations; and to tie the rail corridor into the Downtown. He has met with the Planning Board and they have decided to go after the 2-year grant with a total of \$50,000 with a 25% match for the community with only ¼ of it being cash. The second year would be the implementation of the recommended zoning/land use regulations and the Town's portion would be 25% with in-kind services. He is requesting approval to apply for the grant from the Board of Selectmen. There will have to be a public forum held. The ultimate goal would be revised zoning regulations. The deadline for applications is postmarked by June 15th and he needs authorization and letter of support for the Board of Selectmen.

Discussion

Mr. Pierce mentioned that in many grants there are strings attached which require the Town to do certain things and he wonders what the strings are here and if we have to plan anything in particular. Mr. Steffen answered that the intent is to develop the revised zoning ordinances/regulations so they want to see something implemented in the second year. Therefore, the intent would be to revitalize downtown.

Mr. Moore wonders when they expect the work to commence and Mr. Steffen explained it is a tight timeframe and they are hoping to have the applications reviewed and community selected by the beginning of July. So realistically, the planning/work would begin in August. Mr. Moore wonders if the money is available in the Planning Budget and there are funds. Mr. Moore confirmed with Mr. Steffen that he has higher expectations than what happened with the Plan NH documents. This is not just another plan.

Mr. Nichols commented that there is two distinct points one to develop the rail corridor as well as codes and regulations. Mr. Steffen said it sort of ties this all together by starting with what they would like the corridor to look like and then making changes to the rules and regulations so that the plan can be met. Mr. Nichols expressed concerns with additional cost once the development is complete. Mr. Nichols stated that conceivably speaking this project could involve land acquisitions and infrastructure improvement costs in the millions of dollars. Mr. Steffen stated that is a possibility but would be up to the decision of future boards.

Mr. Bean confirmed that this is a plan for the downtown area. Mr. Steffen stated it is not specific to the downtown but more the whole corridor area including Rte. 1 and surrounding neighborhoods. This effort is more focused to downtown revitalization. Mr. Bean wonders who the players are involved in regards to execution of this plan. Mr. Steffen stated that there would be many players including the Chamber, Experience Hampton, downtown businesses, and residents, the Zoning Board, Conservation Commission, and Town Officials.

Chairman Griffin wonders if it includes the area of High Street leading into the downtown area and Mr. Steffen stated it does.

Comments from the Public

John Nyhan here tonight to represent the Experience Hampton and was asked by Jamie to send a letter of support to be included with the application. He has meet with the Experience Hampton group and they voted unanimously to include a letter of support. This group has expanded from not only being a supporter of the Christmas Parade but has expanded to include the revitalization of the downtown businesses.

Mr. Moore MOTIONED to APPROVE the HUD Community Challenge Planning Grant Program under RSA 31:95-b and include a letter of support from the Board. Mr. Pierce SECONDED.

VOTE: 5-0-0

II. Public Comment – None

III. Appointments

1. New Hampshire Department of Transportation

Chairman Griffin stated that we have Bill Watson and Keith Noyes here tonight.

Mr. Watson would like to start with sharing some information with the Board about his background and role with the DOT. Mr. Watson is the Transportation Planning Director for the NH DOT and has been in his position for 6 ½ years. Some of the areas that he is involved with are the 10-year highway plan, working with the nine Regional Planning Commissions, community assistance side of their bureau and administer block grant aid. He went into greater details on the task he is involved with working with the Regional Planning Commissions. They oversee about 500 projects that are managed by municipalities and other organizations. He would like to remind this Board and others that it was his department who helped to put in the crosswalk at Winnacunnet and Ocean Blvd and to make sure it was ADA compatible. He went through the many committees that he does sit on and the fact that he cannot help them with the parking meters. The source of DOT funds comes from gas tax

receipts and vehicle registration fees. Through conversations with HBAC and Mr. Welch, many questions have come up in regards to sidewalks, crosswalks and many other issues have come up. These are topics that the Town and DOT have gone back and forth on for the past several years. He and Mr. Welch were assigned the task back in 2007 to work together to see what can be done to improve communication between the State and the Town and work on the priorities specifically down in the beach area. Mr. Welch thinks that Mr. Watson has summed it up pretty well and pointed out that this effort has been going on since 1959. Here we are again and there are some issues that need to be addressed. The sidewalk issues have brought them together this time and they need to solve some of the issues as they work through them cooperatively with each other so they can get from point a to point z were they need to be. Mr. Welch stated they need to work so that these issues are taken care of in a way that is fair to both the State and the Town.

a. Memorandum of Understanding – Maintenance of Ocean Boulevard

Mr. Watson commented that as the Commissioner stated the last time they were here that they are not in the business of maintaining sidewalks for communities. They will help communities develop sidewalks and are open to looking into federal funding opportunities to make capital improvements to Ocean Blvd. However as they will see if they look to their neighbors to the south and north you will find that they have learned that the State does not have the ability to maintain sidewalks. Mr. Watson added that they continue to want to help to improve the sidewalks on Ocean Blvd with the expectation that once the improvements have been made the maintenance would become the responsibility of the Town. He knows there has been a lot of research done as to the Town's responsibility to take this on and they want to help to work through all of that. Mr. Watson just wanted to start the conversation by stating that there are no sidewalks that the State is responsible for maintaining.

Discussion

Mr. Bean wonders who owns the sidewalks. Mr. Watson stated there is no question that the State owns the sidewalks on both Route 1 and 1A. Mr. Bean wonders if it is just historical precedent that dictates that corporate entity owns property and declares that they are not going to take care of it and advocate any legal responsibility/legal liability for the ownership of that. Mr. Watson added that there is legal precedent most recently ruling against the Town of Tilton that suggested the Department was not responsible for maintaining those sidewalks. Mr. Nichols added that in the case of Tilton, the Town of Tilton had agreed that they would take responsibility for maintaining the sidewalks. Mr. Bean asked how much the State received in Federal stimulus dollars and it was about \$122M. Mr. Bean wonders how much of this was bequeathed to Hampton and Mr. Watson does not believe that there was any. Mr. Bean confirmed that the responsibility of the tolls falls on DOT and he would like to know how much money is raised on both the north/south tolls in Hampton on an annual basis. Mr. Bean stated that according to their website it is about \$60M. Mr. Bean commented that when you put all this money together with the Liquor Stores you are coming up with significant amounts of money that are taken in within Hampton and the taxpayers are deprived of any benefits of this money. Mr. Bean thinks we need to look at this notion that it's the States property but they are not going to take care of it because they have no money. He disagrees with this and thinks that they do have money and there needs to be a more collaborative effort at the Governor Council level. Mr. Bean stated that we are not North Hampton or Seabrook or any other of the surrounding communities and we are looking at significant

revenue that is brought in from Hampton. Mr. Watson thinks that Mr. Bean hit on some very good points tonight but some of them are the very misconceptions amongst the general population in NH. Turnpike funds cannot be used within the limits of the Town of Hampton unless it is directly related to the turnpike. Mr. Bean understands that but what he is talking about is collective strategic revenue drain from within Hampton. Mr. Watson disagrees he thinks people do not understand this and that is why he constantly hears you take our money for rooms & meals and parking meters now just come back in and fix the sidewalks. Mr. Bean thinks the people of Hampton are more intelligent than that and do understand this. Mr. Watson shared some more information on funding and shovel ready projects through the 10-year plan. The department cannot help that Hampton has not received any project funding, that is the job of the legislators to change the 10-year plan. He also discussed money spent on the Route 1 corridor in the years past. Mr. Watson also went through some of the projects money has been spent on throughout the State. His department oversees many grants/funding opportunities throughout NH.

Discussion on sidewalks

Mr. Moore understands what Mr. Watson has stated in regards to the sidewalks and discussed further the property lines involved, the State owns the sidewalk as it exist now, to the imaginary green line – the property line. Mr. Moore wonders if the State would be willing to transfer ownership of the sidewalks since they believe it is the Town's responsibility to maintain said sidewalks. Mr. Watson explained that this question was asked and there is two parts to this. One part is that the drainage is part of the sidewalks so if they were to transfer ownership of the sidewalks and then if have to make an improvement or do any work on the drainage in the sidewalks, problems would arise. The Commissioner has answered no they would not be willing to transfer ownership of the sidewalks due to the maintenance of the drainage. The second question is would the State be willing to transfer ownership of the roadway with the sidewalks and the answer to that is yes. Mr. Moore is asking these questions to see if there is a way for the Town to raise some funds so that these sidewalks can be maintained. Mr. Welch mentioned that the cost to maintain the sidewalks for the winter is around \$500,000. Mr. Watson questions how much maintenance would need to be done on the west side of Ocean Blvd if the eastside was maintained. Mr. Watson stated that they have not got any answers as to how fast and how much of the sidewalks need to be maintained during the winter. He discussed further the requirements involved with being ADA compliant and if the Town was to have a very detailed policy in regards to maintaining sidewalks in the winter. Mr. Moore stated that if the businesses on the west side of the street are to remain open year round that would impact the need to have the sidewalks plowed. Mr. Moore asked Mr. Watson if the State is willing to clear the eastside sidewalks if the timing was set correctly. Mr. Watson meant to state that DRED plans to hold events year round at their new complex and therefore it is their intent to maintain the sidewalks around their complex. He would defer to the MOU with DRED on this issue. Mr. Moore brought up the warrant article and the Town does not wish to take on any further expense at this time in regards to maintaining the sidewalks at the beach.

Mr. Nichols thinks that initially in the DRED plan was to clear the eastside sidewalks around their complex and the area was reduced once they found out the cost to have this done. Mr. Nichols stated that the Town does not currently have a winter sidewalk maintenance policy in place but it is something that Mr. Welch and Mr. Noyes have brought up as something that

needs to be worked on. Mr. Nichols stated that at one point the Town had said that they would be willing to maintain the sidewalks in the summer months, but not the winter maintenance of the Westside sidewalks. Mr. Nichols also questioned possible legislation in regards to sidewalks that were constructed prior to 1992 and they are not susceptible the requirements of ADA requirements on sidewalks developed prior to that point. Mr. Watson agrees with him.

Mr. Pierce thinks that they have covered many points of view. He thinks that ADA is one of their many concerns and biggest exposure. He does not have a significant opinion but he thinks they have to work it out. If we get stuck with this, we need some help from the State on the funding for this. They have to work out something concrete with serious assistance.

Discussion on crosswalks

Chairman Griffin wonders if Mr. Watson would like to talk about the crosswalks. Mr. Watson has had to do some research since this is usually handled by the operations section and the contact is Bill Lambert for Hampton. He thinks there is a misconception here by people who have contacted the State and the Town about crosswalks on Ocean Blvd to be completed or improved. Mr. Watson's current understanding about the responsibilities of crosswalks along Ocean Blvd is the crosswalk at O Street is to be maintained by the Town and the other crosswalks along Ocean Blvd, the department is responsible for the striping and addressing concerns about ADA compliance issues. Mr. Watson brought up some of the safety concerns and how there needs to be a collective effort on behalf of DRED, DOT and the Town.

Mr. Moore thanked him for taking responsibility and wonders when the work is going to be done for this year. Mr. Watson stated that the email he received this morning from Mr. Lambert was cursing Mother Nature and the plan was to get through here before Memorial Day. Mr. Watson will follow up on this tomorrow. Mr. Moore thanked him for this.

Mr. Bean thanked him for mentioning them all working together including DRED on this. Mr. Watson pointed out that a part of him believes that all three groups should be in the room working on this together.

Mr. Nichols only question on crosswalks is that we are not only discussing the main beach but instead are talking all the way up Route 1A. Mr. Watson agrees with Mr. Nichols.

Chairman Griffin wonders what happens if it is decided that lights be put in at every crosswalk. Mr. Watson stated this is up for discussion at this point. Mr. Welch is glad to hear that this is going to be reconsidered. Mr. Welch also mentioned that every year he has to send a letter to have the lines painted and he brought up why the Town is in charge of maintaining the crosswalk at O Street.

Discussion on the MOU with DOT

Mr. Watson came in tonight with a blank sheet of paper.

Mr. Moore stated the only thing that there is left to discuss is street lighting. He wonders if there is any further movement in regards to shutting of streetlights in certain areas of the State. Mr. Watson stated that as far as budgetary changes go nothing has changed. They are having very interesting conversations and the first priority will be safety issues. They have experts in every area looking at this. At the same time communication got out up front that

was not from the department and the information was not creditable in his opinion. Specifically to Hampton they have no interest in shutting off anything in the beach area. There is discussion on the Hampton area bridge but he believes some lighting will be left on the bridge.

Mr. Moore is under the impression that no capital improvements will be made to Ocean Blvd until all the other issues are settled. Mr. Watson feels that his department is willing to take on any opportunity that comes their way in regards to capital improvements as long as the Town is having this conversation in regards to the sidewalk maintenance. There is no work done at this point to be considered a shovel ready project on Ocean Blvd. Communication needs to start on what needs to be done on the west side of Ocean Blvd before anything further can be done. Mr. Watson stated his department is ready to come down and have this conversation at any time. He explained the process that they would need to go through and the individuals who need to be contacted. Mr. Welch commented that there is a lot more involved here such as drainage. This will be a very lengthy process. He feels conceivably that this will be a several year process. Mr. Moore confirmed that the only issue is the sidewalks and Mr. Welch stated that there are things to be done by both the State and the Town related to drainage also. It is a big job but it can be done. Mr. Moore would like the Boards support of the DOT to begin this planning process.

Chairman Griffin asked if Mr. Noyes has any questions and apologizes for not asking him earlier. Mr. Noyes would like to go back to sidewalks and reminded everyone that when they spoke with the Commissioner and they were at an impasse who will repair defects in the sidewalks and this needs to be resolved. He would like to know what the protocol is if someone is to report to the State that a defect is in the sidewalk. Mr. Watson stated that their protocol is to refer it to the Attorney General's Office and the Town. Mr. Noyes explained that this needs to be resolved. Who is legally responsible for correcting the defect. We need to know who is going to repair the defect and that it is not ignored. If it is a legal issue then he thinks it should be resolved. As far as the Town sidewalks go he understands what his responsibilities are by RSA and they follow through with that and there is a system in place so that the problem on Town property is not ignored, but he does not want to be in the middle when it is State property. He thinks there needs to be a temporary agreement for who is going to repair the defect.

Mr. Pierce would like to follow up on what Mr. Moore and Mr. Watson were discussing and brought up TIGER funding a few years ago and the State was not willing to do this if the Town did not take the sidewalks on. Mr. Watson clarified that the stipulation was in regards to the State and Town to begin a discussion on the sidewalks. Mr. Watson thinks that we can work together on this. If another opportunity for TIGER funding comes along and the Town is still working with the State on sidewalks the State would most likely support the application for the funding. Mr. Pierce thinks that this problem with the sidewalks needs to be resolved.

Mr. Bean is very impressed by the comments here tonight and agrees that this is a three-legged stool DRED, DOT and the Town. The projects need to go forward, we need to keep this communication going in the future, and he is energized about all this. He thinks that with Mr. Watson's leadership we can get great things done.

Mr. Nichols wants to confirm in regards to the street lighting there is no intention of shutting off any of the streetlights on the beach, but some on the Bridge. Mr. Watson stated prior to any plans of shutting any lights off the Commissioner is willing to come in and discuss the plans with Selectmen or Town Managers. At this point, they do not intend to shut off any lights on the beach.

Mr. Welch thinks the communications need to keep going and the quarterly meetings need to take place.

Mr. Moore asked if there is a desire of the Board to have DOT move forward with any capital plans for Ocean Blvd. The members of the Board all agreed with the exception of Mr. Nichols. Mr. Nichols feels that the issue of the Westside sidewalk maintenance needs to be resolved prior to moving forward with anything else. Mr. Watson pointed out that the department would possibly be interested in taking on smaller sections such as the A block to start if that works better for the Town. Mr. Welch pointed out that the sooner we get some of the planning coordinated between the State and the Town with respect with the improvement to the sidewalks in this area the better off we will all be. Mr. Moore confirmed that there was no winter sidewalk maintenance done on Ocean Blvd by the Town and Mr. Welch explained the process that the Town would have to go through to remove the snow; the plowing and removal of the snow offsite.

Mr. Noyes knows that he will upset the residents at the beach by stating this but he wonders if it makes sense to have the sidewalks improved with the States help with the understanding that the abutting property owners would then become responsible to maintain the sidewalks in front of their properties. He knows this would require a change in State law but it is done in many other States. He wonders if this might be a way to get around the whole accessible access issue also. This is something that might be put on the table.

Mr. Nichols is hearing from Mr. Watson that although they were not willing to compromise before they might be willing to compromise in the future. Mr. Nichols would also like to clarify that the Town has never done any winter sidewalk maintenance on the beach. Chairman Griffin thinks that people down on the beach tend to do things on their own.

Chairman Griffin asked if Mr. Watson has any further questions. Mr. Watson thinks that in regards to the sidewalks it will be helpful in moving forward to see what the beach community is willing to do. Mr. Watson also reminded everyone that they would be kept informed of the game plan in regards to streetlights. In regards to the crosswalks, he would like to go back and form a group to work with someone from the Town and DRED to see what needs to be done with the crosswalks.

Chairman Griffin thinks it will be good to meet on a quarterly basis. If it is necessary to meet on other issues the Board is always willing to meet. Mr. Watson confirmed that the Board is willing to move forward with the planning phase.

2. Keith Noyes
 - a. Winnacunnet and Lafayette Roads Intersection

Mr. Noyes sent the Board an email outlining where they are at with the intersection. The project was grossly underestimated at \$240,000. At this point, the State is asking what are the Town's feelings on increasing their contribution if we do go forward with the project. The State is still willing to consider their 80% funding even if it is at an additional cost but

they need a preliminary design and cost estimate first. Mr. Noyes thinks this is one of those rare opportunities to get these funds and he thinks we should at least get the preliminary designs done which would be out of pocket for the Town of Hampton costing no more than \$10,000. In the end if the Town decided not to move forward the plan would not become obsolete so it will be useable for the near future. He thinks we should move forward.

Discussion

Mr. Moore confirmed that the Town would be responsible for 20% of the preliminary design and the estimated cost of this plan is between \$30,000 and \$40,000. Mr. Moore is in total support of what Mr. Noyes wants to do.

Mr. Pierce is against spending another penny on this since the voters said no to this.

Mr. Nichols thinks it is more complicated than saying the voters voted against this. He stated that when the voters voted against the Winnacunnet Road intersection it was saddled with an issue that had to do with the land that was totally undefined. It was an issue of a traffic light being put in with no estimate of cost involved and it was not a well thought out plan with many open issues. When we went into this the cost was \$240,000 however if the \$550,000 cost comes out of the preliminary design he would only be in favor of going forward with the more expensive plan if there is a warrant article put forward. He is in favor of going forward with the preliminary design at this point.

Mr. Bean hears what Mr. Pierce is saying and supports what Mr. Moore said. He thinks it is perfectly symmetrical with the Community Challenge Planning Grant we heard about earlier this evening and he thinks Public Works is on top of this.

Mr. Pierce would like to rebut Mr. Nichols a little and stated in this situation the voters were not being asked about any cost since the Galley Hatch was going to pay for the intersection. He thinks that the people of Hampton like the intersections the way they are and not block off every intersection like it is in Kansas. He brought up other traffic issues in the area such as High Street and Route 1.

Mr. Moore MOTIONED to APPROVE the Winnacunnet and Lafayette Roads Intersection as proposed by Mr. Noyes and proceed with the preliminary design phase with the Town contribution of 10,000. Mr. Nichols SECONDED.

Discussion on motion

Clarification of and motion amended to change the 20% to an amount of \$10,000.

VOTE: 4-1(Pierce)-0

Mr. Noyes mentioned that there would be opportunities for plenty of input from the community.

IV. Announcements and Community Calendar

Mr. Moore has a few announcements. It is restaurant week in Hampton. On the 16th, the Historical Society will have their second walking tour. On Thursday the 14th at 10:30 am, the Ashworth will be celebrating their 100th Anniversary. This week the Friends of Lane Library will be having the book sale Thursday – Saturday. Next Tuesday the 19th of June the Historical Society will have a program on a photographer from the area at 7 pm.

Chairman Griffin stated that it is also the 100th Anniversary of Liberty Mutual.

Mr. Pierce commented that the flowers in front of the Town Hall and at the beach look beautiful and he thanked the individuals for their hard work.

Mr. Bean announced that the Recreation Department will have a 5k road race on June 23rd and they are also currently taking registrations for flag football.

V. Approval of Minutes

1. June 04, 2012 Non Public Meeting

Mr. Nichols MOTIONED to APPROVE the Non Public Minutes of June 04, 2012 as amended. Mr. Pierce SECONDED.

VOTE: 5-0-0

VI. Town Manager's Report

1. We have a tentative date to hold the Town Auction on July 14, 2012. Mr. Vic Lessard has agreed to conduct the auction as he has many times before.
2. I have prepared the draft letters on the following: Harbor Dredging and its spoils placement on Sun Valley's Atlantic Beach; a request for 2013 legislation to rebuild the half-tide jetty in the Hampton River next to Sun Valley; a letter to the Governor in support of the spiking elimination legislation passed by the Senate and House.
3. A bid was awarded to Douglas W. Jones as the low bidder for the chipping and removal of brush and logs from the Transfer Station. The low bid was \$14,826.
4. The Board has received letter of resignation from Steve Scaturro from the Conservation Commission.
5. Mr. Welch has followed up with the State regarding the 20 parking Spaces and is waiting for the return call.

Other Items Added to the Town Manager's report

He received a letter from Phil Bryce today apologizing for not having the MOU back from DRED. They have been tied up with getting the State Parks up and running. They hope to get it back to the Town this week.

Mr. Nichols will discuss the letter in regards to spiking elimination legislation to the Governor. He has been asked to send a letter to the Governor asking him to repeal spiking charges and sign HB1483. He thinks the letter would be more effective if it comes from the full Board. He has provided copies of the letter to the members of the Board and would like to get it signed by them tonight.

Mr. Nichols MOTIONED that the Board approves and signs the letter he has written to the Governor. Mr. Bean SECONDED.

Mr. Pierce asked if this bill is attached to something else. Mr. Nichols stated it was actually attached to several other bills, which he went through for the Board.

VOTE: 5-0-0

Mr. Welch has one more thing and that is the signing of the labor contract for 3017.

Discussion

Mr. Moore asked if Mr. Welch would like a vote or consensus on his letters on dredging and other items as mentioned above.

Mr. Moore MOTIONED to approve the language of the two letters Mr. Welch has written in regards to Harbor Dredging and its spoils placement on Sun Valley's Atlantic Beach; a request for 2013 legislation to rebuild the half-tide jetty in the Hampton River next to Sun Valley. Mr. Pierce SECONDED.

VOTE: 5-0-0

Mr. Nichols asked about a document the Board received in regards to costs for services provided for the State of NH. Mr. Welch stated he has asked each department to keep a running total of these cost. Mr. Nichols questioned a note on the top about billing the State for trash in excess of 5,000 lbs. per week billed after the Seafood Fest. Mr. Nichols understands that this was done historically but he is not sure that is still the case after working on this MOU. Mr. Welch stated that they have not been instructed by the Board to do anything different. Mr. Nichols thinks that we should discuss this amongst the Board to see what others thoughts are on this. Mr. Moore thinks that we should wait until they get the MOU back and believes that there is something in the 1933 documents that addresses rubbish and Mr. Pierce agrees. Mr. Nichols wonders how far away we are from this document and pointed out that they originally sat down in January with a goal of completion in October and we are now almost at July. Mr. Nichols wonders how the Board feels about saying that if the MOU is not complete by a certain date the Town will begin to charge for all trash and there will not be the 5,000 lbs. for free. Chairman Griffin thinks we should wait until further work is done on the MOU. Mr. Bean applauds Mr. Nichols attention to detail on this and DPW's production of this list. In the spirit of what they have heard tonight, there is no free lunch anymore and 5,000 lbs. is 5,000 lbs. and should be charged subject to their research to assure it does not violate any previous agreement. Chairman Griffin thinks it is in the 1933 agreement and needs to be part of the bigger discussion. Mr. Pierce thinks we need to keep things the way they are for now. Mr. Nichols would not be in favor of allowing the 5,000 lbs. free for next year then.

VII. Old Business

Mr. Moore under the advice of legal counsel would like to make a motion in regards to the motion made last week about a public hearing regarding an entertainment license. He was making the motion in reference to the Town's internal ordinance passed by Town meeting 149 regarding entertainment activities and it turns out since there are property rights involved by both owners and abutters that the provisions of RSA 43 should be looked at. The process of notification was such that we did not have enough time to notify people prior to the June 25th meeting. Secondly, the entertainment license for the establishment was issued on May 21st. The advice of counsel is that it would be more appropriate for the complaints that may exist in the future regarding the establishment to be within only the current license period. Therefore, the Board should only hear those complaints that originate after the 21st of May this year. This should be the fundamental reason for the hearing.

Mr. Moore MOTIONED to rescind motion from last week and cancel the public hearing on Wally's Pub on June the 25th. Chairman Griffin SECONDED.

Discussion on the motion

Mr. Pierce questioned if Mr. Moore would like to enter the legal advice into the minutes and Mr. Moore does not feel that is necessary at this time. Mr. Pierce asked why this was not put on the agenda as he (Mr. Pierce) had suggested. Chairman Griffin believes that the deadline was 5 pm on Wednesday and Mr. Welch had suggested that it be brought up under old or new business. Mr. Pierce feels very strongly that it should have been put on the agenda and there was no transparency here.

Mr. Bean stated that both Mr. Moore and Chairman Griffin have his full confidence in their pursuit of addressing this matter tonight. He thinks the public has had ample time to comment. He confirmed that the motion is to rescind the motion from last week for a public hearing and there is no follow on scheduled meeting as part of his motion. Mr. Moore stated there are no complaints at this time so there cannot be a hearing scheduled at this time. Mr. Bean stated if this does come forward again he would like to examine the Entertainment Ordinance Section 149-13.

Mr. Nichols has a few comments. To Mr. Pierce's comment, he thinks transparency should trump the Wednesday deadline. He pointed out that last year they issued 6 revised agendas on issues that he thought the public might have an opinion on. He thinks going forward that if an issue comes up that the public may be interested in on a Thursday or Friday that the agenda should be revised. Chairman Griffin stated that may have been what he did when he was Chairman but under the advice of Mr. Welch Chairman Griffin decided to leave the agenda as posted and suggested that Mr. Pierce bring this up under old or new business. Chairman Griffin added under his chairmanship he will do things as recommended by the Town Manager. Mr. Nichols stated that they would have to agree to disagree on this. Mr. Nichols also pointed out that the agenda did not appear on the website until this morning. He also pointed out that the meeting was not on the calendar and he added that he does not think that this was interrelated but he is just pointing this out. Mr. Nichols stated to the issue of Wally's he understands and agrees with Mr. Moore's comment about the 14-day notification. He also understands the grounds being from May 21st on. On these two points alone, he thinks it would be awkward and he would support canceling the June 25th meeting. However he does not believe we should do nothing and he sees a distinction between Section 149-13a but he moves to Section 149-13b, which allows the Board to institute conditions. He does not think that nothing should be done and has a motion.

Mr. Moore wants to make one additional comment on the entertainment license ordinance, which he has read many times over the past few weeks. For clarification for businesses who provide entertainment the license expires on March 31st of each year no matter when it was issued and the applications for renewal of licenses should be in the Town Hall by March the 1st of each year. If the license is not issued by March the 31st entertainment should not take place.

Chairman Griffin stated as he said before this is a very slippery slope for the Board to go down, he has investigated, and Wally's Pub has no violations with the Liquor Commission. He reminded everyone of all the times the Board has been besieged with complaints on properties such as Guido's. He feels bad that Wally's Pub has been dragged through the mud on this one.

VOTE: 5-0-0

Chairman Griffin asked if Mr. Nichols has a motion to make also.

Mr. Nichols commented as he stated before he does not think the license should be revoked or a hearing scheduled at this time. He does believe based on the number of complaints they have received under the ordinance they do need to take some action.

1st Motion. Mr. Nichols MOTIONED that one Chief Sullivan provide the Board with a report by June 29th covering any complaints for the violation covering the period of May 21st through June 23rd similar in scope provided at the June 4th meeting, two in addition to complaints and violations the Chiefs June 26th report should contain recommendations the Owner should take to mitigate the nuisance related to parking lot such as lighting and a parking lot attendant. This subject including making some of the Chiefs recommendations a condition of the entertainment license as the Board has the authority to do under 149-13b without dragging everyone through a hearing should be placed on the July 2nd agenda. Mr. Pierce SECONDED.

Discussion on the motion

Chairman Griffin would like to bring up that the lighting has been dealt with since the neighbors did not want this. He also has checked with Mr. Fleury and they do have a parking lot attendant and someone to pick up the trash every day at 10:30. Chief Sullivan stated that at this point he would not suggest any further details than those already requested. He has spoken with Mr. Fleury and he is willing to sit down and talk to and work with all the neighbors but the three people who came forward last week refuse to meet with him. At this point, he would rather see a hearing since we might see some people come out in support of Mr. Fleury.

Mr. Bean commented in the significance of the agenda was just addressed under prior discussion and he would like to think he is semi diligent in his research for discussions on the agenda and he is blindsided by this request. He had no knowledge of this and did not have the ability to do any research on this to make an informed decision. He secondly questions why we would single out this institution when they have no blemish with fire code violations, without arrest record and without point. Mr. Moore has rescinded his request for a hearing and we have voted on it. If we are going to go down this slippery slope then let us make it a condition for all the establishments at the beach and all of their violations. He brought up the building code enforcement and how many of the businesses/properties in this Town would be shut down.

Mr. Moore is not very happy with the way this conversation has gone. He understands that we have received complaints and as a public body, we need to address them. He does not think that the code enforcement should have been brought up. Mr. Nichols motion as he understand it, is requesting information from the Police Chief and if we receive a formal request from the PD, FD or Building Inspector than we may make an order. He thinks it may be a little over the top, in the request of in Mr. Nichols motion for any violations/arrest records. They discussed the lighting further and if it is requested for safety reasons by the Police, it is something that should be worked on. Mr. Moore would request that Mr. Nichols remove the motions request for the incidents between the period of May 21st and June 23rd. This information requested would fan the flame.

Mr. Bean stated that this is not on the agenda and that he has no access to the statutes being discussed and it is unfair the business owner, the neighbors and the Town, to pursue this in this manner. He thinks they need a cooling off period and put this back on the agenda to be

discussed next week, to have Mr. Fleury in attendance. Chairman Griffin thinks the lawyer needs to be here to discuss this.

Mr. Pierce has no problem with Mr. Fleury trying to run his business but instead with a solution/remedy for the neighbors down there. He thinks we need to move on this and thinks Mr. Nichols idea moving forward on this is good and it should be moved on tonight.

Mr. Nichols pointed out that this is not to be discussed again until July 2nd. Mr. Nichols heard Mr. Moore's point about the request for incident reports and will remove that first piece of it from his motion.

2nd Motion. Mr. Nichols AMENDED his MOTION to remove the incident report request. Mr. Pierce SECONDED.

Discussion on Mr. Nichols amendment to his motion

Mr. Bean stated that they just backtracked because they did not shop the initial motion last week through legal and legal put a stop on the motion and it was now rescinded tonight. Let us run this through legal so that we do not come back next week to rescind this motion and get an opinion. We need to use the Town staff appropriately.

Mr. Moore would offer an amendment to Mr. Nichols motion and address Mr. Bean's comment of running it through the Legal Department.

Mr. Moore MOTIONED to amend Mr. Nichols's amended motion as follows the Police Chief should develop a report containing recommendations the Owner should take to mitigate the nuisances related to parking lot such as lighting and a parking lot attendant. This request for recommendations of the Police Chief should be passed by legal counsel prior to making the request of the Police Chief. This subject including making some of the Chiefs recommendations a condition of the entertainment license as the Board has the authority to do under 149-13b without dragging everyone through a hearing should be placed on the July 2nd agenda. Mr. Pierce SECONDED.

VOTE (on Moore amendment to Nichols motion as amended): 3(Moore, Nichols, Pierce)-2(Griffin, Bean)-0

VOTE (on Nichols motion with amendment): 3(Moore, Nichols, Pierce)-2(Griffin, Bean)-0

No vote on the second amendment.

Mr. Nichols received a call from Mr. Fleury asking that he come down and communicate with him on this and he wants to make sure that the Board is ok with him doing this. Chairman Griffin stated that any member of the Board has the right to talk to a business owner just as he did earlier this week with Mr. Fleury.

Other Old Business

Mr. Pierce reminded him that they were supposed to discuss the IT Committee. Chairman Griffin feels it is a little late again.

VIII. New Business

1. Recycling Committee Appointments – Full Member/Alternate discussion
 - a. Norm Silberdick

b. Eileen Latimer

Discussion

Mr. Pierce pointed out that Norm Silberdick's application/letter was put in first.

Mr. Pierce MOTIONED that Norm Silberdick is appointed as the Full Member of the Recycling Committee and Eileen Latimer is appointed as the Alternate Member of the Recycling Committee. Mr. Moore SECONDED.

VOTE: 5-0-0

Other New Business

Mr. Pierce would like to discuss the IT Committee. He would suggest that the committee be formed since it has been discussed many times by the Board and Kristina has already received a request. He thinks that after the committee is formed others will come out of the woodwork.

Mr. Welch thinks that if the Board votes to form the committee they will come back with a charge to be approved by the Board.

Mr. Bean whole-heartedly endorses the forming of this committee.

Mr. Nichols is not sure what level of detail they need to go into with the charge since the committee should probably come up with the scope of the committee.

Mr. Moore is not sure that this committee is going to be all that everyone expects it to be. He thinks more will happen from the employees and management than from a committee sitting around once a month. Mr. Moore shared some thoughts on whether or not they are prepared to put forward any money.

Mr. Bean commented that the same thing came up with the building committee and he whole-heartedly disagrees with the approach that we should not move forward with these committees because of money. This is at no cost to the Town and the private sector can bring some input to this committee.

Mr. Pierce one of the main reasons he is behind this does not have to do with the quality of employees and he has no problem with these employees. He thinks there are all kinds of things that can be done and it just takes a little thinking outside of the box. Mr. Moore pointed out that Mr. Pierce is against Paul sitting on the committee. Chairman Griffin is against the committee if Paul is not on the committee.

Mr. Pierce MOTIONED to form the IT Committee. Mr. Bean SECONDED.

Discussion

Mr. Nichols does not think that there needs to be a set number of members at this time.

VOTE: 3(Nichols, Bean, Pierce)-2(Griffin, Moore)-0

IX. Consent Agenda

1. One-day Street Closure Permit – 6 Lancaster Street – 06/16/12
2. One-day Street Closure Permit – 7 Cranberry Lane – 06/16/12
3. Entertainment License – Whales Tale Too – 169 Ocean Blvd

Discussion

Mr. Nichols asked about the street closures and how it appears they are working together and one ends at nine and the other at midnight. Mr. Welch does not believe this is an issue.

Mr. Pierce MOTIONED to MOVE the Consent Agenda. Mr. Moore SECONDED.

VOTE: 5-0-0

X. Selectmen's Closing Comments

Mr. Nichols would like to see the finalization of the purchasing policy put on the agenda for next week. He would also like to start to have some sort of a discussion on the CIP.

Mr. Pierce mentioned the request of Wanda on information on employees and Mr. Welch and she are still working on this. He also brought up a discussion on warrant articles.

Mr. Moore was under the impression that the Board planned to discuss the CIP when a department head was present for their report. Mr. Nichols does not think that the first level of discussion needs to take place with a department head present. There was an additional discussion on when the CIP would be discussed and the Board will add this to the agenda next week.

XI. Adjournment

Mr. Moore MOTIONED to adjourn the public meeting. Mr. Pierce SECONDED.

VOTE: 5-0-0

Chairman