

Minutes of March 18, 2013

PRESENT: Philip Bean, Chairman
Richard Nichols, Vice Chairman
Michael Pierce, Selectmen
Ben Moore, Selectmen
Mary-Louise Woolsey, Selectmen
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney

SALUTE TO THE FLAG

I. Oath of Office – Swearing in of Elected Officials

1. Town of Hampton

Vice-Chairman Nichols opened the meeting, and introduced Hampton Town Moderator Robert Casassa who swore in the following individual for the Office of the Clerk of the Town of Hampton, Hampton, New Hampshire.

With the statutory oath, Jane Marzinzik was sworn into the Office of the Town Clerk of the Town of Hampton.

With the statutory oath, Mary-Louise Woolsey was sworn into the Office Selectmen.

With the statutory oath, Jeannine G. St. Germain became a member of the Supervisor of the Checklist.

With the statutory oath, William A. Hartley became a member of the Trustees of the Trust Funds.

With the statutory oath, Francis McMahon became a member of the Planning Board.

With the statutory oath, Brain Lapham, Eileen Latimer, and Mark McFarlin became members of the Municipal Budget Committee for three years.

With the statutory oath, Sunny Kravitz, and Tim Jones became members of the Municipal Budget Committee for one year.

2. Hampton School District

Mrs. Jane Marzinzik, the Hampton School Board Clerk swore in the following individuals for the following elected Offices of the Hampton School District.

With the statutory oath Jerry Znoj became a member of the Hampton School District Board.

3. Winnacunnet Cooperative School District - No elected officers were present.

II. Reorganization of the Board of Selectmen

1. Election of Officers

Chairman

Motion by Mr. Moore to nominate Mr. Bean as Chairman SECONDED by Mrs. Woolsey.

VOTE: 3-2(Nichols, Pierce)-0

It was stated by Mr. Nichols that previously nominees never voted and Ms. Woolsey stated that Mr. Bean is a valid member of the Board.

Vice Chairman

Motion by Mr. Moore to nominate Mr. Nichols as Vice Chairman SECONDED by Mrs. Woolsey.

VOTE: 4-0-1(Nichols)

III. Selectmen Representative Appointments to Boards, Commissions and Committees

Representative to the Budget Committee

Motion by Mr. Nichols to nominate Mr. Bean. SECONDED by Mr. Pierce

VOTE: 5-0-0

Alternate Representative to the Budget Committee

Motion by Mr. Moore to nominate Mrs. Woolsey. SECONDED by Mr. Nichols.

VOTE: 5-0-0

Representative to the Planning Board

Motion by Mr. Pierce to nominate Mrs. Woolsey. SECONDED by Mr. Nichols

VOTE: 5-0-0

Alternate Representative to the Planning Board

Motion by Mrs. Woolsey to nominate Mr. Nichols. SECONDED by Mr. Bean

VOTE: 5-0-0

Mrs. Woolsey discussed the non-mandated committee's representative and thinks there is not a need to have a representative to all these committees.

Representative to the Recreation and Parks Committee

Motion by Mrs. Woolsey to discontinue the Selectmen's representative to the Recreation and Park Committee. SECONDED by Mr. Pierce.

VOTE: 5-0-0

Motion by Mrs. Woolsey to discontinue the Selectmen's alternate to the Recreation and Park Committee. SECONDED by Mr. Pierce.

VOTE: 5-0-0

Representative to CATV

Motion by Mr. Pierce to nominate Mr. Moore. SECONDED by Mrs. Woolsey.

VOTE: 5-0-0

Alternate Representative to CATV

Motion by Mrs. Woolsey to nominate Mr. Pierce. SECONDED by Moore

VOTE: 5-0-0

Representative to the CIP

Motion by Mr. Moore to nominate Mr. Nichols. SECONDED by Mr. Pierce

VOTE: 4-0-1(Nichols)

Alternate Representative to the CIP

Motion by Mr. Nichols to nominate Mr. Moore. SECONDED by Mr. Pierce

VOTE: 5-0-0

Representative to the Records Advisory Committee

Motion by Mr. Pierce to nominate Arthur Moody as Representative SECONDED by Mrs. Woolsey

VOTE: 5-0-0

Alternate Representative to the Records Advisory Committee

Motion by Mrs. Woolsey to nominate Mr. Nichols. SECONDED by Mr. Moore

VOTE: 5-0-0

Representative to the Heritage Commission – will review to see if it is necessary to have a representative to the Heritage Commission.

Motion by Mr. Nichols to nominate Mr. Moore. SECONDED by Mr. Pierce

VOTE: 4-1(Woolsey)-0

Alternate Representative to the Heritage Commission

Motion by Mr. Moore to nominate Mr. Bean. SECONDED by Mr. Pierce

VOTE: 4-1(Woolsey)-0

Representative to the Energy Committee

Motion by Mr. Pierce to nominate Mr. Nichols. SECONDED by Mr. Pierce

VOTE: 4-0-1(Nichols)

Alternate Representative to the Energy Committee

Motion by Mr. Moore to nominate Mr. Pierce. SECONDED by Mrs. Woolsey.

VOTE: 4-0-1(Pierce)

Representative to the Recycling Committee – Held for Sun-setting.

Motion by Mr. Moore to defer. SECONDED by Mrs. Woolsey.

VOTE: 5-0-0

Representative to the Hampton Area Chamber of Commerce – Mrs. Woolsey objects to having a representative to the Hampton Area Chamber of Commerce since their meetings are

not public and are not subject to the Right to Know Law. Mr. Moore questioned how far this representative position goes back.

Motion Mrs. Woolsey to defer SECONDED by Mr. Moore

VOTE: 5-0-0

Representative to the Hampton Beach Village Precinct District

Motion by Mrs. Woolsey to nominate Mr. Pierce. SECONDED by Mr. Moore.

VOTE: 4-0-1(Pierce)

Alternate Representative to the Hampton Beach Village Precinct District

Motion by Mr. Nichols to nominate Mr. Moore. SECONDED by Mrs. Woolsey.

VOTE: 4-0-1(Moore)

Representative to the Insurance Advisory Committee

Motion by Mr. Moore to defer, SECONDED by Mrs. Woolsey

VOTE: 5-0-0

Representative for Collective Bargaining

Motion by Mr. Pierce to nominate Mr. Moore and Mr. Nichols. SECONDED by Mr. Nichols.

VOTE: 4-0-1(Woolsey)

Representative for Assessing – Mr. Nichols explained the role he has played in the past and that this is not necessary at this time.

Motion by Mrs. Woolsey to discontinue the appointment of Representative to this committee. SECONDED by Mr. Pierce.

VOTE: 5-0-0

IV. Public Hearing

1. Amending Consents for the Presence of Aquarion Water Company's Infrastructure in Town Highways or Public Grounds so as to Impose Tax Payment Obligations under RSA 72:23

The Hampton Board of Selectmen will hold a Public Hearing on Monday, March 18, 2013 at 7:00 pm at the Town Offices at 100 Winnacunnet Road, Hampton, New Hampshire, for the purpose of considering whether to amend all consents previously given in any form or manner for the infrastructure of Aquarion Water Company of New Hampshire, Inc. (hereinafter "Aquarion") and any of its predecessors to be located in Town highways or public grounds so as to impose upon Aquarion the obligation under RSA 72:23 to pay both current and potential real and personal property taxes for the use and occupation of the said Town highways or public grounds and the obligation to pay real and personal property taxes on structures or improvements in Town highways and public grounds added in the future by Aquarion, or its successors and assigns.

Atty. Gearreald explained the importance for the hearing including: reminded the Board of the proposal made by Mr. Tinker in 2011, abatements sought by some utility companies,

Aquarion has filed an action in Supreme Court which Atty. Gearreald explained in detail, court order to hold a public hearing and the need to amend agreements of this type.

Mr. Tinker spoke to the Board and public as to why it is good to amend this agreement which included the following: Town maintains these rights of ways which cost the taxpayer's money, provided example of clearing fire hydrants, treating all utilities equally and this is why he would recommend the Board to approve this amendment.

Comments made from Aquarion representative

Carl McMorran made the following comments: Operations Manager for Aquarion, resident of Hampton, Aquarion already pays taxes on its assessed value of its assets, an additional tax on these same structures, proposed tax would result in higher rates, works to minimize water rates and gave a memo from their legal department for the Board.

Comments from the Public

Mr. Znoj expressed the following concerns: raising revenues on the backs of our taxpayers, if tax Aquarion then the cost will be passed right back to the resident.

Arthur Moody, 3 Thompson Road, questioned the following: what do we currently collect from Aquarion in taxes; how much we paid for hydrant rentals; discussed hydrant

Comments from the Board

Mr. Moore asked Atty. Gearreald if the Board is attempting with the motion tonight to make the taxes effective for 2011 and 2012. Atty. Gearreald answered that this change would be effective for April 1, 2013. Mr. Moore gets the concept of taxing a utility company and then passing it back to the customers in their rates but he thinks their obligation is to legally tax in a fair value the properties of the Town that are used by residents, businesses, utilities, etc.

Mr. Nichols supports what they are doing. Mrs. Woolsey believes in fairness and if going to tax one utility then should tax them all.

Mr. Bean asked Mr. Tinker using an example of a pizza store compared to a utility company what the difference in the concept of pass is through. Mr. Tinker stated that the only difference is that they are talking about land compared to a building.

Mr. Bean closed the public hearing.

Mrs. Woolsey MOTIONED the following: I hereby move that as it is in the public good to do so, that the Board of Selectmen amend all consents previously given in any form or manner for the infrastructure of Aquarion Water Company of New Hampshire, Inc. (hereinafter "Aquarion") and any of its predecessors to be located in Town highways or rights of way or public grounds, so as to impose upon Aquarion, its heirs, successors, agents or assigns the obligation under RSA 72:23 to pay both current and potential real and personal property taxes for the use and occupation of the said Town highways or rights of way or public grounds and the obligation to pay real and personal property taxes on structures or improvements in such Town highways or rights of way or public grounds that are added in the future by Aquarion, its heirs, successors, agents or assigns, and to indicate pursuant to RSA 72:23, I (c), that failure of Aquarion, its heirs, successors, agents or assigns to pay the duly assessed real and personal property taxes when due shall be cause to terminate said

consents by the Town of Hampton, and to sign the Amendment to Consents provided for that purpose. Mr. Moore SECONDED.

VOTE: 5-0-0

V. Public Comment Period

Board Members Nichols, Woolsey, Pierce, Moore and Bean discussed the subject of Public Comment and procedures.

Kevin Lonergan, 7 Windmill Lane, commented on last week's election and the dirty tricks that were played on a candidate. He went through the things that took place last Monday and Tuesday.

Chairman commented that there will not be a discourse between the Board and the public during Public Comment period, and it was agreed that the Selectmen may at times respond to Public Comment but after the Speaker was finished but not in an interactive mode.

Arthur Moody, 3 Thomsen discussed the subjects of Public Comment; Selectman Woolsey; new ambulance; right of way in front of Ocean Wok, and the Court House.

Jerry Znoj, 16 Presidential Circle discussed the 3 minute timeframe, action items that are assigned and they are not reported or followed up on.

VI. Announcements and Community Calendar

Mr. Moore announced that this Wednesday at 6:30 there will be a program at Lane Library the video will be on the history of fishing, clamming and other items in the Seacoast area.

Mrs. Woolsey thanked the voters and thanked IT for setting up her email and encouraged all to contact her with any questions, concerns or for any other reason.

Chairman Bean thanked the voters, the employees and former Chairman Griffin for his many years of service to the Town.

VII. Appointments

1. Chief Silver
 - a. Award of Ambulance Bid

Chief Silver was present for this subject. Board members Moore, Nichols, and Woolsey and the Chief discussed the award of the bid.

Mr. Nichols MOTIONED to APPROVE the purchase of the Wheel Coach Ambulance from Bert's Emergency Vehicles in the amount of \$173,726. Mrs. Woolsey SECONDED and AMENDED the motion to include the authorization of the Fire Chief to use as a trade-in or sell outright the old ambulance.

VOTE: 5-0-0

Chief Silver explained in detail for the Board the concerns raised during Public Comment about mutual aid.

VIII. Approval of Minutes

1. March 04, 2013

Page 4: Add in the last paragraph, second sentence after the word “agreements” “(Gearreald, Tinker)”

Page 5: Remove the wording “cost beginning now” and replaces with “costs for all tonnage” in the sentence before the motion and in the motion.

Mr. Nichols MOTIONED to APPROVE the Minutes of March 04 2013 as amended. Mr. Pierce SECONDED.

VOTE: 3-0-2(Woolsey, Moore)

2. March 11, 2013 Non-public Session Sealed Minutes

Mr. Nichols MOTIONED to APPROVE the Non-public Session Sealed Minutes of March 11, 2013. Mr. Pierce SECONDED.

VOTE: 4-0-1(Woolsey)

Mrs. Woolsey MOTIONED to have additional information added to non-public meetings that verbally describes what the RSA refers to. Mr. Moore SECONDED.

VOTE: 5-0-0

Board member Woolsey feels a secretary should be present at the meeting to take minutes and that the minutes can be made briefer.

Mrs. Woolsey MOTIONED to have a secretary at all meetings and have the minutes in a briefer format. Mr. Nichols SECONDED.

Board members Nichols, Pierce, Moore, Woolsey and Bean and Mr. Welch discussed the preparation of the minutes.

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

The Board will discuss this topic again next week.

IX. Town Manager’s Report

Chairman Bean asked Mr. Welch to expand on his municipal government experience for himself and the public which Mr. Welch did.

1. Agreement with the US General Services Administration and the National Park Service, Department of Commerce to eliminate the Federal interest in the right-of-way.

Mr. Welch explained how this occurred and requests that the Board under RSA 41:14-a to initiate the process.

Moore MOTIONED to initiate the process under RSA 41:14-a by referring the issue to the Planning Board and Conservation Commission and to take any other actions necessary. Mrs. Woolsey SECONDED.

Discussion on motion

Board member Pierce and Mr. Welch discussed what was built on this land.

VOTE: 5-0-0

2. CDBG closing paperwork for the Foss Grant

3. Posting of Mary Batchelder Road for no through trucking, recommendation that there is no need to post
4. Seawall at Bicentennial Park was damaged and Public Works to report on the walls condition and any actions required.
5. Consideration of two vendors (Casella or EcoMaine) should be contracted for the acceptance of our recycling wastes.

Additional Items added to report

Mr. Welch provided the following: upcoming storm update, parking ban has been lifted, culverts on Cusack Road; DOT letter on paving; approved \$149,000 grant from Homeland Security & Emergency Management for Dearborn/High Street/Lafayette Road; take \$4,350 to become compliant with GASB34 & 35; an update on HB138 and HB139.

Mr. Welch and Board members Pierce, Nichols, Moore and Woolsey discussed EcoMaine and Casella; Winnacunnet/Lafayette Road spur; Church Street Pump Station; posting election results on cable channel; Cusack Road culverts; the \$14,350 encumbered last year.

X. Old Business

1. Award of Demolition of the Court House

Mr. Welch – 3 bids received, only one was complete, \$24,900 lump sum to remove the building, foundation and dispose of everything.

Mrs. Woolsey MOTIONED to authorize the Town Manager to accept the bid with the stipulation that the unusable contents be included in the destruction. Mr. Pierce SECONDED.

Discussion on motion

Board member Pierce and Mr. Welch discussed the possibility of a War Memorial.

VOTE: 4-1(Moore)-0

2. Award of the Removal of Asbestos from the Court House

Mr. Welch – 4 bids received, recommends the bid be awarded to One Source Environmental in the amount of \$5,950 and reserve \$1,450 in case any problems arise during demolition.

Mr. Pierce MOTIONED to APPROVE Award of the Removal of Asbestos from the Court House to One Source Environmental in the amount of \$5,950 with \$1,450 held in reserve. Mr. Moore SECONDED.

Discussion on motion

Board member Woolsey and Mr. Welch discussed the disposal of asbestos under Federal guidelines.

VOTE: 4-1(Moore)-0

Other Old Business

Board member Nichols spoke about Tuck & Cogger drainage issue and not being bid out, the tax impact of the articles that were approved; and Cable TV articles.

Board members Woolsey and Pierce and Mr. Welch spoke on the subject of the spur road at Lafayette Road/Winnacunnet Road.

Board member Woolsey spoke on the legality of Article 16.

XI. New Business

XII. Entertainment Licenses in-Process

Mr. Welch reminded the Board that this was put on as an information piece as discussed previously by the Board.

1. Casino Ballroom Entertainment License
2. Boardwalk Café Entertainment License
3. Ocean Gaming at Hampton Beach Entertainment License
4. The Community Oven Entertainment License
5. The World's Greatest Karaoke Bar Entertainment License
6. Millie's Tavern

XIII. Consent Agenda

1. MS-2 Report of Appropriations Actually Voted
2. Library request to take pictures of the court House before the demolition
3. Veteran-New: Richard Dickson. Elderly-New: Maher, Mary H Trust; Kucharski, Sharon. Vet-Re-qualify: Lajoie, Clifford; Rheault, Gloria. Elderly-Re-qualify: Boddy, Gordon; Shikarllah, Yvonne; Marelli, Richard & Gertrude. Elderly/Vet/Blind-Re-qualify: Scroano Family Trust
4. Hampton Cemetery Deed: John J. Ludwick

Mr. Pierce MOTIONED to MOVE the Consent Agenda except item #2. Mrs. Woolsey SECONDED.

VOTE: 5-0-0

Mrs. Woolsey asked about details on item #2 and how we will make sure they are safe. Mr. Welch explained that they would like to take pictures of the interior and all precautions will be taken.

Mrs. Woolsey MOTIONED to MOVE item #2 to allow the Library to take pictures of the interior of the Court House at the Manager's discretion, with correct safety equipment and escort provided. Mr. Pierce SECONDED.

VOTE: 5-0-0

XIV. Closing Comments

Board members discussed meeting to complete the reviews of employees to be held on Tuesday the 26th at 2 pm.

XV. Adjournment

Mr. Pierce MOTIONED to adjourn the public meeting. Mrs. Woolsey SECONDED.

VOTE: 5-0-0

Chairman