

January 11, 2016

PRESENT: Rick Griffin, Chairman  
Rusty Bridle, Vice-Chairman  
Mary-Louise Woolsey, Selectman  
Phil Bean, Selectman  
Jim Waddell, Selectman  
Frederick Welch, Town Manager  
Jamie Sullivan, Assistant Town Manager  
Mark Gearreald, Town Attorney

## SALUTE TO THE FLAG

### I. Public Comment Period

### II. Public Hearings

#### 1. Public Hearing Pursuant to RSA 33:8-a

For the purpose of complying with the provisions of RSA 33:8-a to take testimony from those who wish to be heard concerning the possible issuance of a serial bond in the sum of 2,000,000.00 for the following: Improvements to Wastewater Treatment Plant to perform various projects that include the following: the replacement of the septage intake works in combination with a wash down facility; the purchase and installation of a generator to maintain secondary treatment during power outages; improvements to recycled wastewater yard piping; Life Safety Improvements to the Sewer Plant Value Pit; and a hazardous entry area.

Public Hearing Opened at 7:02PM

Selectman Waddell: we had a good presentation and satisfied with what is going on

Selectman Bridle: good presentation and have a well-qualified staff with a lot of experience

Public Hearing Closed at 7:05PM

Selectman Bridle MOTIONED to ACCEPT the Bond Article as presented SECONDED by Selectman Waddell.

VOTE: 5-0-0

#### 2. Public Hearing Pursuant to RSA 31:95-b,III(a)

For the purpose of complying with the provisions of RSA 31:95-b,III(a) for the following: To apply for, accept, and expend unanticipated monies in amounts of \$10,000 or more from the following in 2016: American Recovery and Reinvestment Act of 2009; National Oceanic Atmosphere Administration (NOAA); US Dept. of Transportation; US Department of Environmental Protection Agency (EPA); US Department of Justice; and Office of Justice

Programs; US Dept. of Homeland Security Grants (DHS); Federal Emergency Management Agency Grants (FEMA); FEMA Hazard Mitigation Grant; Flood Mitigation Assistance Grant; NH State Homeland Security Program; NH Dept. of Safety Grants; First Responder Grant; Public Safety Communications Interoperability Grants; Law Enforcement Terrorism Prevention Program; Homeland Security Exercise and Evaluation Grants; Radiological Emergency Response Grants; Emergency Management Performance Grants; United States Fire Administration Grants; Assistance to Firefighter Grants; Staffing for Adequate Fire and Emergency Response Grants; Fire Prevention and Safety Grants; NH Dept. of Justice Grants; NH Dept. of Transportation (NHDOT); NH Highway Safety Agency; NH Housing Finance Authority; NH Dept. of Environmental Services (NHDES); NH Division of Historical Resources; NH Cultural Resources; NH Community Finance Authority (CDFA); NH Office of Energy and Planning; NH Historical Society; NH Fish and Game; NH Division of Historic Resources Grant Program; NH Preservation Alliance; NH Dept. of Resources and Economic Development; Northeast Regional Ocean Council (NROC); LCHIP Grant Program; Rockingham Planning Commission (RPC); Trust for Public Land; Coastal Flood Hazards and Climate Change; Coastal Resiliency Grants; Aquatic Resource Mitigation; Repetitive Flood Claim; Severe Repetitive Loss; Pre-Disaster Mitigation Grant; Assistance Program for New Hampshire Coastal Zone Communities; Piscataqua Region Estuary Partnership Grant; Field Pond Foundation.

Public Hearing Opened at 7:07PM

A man said that was quite a long list, and asked what are the strings attached to this money; I hope you will give consideration to the strings, which are sometimes problematic.

Selectman Waddell: each one of those is not giving us that money; it is an opportunity to apply

Public Hearing Closed at 7:09PM

Selectman Woolsey MOTIONED to authorize the pursuance of such grants during the year  
SECONDED by Selectman Waddell.

VOTE: 5-0-0

### III. Announcements and Community Calendar (17:27)

Selectman Bridle: great to see people skating on Batchelder's Pond, but please remove any items that were placed on the ice before leaving, as it will ruin the ice.

Selectman Woolsey: I should have been notified when the sound went off on Channel 22; wants to discuss the equipment issues in the upcoming meetings

### IV. Consent Agenda (19:46)

1. 2016 Veteran's Tax Credit Requalification: Blatchford, Richard \$500 151/1/21; Bohan, Eugene (Ann) Spouse \$500 57/22; Bontempo, Richard \$500 138/1/18; Brandt, Kevin \$500 69/10; Broderick, Richard (Doris) Spouse \$500 180/5/36; Cade, Jon E. Vet \$500 57/45; Callihan, Roy \$500 87/3; Cassidy, Edward \$500 34/10/7; Castor, Russell C. \$500 230/12; Cate, Bruce \$500 265/64/1; Chamberlin, Francis J. \$500 184/Rcl/21; Drew, Douglas (Donna) Spouse \$500 209/3; Edgar, Michael \$500 127/31; Fanning, Stuart \$500 152/12; Haddad, Alan \$500 133/68/2; Hafey, Charles \$500 125/24/2;

- Morrissey, William \$500 109/25; Scott, Stephen F. \$500 88/11; Tilbury, Donald E. \$500 22/2
2. 2016 Veteran's Tax Credit Requalification and New Veteran Disability: Sides, David W. \$1,900 89/48
  3. Hampton Cemetery Deed: Kathleen Stebbins

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

VOTE: 5-0-0

V. Appointments (20:38)

1. Dyana Martin, Recreation and Parks Department
  - a. Departmental Update

Ms. Martin: playground inspections are being done weekly; trash barrels were picked up; \$585,376 was made in parking lots; gearing up for spring and summer sports; many trips coming up; many senior programs upcoming.

Selectman Waddell: many activities going on; the holiday festivities were great; parking lots were great

Selectman Bridle: excellent report; parks and rec does a great job

Selectman Woolsey: excellent

Selectman Bean: great job as usual

Chairman Griffin: appreciate that you do such a great job

2. Kristi Pulliam, Finance Director

Incorrect night - will be appearing January 25th

3. Trustees of the Trust Fund

Mr. Silberdick: we asked for this appointment because of watching the last meeting of Board of Selectmen. We had previously sent you a response to the inquiries regarding Mackensen & Co.; regarding issues associated with the letter from the Attorney General's Office and I was a gasp when the response was about the methodology we used in responding rather than the content of what we responded. We received a letter from Mr. Welch and have responded to it, and will hand that out to you at the conclusion of our presentation.

Mr. Sovich: Mr. Donovan's letter caught up with me when I was in VA and I determined there were no time constraint concerns and I determined the action could wait until I returned in January. The solvency issue, I looked at all the investments; there were no proprietary investments to Mackensen; solvency was not an issue; the board should know it was not an issue; we have sent all the reports to the Finance Director. I have known Warren for over 30 years; the AG's ruling in 2010 was that he had a conflict of interest, because he might have the ability to use in his companies material. The SEC found there was a problem with some of his material; he made a mistake; he paid dearly for the mistake and he continues too. These trustees with Mackensen & Co. have put \$3.2 million back into the taxpayers. How did we get to the letter, I wrote it in NC and communicated with no one. Why I wrote it is because there needed to be a response somewhere, and I did it because it needed to start the process, and it

upset my wife. I did consult with three individuals when writing this, the first was a lawyer the lawyer said to file anything with compensation you have to show damages, you did not see the advertising material and the town was not harmed by investing with the advisor. I also contacted the SEC and conversed with a special counsel, who told me they do not give advice, and you should contact a lawyer. Finally, I spoke with someone who is on the Board of Governors of the Federal Reserve of the Compliance Division; she told me something called UDAP; Unfair Deceptive Acts of Practices. This is a 3 part test and essentially there must be a representation, omission or practice that must misleads or us likely to mislead the consumer, and since we never have seen that material. I wrote it, I wrote it alone, I sent the first draft to Mr. Silberdick; I sent a second draft when I got a letter from David Mays that answered the Mackensen material, then I sent the final one to Mr. Silberdick and said this is to jump start the process, do with it what you will. He sent it out to the rest of the Board of Trustees on 12/28/15, and on 12/29/15, he sent it to you.

Mr. Silberdick: When I received the letter and sent it out I advised the fellow trustees that this is going out and if they had any comments they should respond to me. I received comments from Steve and John, which are attached to another letter I will give you tonight that responds to Mr. Welch's latest letter to us and hopefully, tonight will be the end of this. I do have contact with individual trustees and do so in a manner that does not create a quorum and never deal with anything associated with investments, mostly with administrative matters. I asked David Mays to respond to information with Mackensen & Co. You asked us at a prior meeting to reconsider our association with Mackensen & Co. and we will be holding our public meeting January 19, 2016, and we are holding a non-public session to review David Mays, as it has to do with his reputation, and performance, etc. After that, we will announce what our results. The trust fund has generated \$642,000 worth of dividend interest income this year about a 3½% return; this is down due to the uncertainty in the marketplace.

Chairman Griffin: would you allow the public to comment before your meeting with Mr. Mays. It would be nice that people could comment before you make your decision.

Mr. Silberdick: we are having our nonpublic first and we will have our decision; then we can ask if the public has any comments, then go back in a nonpublic, so people have the opportunity to express themselves. Very few actually attend our meetings.

Mr. Hartley: this whole problem stems from the fact that we had a down year, and people are concerned with the fact that the stock market has gone down. We are all professionals on this board and we hire an investment advisor, and they do what we tell them, they do the details. If we do not like what they do we tell them to change it, and they do. The investment performance is something we are responsible for not Mackensen & Co.; they just do what we tell them to do, and they make recommendations.

Selectman Waddell: the response had nothing to do with performance; the performance has been good; it has everything to do with integrity; any company that I was going to do business with and the town should be doing business with, should have an absolute impeccable integrity record. There was a fine and Mr. Mackensen was the one who did it; there was an infraction and were fined for that infraction. We talked about whether Mr. Mackensen was still on the board and it was said he was not; then it became known that he is still on the board; he had nothing to do with the daily operation, but if you are on the board, you do have something to do with the company. Therefore, from that aspect, it was simply a question of integrity and I

felt that an earlier meeting would be good for the public, to know that transparently what was going on; I never felt that the funds were in danger, but I felt there was an integrity question. People have not talked to me about the performance or a danger to the funds, they have talked to me about the integrity and if there is a question of integrity should we move on. On the right to know law, we received a letter that is on Trustees of the Trust stationary, signed by Norm Silberdick. In it does not say in my opinion, but in our opinion, therefore, the only assumption that I can make is that somehow each one of the Board of Trustees, that is their opinion, so there would be some kind of a vote to have taken place for that letter to be put out. Your communication here tonight John helps a lot, but might help if people did not go to the newspaper all the time writing editorials and accusing people of doing things illegally. We never accused the Trustees of the Trust with doing anything illegally. We came and said we have questions on these specific issues, and we had a legitimate question on the right to know law; the letter being on official stationary and saying the word our. This has nothing to do with performance, I respect all your opinions and respect that you are taking care of the trust, but this has blown out of proportion, and could have been handled a lot better from your aspect. We might have inflamed it all and we could have handled it a lot better; but it was inflamed by egos getting involved and we do not have good communication.

Selectman Bridle: the letter from Donovan was sent to you and we never heard about it, as was the SEC sanction was sent to you; and you voted on it that night and you were in here that night talking to us and never mentioned it.

Mr. Sovich: I hear your point and there probably should have been a better communication and we need to learn from that. We need to learn from this experience. There was no violation of the public's right to know, and I cannot remember whether I wrote I or our.

Selectman Bridle: we understand that now, but you have to see that it said our and our means a vote.

Selectman Woolsey: I want to make it clear that my signature on the 12/14/15 letter should not have been there, I voted against sending the letter. The Trustees do not work for the Board of Selectmen, they are independent elected officials; it is the Trustees and the AG's problem; I questioned the need for the non-public meeting on September 2 with the Town Attorney; and the response was we do not want to damage anyone's reputation; I thought the meeting was a direct attack on an individual; I felt that was an illegal non-public meeting; there are minutes but not verbatim; a copy of an opinion letter was passed around, and that is was irrelevant to the meeting; I thought that was a direct attack on an individual;; I am very concerned that this has grown out of proportion; I think this has gone overboard and borders on harassment of another public body; and I want nothing to do with it; but I caution this Board to keep out of this we have no authority, let the AG's office to whatever they want to do with the Trustees in this state; they have done absolutely nothing wrong; they are independent elected officials; and I am appalled.

Selectman Bean: thank you for coming on tonight; you have returned great results for a lot of years, last year was a tough year. While sometimes we have exchanged editorial comment, it had never been about personalities, it has been about safeguarding \$21 million; it has been about living up to our responsibilities under RSAs. For the good of the town, and the good of our collective efforts, it is important that we recognize there have been some actions that have come to the attention, and it is only right that the Selectmen raise the issues. There was an

anonymous letter sent to me and I knew nothing of this, and I think it is only right if you had received that information to do the same thing, and would expect any elected official to do it; it is nothing personal. You have done a remarkable job in totality as trustees, I think it is important that your board through your Chairman have better dialogue with the Town Attorney, the Town Manager and the Chairman; I do not think there is enough of that; just a suggestion. I think it will stop some of this forward progress in rehashing. I am looking forward to moving forward collectively and I thank you for your service.

Chairman Griffin: one thing that scares the public is because of the \$100,000 fine. I want people to say when she was pontificating at the private meeting, it was to protect your reputations and Mr. Mays and Mr. Warren Mackensen. Personally, I feel bad about your wife and I am sure everyone has felt that at some point, at the beginning of his/her service.

Mr. Sovich: David Mays, was employed at Mackensen & Co. at that time, the SEC did not site him, and that needs to be taken into account.

Chairman Griffin: thank you for coming in tonight.

VI. Town Manager's Report (1:24:17)

1. The closing day for petitioned warrant articles is tomorrow January 12, 2016 at 5PM in the Selectmen's Office.
2. Those property owners who desire to apply for an abatement of taxes, exemption from taxes under the elderly tax provisions, veterans tax credit, blind exemption, or other exemptions under RSA 72, or to apply for the optional lower tax rate from the Hampton Beach Village District should visit the Assessor's Office for the necessary forms to complete and file before March 1, 2016.
3. The Annual Budget Public Hearing is Thursday, January 14, 2016, 7PM at the Academy.
4. The auction of 27 Pearl Street is to be held at the property at 3PM on January 29, 2016.
5. Christmas trees will be picked up curbside this week.
6. We have returned the bid deposit for the Ice Pond Dam project.

VII. Old Business (1:27:02)

1. Warrant Articles
  - a. Heritage Fund

Town Manager Welch: as the Heritage Commission no longer exists, we need a warrant article to return the fund to the town's general fund.

Selectman Woolsey MOTIONED to APPROVE the Warrant Article for the Heritage Fund SECONDED by Selectman Waddell.

VOTE: 5-0-0

- b. Land Transfer to SAU 90

Town Manager Welch: this was discuss at our last meeting; reverted clause

Selectman Woolsey MOTIONED to APPROVE the Warrant Article for the Land Transfer to SAU 90 SECONDED by Selectman Waddell.

VOTE: 5-0-0

c. Discontinuance of Old Park Avenue

Town Manager Welch: when the State rerouted Route 1 going north, they abandoned a portion of old Park Avenue; causing a problem with two properties; parcels will still keep frontage

Selectman Bridle MOTIONED to APPROVE the Warrant Article for the Discontinuance of Old Parke Avenue SECONDED by Selectman Waddell.

VOTE: 4-1(Woolsey)-0

d. To Rescind Management Information Systems Capital Reserve Fund

Town Manager Welch: the fund has been there since 1997 and almost \$30,000 in it; Budget Committee has asked to bring the fund forward and placing those funds within the budget through the warrant article to purchase upgrades to the existing IT system

Selectman Bean MOTIONED to Approve the Warrant Article for rescinding the Management Information Systems Capital Reserve Fund SECONDED by Selectman Bridle.

VOTE: 5-0-0

e. Conservation Commission Warrant Article

Mr. Diener: a warrant article asking for the allocation to the fund for the purposes of acquiring, maintaining and protecting open land; due to names changes of funds and as we are dealing with the one fund, and all the monies for this purpose go into one fund called the Conservation Fund. We are asking for \$20,000 that we can use towards projects to acquire land or conservation easements on properties for the benefit of the Town.

Town Manager Welch: this will all be under one fund.

Selectman Woolsey MOTIONED to APPROVE the Warrant Article for the Conservation Commission SECONDED by Selectman Bean.

VOTE: 5-0-0

f. Park and Recreation Infrastructure Fund Article

Town Manager Welch: it was suggested at the Budget Committee meeting that the Selectmen consider taking the maintenance sums, which is up to \$34,750, and removing that from the budget and placing that in the infrastructure fund, so the maintenance of parks would come out of that fund that was funded by the parking lots. It would require a change to the warrant article and a change to the budget.

Ms. Martin: the warrant article was established in 2007 for Capital Projects and Capital Repairs, and that money comes from the parking lots. Since then we have done many projects such as the inline hockey rink, tennis courts, and Eaton Park lights. I am very much against taking the maintenance money out of the regular general fund budget that we have, because that money is for regular everyday maintenance of the parks. The intent of the warrant article was for the Capital Projects and the intent of the budget is for the general parks department. I feel it needs to stay right where it is.

Selectman Waddell: I support the Recreation Director; the parks are used all the time and to take out maintenance money is insane.

Selectman Bridle: I think we need to leave it where it is.

Selectman Woolsey MOTIONED to take no action on the Warrant Article for the Park and Recreation Infrastructure Fund SECONDED by Selectman Bridle.

VOTE: 5-0-0

g. Compensated Leave Trust Fund Article

Town Manager Welch: per your previous instructions organized a transfer from the general budget to that fund, from the appropriate payroll accounts for transitioning of employees leaving employment, and I would ask on that basis to withdraw that article.

Selectman Bridle MOTIONED to withdraw the Compensated Leave Trust Fund Article SECONDED by Selectman Woolsey.

VOTE: 5-0-0

VIII. New Business (1:39:20)

1. Approval of Audio System Repair for Channel 22

Town Manager Welch: our audio system has broken down; we have no back up for the audio system.

Brian: The system was sent out for repair, which cost \$320 to send and insure it is under warranty. We spoke about getting another one, which is \$17,000.

Selectman Bridle: is there any way to buy a refurbished one

Brian: I have looked and they are hard to find

Selectman Waddell MOTIONED to allow the Town Manager upon an emergency to spend the Channel 22 funds for Repairs of the equipment SECONDED by Selectman Woolsey.

VOTE: 5-0-0

2. Annual Authorization to approve the Agreement for Auditing Services – Plodzick & Sanderson

Town Manager Welch: the auditors are about to start the 2015 audit, and we are required to send them a confirmation that they can start the work.

Selectman Woolsey MOTIONED to APPROVE the Annual Authorization Agreement for Auditing Services – Plodzick & Sanderson SECONDED by Selectman Bridle.

VOTE: 5-0-0

3. Discussion and or Ratification of Tentative CBA's

Assistant Town Manager Sullivan: There are two units: the Fire Fighters Local 2664 and Fire Officers Local 3017. We were unable to come to an agreement on the Cadillac Tax language; we achieved a one-year tentative agreement for each of the separate units at a 1.75% increase.

Selectman Bean MOTIONED to ratify the Hampton Fire Fighters Local 2644 Collective Bargaining Agreement and the Hampton Fire Officers Local 3017 Collective Bargaining Agreement SECONDED by Selectman Waddell.

VOTE: 5-0-0

Selectman Woolsey MOTIONED to add the Hampton Fire Fighters Local 2664 Collective Bargaining Agreement onto the Warrant SECONDED by Selectman Bridle.

VOTE: 5-0-0

Selectman Woolsey MOTIONED to add the Hampton Fire Officers Local 3017 Collective Bargaining Agreement onto the Warrant SECONDED by Selectman Bridle.

VOTE: 5-0-0

Assistant Town Manager Sullivan: The Police Sergeant and Officers Contract; our goal was to deal with the Cadillac Tax issue; three year agreement and 3% for each of those three years. Their respective groups have ratified all the agreements. I would suggest that the Selectmen motion to ratify the Police Patrolman and Sergeant's contract.

Selectman Bean MOTIONED to ratify the Police Patrolman's and Sergeant's Contract SECONDED by Selectman Waddell.

VOTE: 5-0-0

Selectman Woolsey MOTIONED to add the Hampton Police Association (Officers) Collective Bargaining Agreement onto the Warrant SECONDED by Selectman Waddell.

VOTE: 5-0-0

Selectman Woolsey MOTIONED to add the Hampton Police Association (Sergeants) Collective Bargaining Agreement onto the Warrant SECONDED by Selectman Waddell.

VOTE: 5-0-0

IX. Closing Comments

X. Adjournment

Selectman Bean MOTIONED to adjourn the meeting at 8:52PM SECONDED by Selectman Bridle.

VOTE: 5-0-0

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Chairman