

Note: Draft minutes are subject to corrections, additions and deletions.

May 18, 2015

PRESENT: Rick Griffin, Chairman
Mary-Louise Woolsey, Selectman
Phil Bean, Selectman
Jim Waddell, Selectman
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney

SALUTE TO THE FLAG

I. Public Hearing (06:30)

To discuss and advise the owners of property abutting Town property who use Town property for the placement of seawalls and other facilities that they must do so in accordance with the provisions of State Laws RSA 72:23,I,(b), the Selectmen's policy on how Town property is used, and other requirements for the protection of the Town and the lease holder.

Attorney Gearreald: at the Board of Selectman's meeting on March 3, 2014 was presented with the form of lease that would be utilized for leasing of town property which is occupied and this would apply to several different beach areas as well as the forms involved and so when the Selectmen were presented recently with the cover letter that would send proposed leases, the board indicated that it wanted to conduct a public hearing concerning this.

Attorney Christos Valhouli: represents Plaice Cove Godfrey Shores Association it is charitable association to protect and preserve strip of beach between the 900's Ocean Boulevard to the North Hampton Town line; many members are property owners; issue of lease arrangement with Town; where did this come from and where is it headed; seawall revetment; town owns that strip of beach; property owners have always maintained seawalls; benefitted property owner and town; 2013 town made decision to change obligation of property; lease the property and pay rent; revisit regulations; town asking enter into 5 year lease; rent for 5 year period; pay taxes on that property; was liability concern; exempts town from liability; state's recreational use statute; no notice given to property owners for regulation in 2013.

Attorney Gearreald: regarding exclusion of the public, the way the regulation was stated back in 2013 that it is understood that an applicant cannot exclude the public from any portions located on town property by any seawall revetment or stairway maintained or constructed on town property without prior written consent of the Selectmen; the lease involved represents the prior written consent; some constructions have been built very far out into the town property and people have been erecting facilities on that which seem to be for personal use and that is a problem; the taxation is not a big amount; the lease is a regulatory

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vehicle to make sure the property is properly insured; no grandfather rights to continue to use town property without specific permission and this program legitimizes those uses.

Mr. Tinker: as part of the program we have physically inspected all the waterfront properties; created maps utilizing deeds; haven't created values yet; about 75 properties that encroach on town beach; the 3 areas are Sun Valley; Plaice Cove and North Beach and Nor' east Lane; all of those properties have some form of seawall, stairs or whatever it may be; all of those properties have a varying range of square footage that encroaches onto the town beach property; we determined what items appear to be on town property, revetments, seawalls and steps are the 3 major things, there were a couple of patios.

Chairman Griffin: do people pay more if they have a patio? Mr. Tinker: the patio would already be assessed; this would just entail the land area that it is on.

Patricia McKenzie, 24 Beach Plum Way: have documents regarding March 31, 1993 in which the town meeting approved a FEMA project to put the break water north of Shaw Street; not a private project.

Town Manager Welch: can we have copies, we don't have any, when the old Town Hall flooded all the records were destroyed? Patricia McKenzie: I will get some copies for you.

Christos Valhouli: this is not exempt from liability because of the lease, there is no lease in effect as of yet for the majority of the property, so it is still public use land; it is the lease that is being presented to the property owners that would take it out of public use; most of the people don't want it to be taken out of public use; the lease is a roundabout way to create a private right to that seawall to your staircase.

David Pope, 1052 Ocean Blvd.: in 1978 the town decided it did not want to rebuild a seawall and that is why they sold the land to us; I have put the seawall in about 3 times and have \$30,000 invested in rocks to protect the land; this is outrageous to have to sign a lease; unreasonable that we have put this money of our own and not be reimbursed for this.

Robert Saltmarsh, 1072 Ocean Blvd.: the town sold me the property back in 1985 and for the 40 years prior to that my parents or grandparents had been leasing space on the beach; great expense to homeowners to rebuild walls; had no idea in the 30 years that town was interested in that land; we protected our homes; held hostage by town for protecting our property; unless we sign lease not allowed to protect our property.

Chairman Griffin: I was friends with your mother; when did your family actually take possession of that land? Robert Saltmarsh: I believe 1937; then transferred to me in 1982 and sold to me in 1985.

Chairman Griffin: we appreciate people like you who keep up your properties.

Jeff Gove, 7 Thornton St.: I am a commercial developer; with a 5 year lease and nothing beyond that you are going to put a chilling effect on property values; how are you going to sell house you can't protect; how you redevelop lot; you could put property values right through the floor; you have to disclose this; assuming you would record lease; 5 year lease huge problem.

Selectman Woolsey: could we have counsel address the renewability of the leases? Attorney Gearreald: people have raised some good points that I am sure the selectmen will want to consider; right now no automatic renewal; take into account what people have to say.

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Suzanne Petrella, 32 Beach Plum Way: we are all concerned and figured it couldn't pertain to me.

Henry Stonie, 1050 Ocean Blvd.: watched ocean come in and over seawall; water came in and a lot of sand; it started to deteriorate; there were 2 river-lets on side of building; waves used to hit front of the building was told not in budget; sand was pushed up and told would have to put boulders in, that was in late 60s or early 70s; wants to know what is occurring within the board and what is the selectmen's policy about this hearing; open ended assertion; board is trying to defend their association with property that belongs to town.

Peg Aaronian, 28 Beach Plum Way: length of lease; when we bought in 1971 had a 15 year lease with the town, that meant any bank we went to were only given a 15 year mortgage; have endured storms and large stone walls owners have put up at their own expense, how much have they saved the Town of Hampton; the Town should pay landowners for protecting the property and saving the expense of building a seawall.

Ed Moran, 1066 Ocean Blvd.: survey done in 1970s; 3 sections of the seawall went down applied to DES and we began the salvage; spent \$450,000 to build seawall; never had lease.

Bob Casassa, 5 James Street: is the Town currently dealing with any claims of liability?
Selectman Bean: negative

Attorney Gearreald: when people are injured at the beach even on state property, they turn to us and try to make a claim which we fend off; you can never predict when those things happen; when people build structures even if they are injured on those structures, I am concerned that Attorney Valhouli's statement regarding allowing people to use town property for recreational purposes gives you immunity; the injury in that case would not be in the town property because we don't own the walls, stairways, this program would legitimize that use.

Selectman Bean: Mr. Chairman Point of Order; it is a long meeting with a lot of people, the question was simple, I know during my tenure there has been no litigation to answer your question.

Bob Casassa: what happens if these leases circulate and the property owner does not sign them? Attorney Gearreald: the selectmen's regulation that was enacted back in 2013 indicates that without the permission to use then it is a trespass, that is what it is considered to be according to the regulation.

Bob Casassa: I will extend my question, what happens? Attorney Gearreald: that is up to the selectmen in how to deal with that.

Christos Valhouli: I would like to follow up on Attorney Casassa's question; if you do not sign the lease you will not be permitted to protect your property; you will not be granted a permit from the selectmen nor from conservation to erect and maintain your seawall; I think it was Mr. Saltmarsh who suggested that we are being held hostage; we can't protect our properties unless we sign the lease; I am not aware of any personal injury actions against the town on these seawalls or these stairs where the town has been named a party; if the lease is not signed this is public use, this is recreation use and the town is protected.

Bob Solomon, 16 Nor' east Lane: duration of the lease; my property right now is in need of repair of the seawall and I am facing thousands of dollars and I just don't know what will

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happen in 5 years; looking for assurances and think about the renewal issues; looking into making these investments that will last over a long period of time.

Doug Pope, 1052 Ocean Blvd.: Christos what is the formal name of the statute; I would like to know what has changed in that statute from when I was a child jumping off the seawalls; I don't think anything has changed; I wonder if the selectmen are making more of an issue that needs to be made; appreciate if you would continue working with Christos towards a solution.

Ed Moran: the more I think about the lease issue, the more troublesome it becomes; it would be a much more palatable solution if the liability is really your issue; do survey of all the affected properties so you know exactly what is and isn't on town property; offer us right to lease or purchase then put deed restriction in that permits public access.

The Public Hearing was closed at 8:10PM

Chairman Griffin: when this motion was done in 2013 I wasn't on the board, in the other 11 years on board there have been times having the seawall fixed we required to have insurance to have contractor on town property; what has opened up this conversation as some people haven't done what they promised to do; one had electrical outlets close to the water, this is what brought up red flags; we have never really had problems; we need to take another look at this; I sympathize with everyone.

Selectman Woolsey: you have purchased land that is in a beautiful location but risky; Planning Board giving revetments; as property owners are working hard to protect their property; you are at a big risk and the seas are rising; we want to protect your property as a town; the seawalls and revetments are not for recreational use; the sand area is a public beach; need to protect you and your property; build better, more secure and higher; I need time to take a hard look at this; have Planning Board set up a system of uniform designs.

Chairman Griffin: one woman asked why were they not notified, this is the way you were notified to give you a chance to talk, this is part of that process.

Selectman Bean: Mr. Pope asked what has changed since you were a child, the answer is everything has changed drastically; town is indebted for you keeping up the property on a challenged area; protecting town property with the walls; each and every one of you made great points; I don't support this by town counsel; I think sometimes the quest for the perfect solution creates a nightmare; for me this is a dead issue; well intentioned, but it is seriously flawed; each of you made excellent points.

Chairman Griffin: Vic Lessard was responsible for putting in a piece of land in front of the leased land; he did that to protect the town and to protect your properties too. Do you remember when we had a storm that we had to go and help out someone down there because of something bad happening to their property? Town Manager Welch: yes I do in 2007 and we had a wall collapse, were in jeopardy of losing up to 5 houses; I didn't bother to ask the selectmen I just called everybody and put the wall back; that is the way you are supposed to function as a municipality; I knew the Federal Government was going to pay for it, so it wasn't a big deal, you just need to step in and do what you need to do. The answer to Mr. Casassa's question is nothing; nobody is going to get taken to court if you don't sign a lease, but the law says if you occupy municipal property you're going to be taxed for that, it is a minor occupation, the board needs to review this and look what is done by a previous board;

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they need to go back in and take a close look at what is going on here; some of this information such as the FEMA grants we didn't have, there is no record of it at all; you folks control through your good deeds what happens on the ocean front where you live; without those good deeds your property would not be there, because the Atlantic Ocean would have recovered much of it. I think we need to review this and come up with a policy that can be sustained.

Chairman Griffin: Mr. Welch you mentioned about the Federal Government paying for it; in reality if the town has to go down and do something for these different homeowners, wouldn't the town bill them? Town Manager Welch: we didn't bill anyone the Federal Government came in and because the properties were in danger of going into the Atlantic; the Coast Guard came down and said we had to stop the oil tank from going in; the Town of Hampton paid only the employees that worked for those 2 days; that was our total liability the Federal Government picked up all the rest.

Chairman Griffin: if your house were to go the chances are the street down below would go also; I personally never had anything to do with this.

Selectman Waddell: thank you for everybody coming in and everyone had a lot of good points to make, I agree with Mr. Bean; it is a complex problem that needs to be looked at and we will revisit it.

II. Announcements and Community Calendar (1:33:50)

Selectman Woolsey: rain barrel auction went well and the Conservation Commission made over \$900 that is going over maintaining 2 rain gardens; sat on SAU 90 committee to refurbish the Hampton Academy Junior High; next meeting is June 3; school board wants bond article; looking for support from entire community.

Selectman Bean: rain barrel auction was a lot of fun; it is a great cause.

III. Appointments (1:37:15)

1. John Wilusz, Eagle Scout Candidate

- a. Eagle Scout Project to Repair and Replace existing American Flags, and poles Lafayette Road

Mr. Wilusz: wants to beautify Hampton to replace the 10 current flags and then add an additional 10; fundraising; volunteer police officer to do the work safely; fill in the current holes and dig 20 new holes; wooden dowel flag poles; have map and layout.

Selectman Waddell: thank you, great project and idea; how much would you have to raise totally? Mr. Wilusz: I have \$600 so far and will only need another \$400-\$500; spoke to a few companies and hopefully they will sponsor the rest of the project; will have done by July 14th; Troop 176 will continue the maintenance.

Selectman Woolsey: certainly impressive spokesmen for your project; great project.

Selectman Waddell MOTIONED to APPROVE the Eagle Scout Project of John Wilusz to Repair and Replace the existing American Flags, and poles on Lafayette Road SECONDED by Selectman Griffin.

VOTE: 4-0-0

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IV. Consent Agenda (1:44:30)

1. License for Coin Operated Amusement Devices: Hampton Beach Amusement Corp
2. Taxi Business License: Charmingfare Farm – John Pyteraf
3. Taxi Operator Licenses: Zachery Curtis, Briana Donovan “Charmingfare Farm”

Selectman Woolsey: does any of this involve horse and carriage stuff at the beach?

Town Manager Welch: it is Charmingfare Farm; it is a renewal; we had no problems with the pick-up of material; it is restricted to the beach.

Selectman Woolsey MOTIONED to MOVE the Consent Agenda SECONDED by Selectman Waddell.

VOTE: 4-0-0

V. Appointments Cont.

2. Kristi Pulliam, Finance Director (1:46:45)
 - a. April Financials

Ms. Pulliam: the target is 33.3%; this month’s total income \$597,000; motor vehicles \$279,000 which is over the months target by \$49,000; interest on taxes \$52,000; building permits \$23,000; departmental income \$38,000; Rye sewer; \$32,700; parking lots \$42,600; real estate trust \$59,000; highway subsidy \$56,000. Expense summary year to date by department (without debt service but with open POs) were 33.76% of the budget which is over the month’s target by \$177,000. Overall the departments as a whole are running under the target of 33.3%; finance supplies and expenses and O/T wages are at 50%; assessing contracted services is over budget by 21%; MIS the four equipment related accounts when combined together are currently 36.79% which is \$2.8k over budget; general government buildings heating fuel is 71% spent; cemeteries is 79.6% spent; Police Department is 29.5% overall when open POs included; Fire Department is 32.1% overall when open POs are included; Highways and Streets is over target at 54.8%; Municipal Sanitation is just below target at 29.9%; Animal Control is running below budget, but O/T wages are at 63.5%; 2014 encumbrances showing that 56% have been expended to date; Fund #24 Recreation beach sticker donations year to date equal \$6,860 with \$1,137 awarded as scholarships; waste water system development charge collected through April is \$88,623.

Selectman Woolsey: good report; scary to see utilities; delighted to see money come in on the sewer buy-in; franchise fee \$77,402.13 for the first 3 months of this year. Ms. Pulliam: that just came in last month, so will be on the May Financials.

Selectman Woolsey: did ask Kristi to provide us with a copy of the non-union wage schedule.

Selectman Waddell: good report; is the revenue on target, is that normal? Ms. Pulliam: yes that is right in line with what it normally is.

Selectman Waddell: the general government building at 71% already, is that just the high cost of electricity and oil? Town Manager Welch: and gas.

Selectman Waddell: the highway and streets, are we still crossing our fingers and hoping for the Federal Government? Town Manager Welch: it is going to require a flying carpet,

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because they just rejected MA appeal, we are expecting they are going to reject it. Ms. Pulliam: we submitted everything to FEMA last week.

Selectman Waddell: repair and maintenance was 80%. Ms. Pulliam: under that line item is a \$10,000 one-time payment in January.

Selectman Waddell: MIS the same thing? Ms. Pulliam: yes, there are 4 accounts together.

Mr. Kivlan: we had the head of FEMA in our village district meeting office last week and she left her number, so Kristi can get that; wanted to thank Assistant Manager Sullivan was very informative; did tremendous job with the line painting; wish more was done to buy the parking sticker; meeting with State was best meeting we ever had.

3. Edward Tinker, Chief Assessor (2:00:20)

- a. 2014 Abatements: 2014-09/ Map 172-6-97 / 97 Hampton Meadows; 2014-12 / Map 180-5-99 / 99 Dunvegan Woods; 2014-17 / Map 282-212-1 / 215 Ocean Blvd; 2014-19 / Map 298-1-1 / 5 Ocean Blvd, Unit #1; 2014-18 / Maps 290-27, 27-1, 52 & 53 / 7, 9 & 10-12 H St.; 2014-21 /Map 290-1A-1,2,4,5,6,7,8 / 89 Ashworth Ave

Mr. Tinker: 7 total abatements for your review; tax collector needs 3 items to balance books; 4 recommended for approval; 2 recommended for denial; approval amount is \$7,822.55; this year had 21 total abatements and refund amount is currently \$14,518.70.

Selectman Woolsey MOTIONED to APPROVE the Tax Collector Abatements and the (4) 2014 Abatements in the amount of \$7,822.55 per the Assessing Officer SECONDED by Selectman Waddell.

VOTE: 4-0-0

Selectman Woolsey MOTIONED to DENY the (2) 2014 Abatements per the Assessing Officer SECONDED by Selectman Waddell.

VOTE: 4-0-0

4. Chris Jacobs, DPW Director (2:02:28)

- a. Waiver from Purchasing Policy Sections 718-4.B(1) and 718-4.B(2)
 - i. Bid 2015-002 Lafayette Road and High Street Drainage Project

Town Manager Welch: have 1 bid; in excess of the appropriation; the appropriation amount was \$449,156; the bidder was Jamco Excavators at \$372,464; they are the only bidder and required for a waiver.

Selectman Waddell: how many companies did they send the bids out too? Town Manager Welch: 6 companies; we did ask the companies before what the problem was, they did not want to work in that traffic nightmare; if Jamco is awarded this they will not do it until late fall.

Selectman Waddell: did Jamco bid last year? Town Manager Welch: yes, this has been reviewed by counsel and Public Works, and they both said to go ahead with the project.

Selectman Woolsey: fall construction seems more sensible; concerned about cost; does the pricing give us wiggle room? Town Manager Welch: yes it does.

Selectman Woolsey: I am anticipating with a project like this you are going to be looking at change orders. Town Manager Welch: it is possible.

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Selectman Bean: I am thankful for the director and your leadership on the issue.

Selectman Bean MOTIONED to APPROVE the Waiver from Purchasing Policy Sections 718-4.B(1) and 718-4.B(2) for the Bid 2015-002 Lafayette Road and High Street Drainage Project SECONDED by Selectman Woolsey.

VOTE: 4-0-0

VI. Town Managers Report

1. Household Hazardous Waste Day is Saturday, May 30 at the Hampton Public Works Yard on Hardardt's Way from 8AM to Noon.
2. The Town Clerk's Office will be closed on Wednesday, May 20th, in order to attend required State Training.
3. The State has notified us that coastal beach water sampling will begin on May 26th, with a Monday through Thursday schedule each week and will end September 2nd.
4. Police Department conducting firearms training on May 16, May 26, May 30, June 6 and June 13; these are required training.
5. Request from Unitil; properties at 128 and 130 Ashworth Avenue being demolished and new building being erected, they need your permission to cut into Auburn Avenue they need to go in about 3' to cut the gas services; failure to do that, building will not be demolished and a new building will not be constructed; we will require them to replace the pavement; Public Works is working on it and not problem for them.

Selectman Woolsey: flood letters, do we have a draft?

Town Manager Welch: no, the Building Department and Planning Board are working on that.

Selectman Bean MOTIONED to APPROVE Unitil to cut into Auburn Avenue and Auburn Avenue Extension and then replace the pavement SECONDED by Selectman Waddell.

VOTE: 4-0-0

VII. Old Business (2:11:50)

Selectman Woolsey: attended pre-season overview sponsored by DRED on May 16th; had discussion on bathrooms; asked about winter plowing; new benches at beach; asked Mr. Brice, Director of Parks and Resources said he welcomes contact with boards of selectmen.

Chairman Griffin: spoke with Senator Stiles today and they mentioned about possibly putting the bathrooms into where the parking areas are now; people are not going to be happy.

VIII. New Business

1. Sale of Police Issued Equipment – Motorcycle Boots

Selectman Waddell MOTIONED to APPROVE Sale of Police Issued Equipment – Motorcycle Boots to Nathan Basque SECONDED by Selectman Woolsey.

VOTE: 4-0-0

IX. Approval of Minutes (2:20:20)

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1. May 04, 2015

Selectman Waddell MOTIONED to approve the May 04, 2015 SECONDED by Selectman Woolsey.

VOTE: 4-0-0

2. May 04, 2015 Non-public Session - Sealed

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Selectman Woolsey MOTIONED to approve the May 04, 2015 Non-public Session - Sealed SECONDED by Selectman Waddell.

VOTE: 4-0-0

At approximately 9:20 PM, a motion was made by Selectman Woolsey to go into a non-public session under RSA 91-A:3,II,(c)&(e) after closing comments; this motion was seconded by Selectman Waddell. A roll call vote was taken with all in favor.

On motion by Selectman Waddell and seconded by Selectman Woolsey, voted 3 to 1 (Chairman Griffin opposing) to seal the above minutes under RSA 91-A:3,III on grounds that divulgence of same might render the proposed action ineffective or adversely affect the reputation of a person.

The non-public session adjourned at 9:35 PM, and the public session was not rejoined.

Chairman