

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

March 8, 2021

7:00 PM Board of Selectmen - Hybrid Meeting by teleconference

As Chairman of the Hampton Board of Selectmen, I have determined that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, that to properly ensure the safety of the public and that of several of the Board members who are within the CDC guidelines needing to take special precautions, this public body is authorized to meet electronically.

Please note there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming we are:

We are utilizing a teleconference service for this electronic Meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public may join this electronic meeting by calling **1-857-444-0744** and use the code **156034**. If anybody has a problem, please call **603-929-5805**.

SALUTE TO THE FLAG

I. Roll Call

Selectman Rage, alone in my office

Selectman Bridle, alone in my office

Selectman Woolsey, in my den with three cats

Selectman Barnes, home and alone

Chairman Waddell, home in my office

Town Manager Sullivan, alone in my office

II. Public Comment [Time limitation of three (3) minutes per caller]

John Dionne, Nashua NH, Reach the Beach Relay, discussed he is on the consent agenda and here and available for questions.

Emma Donnelly, 105 Winnacunnet Road, discussed a right to know request sent to the board, noting she has requested a copy of the March 5th, 2020 meeting minutes of the Cable Committee. She discussed official's comments on the meeting not taking place, but noted a meeting is on video on the town website, and noted what took place at that meeting. She discussed potential violations regarding such, and noted her opinion regarding the honesty and credibility of elected officials.

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Mike St. Laurent, noted he is on the consent agenda for the Hampton Half Marathon and is available for questions.

III. Announcements and Community Calendar

Sel. Rage announced voting tomorrow.

Sel. Bridle noted do not forget to vote, and encouraged voters to drive down High Street and then up Winnacunnet to go to the High School, noting one of the warrant articles. He thanked the Fire Dept. workers that worked at Loudon this weekend. He gave a shout out to Red's Good Vibes, noting all the meals they serve and all the good they do.

Sel. Woolsey discussed the work at town offices to put stickers of correction on the town report to correctly recognize Sel. Barnes, noting reports are available at the town office.

Sel. Barnes reminded everyone to vote tomorrow. She noted someone saying we are not live on Channel 22. TM Sullivan noted the audio on the channel. She thanked the employees at the town office for their work today, and offered thanks to Administrative Assistant Kristina Ostman for all her hard work with the annual report. She discussed sending an email to state legislators regarding House rule 45D and when she hears back she will let the board know.

Chairman Waddell commented on public comment, regarding Ms. Donnelly, and noted he was responding to the Cable Renewal Committee, and not the Cable Committee, two different committees.

IV. Approval of Minutes

1. February 22, 2021

Selectman Bridle MOTIONED to APPROVE the Minutes of February 22, 2021, SECONDED by Selectman (inaudible).

Roll call vote: Sel. Rage: yes, Sel. Bridle: yes, Sel. Woolsey: yes, Sel. Barnes: yes, Chairman Waddell: yes. VOTE: 5-0-0

V. Consent Agenda

1. Parade and Public Gathering Licenses: Hampton Half Marathon & 5k 03/28/2021; Reach the Beach 09/18/2021
2. Use of Town Property: Reach the Beach Ashworth Parking Lot 09/18/2021
3. Pole Petition: Verizon Wireless at 24 Winnacunnet Road
4. Recreation & Parks Appointment: Dan Griffin

Selectman Bridle MOTIONED to APPROVE the Consent Agenda, SECONDED by Selectman Rage.

Sel. Woolsey asked about the Recreation appointment. TM Sullivan noted it is for an appointment to the advisory council.

Roll call vote: Sel. Rage: yes, Sel. Bridle: yes, Sel. Woolsey: yes, Sel. Barnes: yes, Chairman Waddell: yes. VOTE: 5-0-0

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VI. RSA 41:14-a First Hearing

141 King's Hwy Map 183, Lot 25. The petitioner seeks to modify Deed Restriction #3 to allow installation of a fence on the North and South Boundary lines of the property greater than 3 feet.

Public Hearing opened at 19:14

TM Sullivan noted the petitioner is seeking a 4-foot fence.

Sel. Rage asked why the petition says greater than 3 feet, not 4 feet. TM Sullivan explained the deed restrictions and having to come before the board to exceed that.

Sel. Woolsey clarified the first of three hearings and TM Sullivan noted two hearings and then the vote.

Public Hearing closed at 19:16

VII. Appointments

1. Chris Jacobs, DPW Director and Jen Hale, DPW Deputy Director
 - a. DPW Departmental Update

Dep. Dir. Hale discussed staffing and noted retirements of Cliff Lavigne, Charles Seamans, and Al Jones, discussing they will be missed, and with Covid, no opportunity for a retirement sendoff, hoping to do that this summer. She noted Mo Hicks leaving for other employment and the passing of Charlie Butchok. She discussed promotions and changes in staffing and no new hires, with positions available. She discussed bids going out for the spring, and contract renewal with Waste Management. She discussed ongoing coordination with NHDOT, noting this summer they will be milling and resurfacing a portion of Ocean Blvd., not including parking areas, and there is not a date set, as of yet. She discussed ongoing meetings regarding the Neil Underwood bridge, noting the state is planning on putting to bid in 2023 and noted construction into 2027. She discussed the Rt. 1A improvements, noting there will be multiple DOT forum meetings over the next few months, noting the state putting that project out to bid in 2024. She noted all the projects overlapping and keeping a very close eye on it all. She noted a difficulty with the Rt. 1A project is the unknown of DPW's future responsibilities. She discussed the Hampton Seabrook Greenway, noting progress made by DOT.

She discussed Dir. Jacobs as tree warden and noted 38 trees taken down last year, with more that were approved and waiting for time schedules with contractors. She gave a summary of ongoing projects, discussing the WWTP upgrade and all that is going on there, noting all the hard work of Penta, Wright Pierce, and all the staff, including IT. She discussed the final report of the Hampton Harbor Study will be on March 30th, at 6:30pm, and highlighted the progress of the project, noting meeting information on the website, and work will not be ending with the report and moving forward is planned. She noted Locke Rd. project is done with final road paving this spring. She discussed tomorrow's vote on Winnacunnet and High roads, and noted the needs of the project getting done. She discussed continued work on site plan reviews, and noted the upcoming spring construction season and many projects. She discussed working with planning and conservation to revise the driveway regulations, and noted the revisions and that they will be posted after the final revision.

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She discussed the Household Hazardous Waste days, with the first on May 22, and the second on Sept. 18th, noting submitting a grant request. She discussed the asset management software and detailed the number of service requests for the first quarter, and also permitting. She discussed Highway being busy, and today helping with voting and town reports. She reiterated bid packages for spring, highlighting paving. She discussed upcoming projects. She discussed vehicle maintenance, noting plow repair and receiving the new loader and the 2 ¾ ton pickups. She discussed sewer and drain replacing mains, and repainting of catch basin arrows, and sewer easement inspection among other projects. She discussed the WWTP and the new permit, noting continued work with DES, and discussed testing regulations. She discussed flow, sludge, and septage numbers of the plant, and noted the overall BOD has decreased.

She discussed transfer station and solid waste and reminded all we are accepting food scrap waste at the transfer station. She noted the new roll off containers at the recycling station and hope to be operational by April. She gave a summary of numbers for refuse and recycling and noted the report will be posted to the website.

Sel. Rage stated excellent report and asked if trash was up due to taking pressure treated wood. Dep. Hale noted she didn't think that the reason, and noted a lot of cleaning out during quarantine, and people being home more to generate trash. He asked about the cardboard recycling trailer being ready, and the answer was they are still working on the final details.

Sel. Bridle noted great report and agreed with the trash assessment about people being home more, noted probably the same reason for recycling being down.

Sel. Woolsey noted her concern about the WWTP upgrade and asked if we are on top of it with no failures. Dep. Hale discussed the money approved in 2018, with a year of design, and contracted last year, and explained the three phase project, noting some changes and needs. Sel. Woolsey asked for a hard copy of the department report. She commented we must stop picking up state park and Rt. 1A trash and discussed how DPW needs help. She noted we have to stop collecting commercial waste.

Sel. Barnes thanked Dep. Hale for the report. She asked if we have taken any money from the \$11 million dollar bond, and the answer was yes, and a summary of costs will be presented next week. She asked about the bond being voted on tomorrow and would improving infrastructure have an impact on the needs at the WWTP. Dep. Hale noted yes, and discussed infiltration, noting more into the system is more costly for the system. Sel. Barnes asked for clarification on, if Winnacunnet and High street would ever be closed at the same time if the project passes. Dep. Hale noted there may be sections at one time but they will never close Winnacunnet and will never close High Street and noted there will be access for traffic. Sel. Barnes noted for the public that Dep. Hale and Dir. Jacobs participate planning board, conservation, PRC, and other meetings for input on all town projects. She discussed the bin policy recently passed and noted a change of use for 40 Ashworth Ave., and asked if that will come back to the board, and the answer was the policy was written that a change of use requires board approval.

Chairman Waddell thanked the deputy for the report, the detail, and how it demonstrates that all of DPW can accomplish multiple projects at one time.

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VIII. Town Manager's Report

1. Went over the most recent Covid numbers for the state and the town of Hampton.
2. There are updates on the vaccine process, with 17% of the state having one dose and 8% having both. Notices have gone out about the next phases. Our Fire Dept. staff is helping to work with local vaccination sites for teachers and child care providers. There was a mass event at Loudon this past weekend.
3. Congratulations to Scott McDonald who has retired from our building department, previously retiring from our fire department. We wish him and his family well and thank him for his service to Hampton.
4. The DOT meeting was held on March 2nd with some good information.
5. A reminder for everyone to go to the polls tomorrow.
6. A reminder that business licenses are due.

Sel. Barnes noted she sent TM Sullivan a second negative Covid test. She asked about the blinds in the town hall and the answer was we are still getting bids.

Sel. Rage noted Scott did a great job in the building dept. and we are getting busy, and asked any luck with a new hire. TM Sullivan noted we are having difficulty in hiring but will continue trying to fill that void. They discussed the backlog and the person helping two days a week.

IX. Old Business

Sel. Rage asked how we are doing with the street performer issue. TM Sullivan noted Atty. Gearreald is working on that, noting the roadway opening. Sel. Rage asked what if someone allows a performer on their property. TM Sullivan discussed the first amendment issues, sidewalk width, busking, and noted on property will have to be address with the entertainment ordinance. Sel. Woolsey commented that the notices on Channel 22 need to be able to be read. Chairman Waddell noted he will look into.

Sel. Barnes commented we did not have the street performer issue before last year, and noted business's concerns with the road now going to be open. She discussed governor's order 2020-04 and read the order for the record. (**See attached at the end of these minutes for what was read, in its entirety.)

X. New Business

Sel. Barnes noted allowing 500 people in town for a race and asked when we will be going back to open to the public board meetings. Chairman Waddell noted he had no idea right now.

XI. Closing Comments

Sel. Rage stated see you all tomorrow at the polls.

XII. Adjournment

At 20:16 PM, Selectman Bridle MOTIONED to adjourn, SECONDED by Selectman Barnes, which was passed unanimously by roll call vote.

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Roll call vote: Sel. Rage: yes, Sel. Bridle: yes, Sel. Woolsey: yes, Sel. Barnes: yes,
Chairman Waddell: yes. VOTE: 5-0-0

James Waddell, Chairman

**PUBLIC STATEMENT MADE BY HAMPTON SELECTMAN BARNES UNDER OLD
BUSINESS DURING THE 3/8/2021 HAMPTON BOARD OF SELECTMEN
TELECONFERENCE MEETING; REGARDING EO #2020-04 & State Chapter 141 - C
(Communicable Disease)**

Per paragraph 4 of Governor Sununu's Executive Order 2020-04 "WHEREAS, the State of NH has been working in close collaboration with the CDC, with the US Dept. of Health & Human Services, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the US and the State of NH..."

THE GOVERNOR MUST OF HAD A CRYSTAL BALL TO KNOW ABOUT COVID BACK IN DECEMBER OF 2019.

Per paragraph 20 of stated order 2020-04,

"WHEREAS, under RSA 4:45, III(e), in addition to specifically enumerated powers, during a State of Emergency the Governor has the authority to "perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population..."

NOTHING STATED IN THE RSA ABOUT PUBLIC HEALTH, remember, "That which is included, all else is excluded." -

Per paragraph 21 of EO 2020-04,

"WHEREAS, under RSA 4:47, III, the Governor has "power to make, amend, suspend and rescind necessary orders, rules, & regulations" to carry out emergency management functions in the event of a disaster beyond local control..."

NOTHING STATED IN THIS RSA ABOUT POWER OVER STATE STATUTES

In regards to both RSA 4:45 & 4:47, they were implemented after the September 11, 2001 attack, to promote public safety, NOT public health.

NH already has statutory law in regards to Public Health & Communicable Disease (Chapter 141-C) and it has a section delegated to rights of due process in regards to quarantining "Any person" (section 14-a.) It specifically states that the order to quarantine coming from anyone other than the HHS commissioner may request a hearing in the superior court to contest such order. Any such order by the governing body of Hampton or the town moderator would be repugnant and contrary to individual due process rights secured by the state constitution, Part 1 Article 14.

"[Art.] 14. [Legal Remedies to be Free, Complete, and Prompt.] Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws. June 2, 1784"

The town is at risk of being sued by following a rogue governor. Included in those risks would be acts of the BOS or the town moderator to prevent an individual to both exercise the God given right to vote as a NH state citizen or perform duties as an elected selectman on town election day.

A copy of this will be sent to Kristina Ostman, administrative assistant, for the public recording into the minutes, as well as the Hampton BOS chairman, the town manager, the town moderator, and town legal counsel after the conclusion of this public meeting.

Regina Barnes

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3/8/2021

[2020-04.pdf \(nh.gov\)](#)

[Chapter 141-C COMMUNICABLE DISEASE \(state.nh.us\)](#)