

Board of Selectmen  
May 20, 2013

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

SALUTE TO THE FLAG

I. Public Comment Period

William Bowley, 252 Landing Road, commented on the following: talking about the State tonight and in his opinion the State is doing a good job; State is trying very hard, like in a marriage and Town and State have to work together; State owns beach and we cannot dictate to them what to do.

Brian Warburton, 24 Sanborn Lane, commented on the following: congratulated all the graduates specifically from Hampton; announced special birthdays and milestones; agreed with 95% of what Mr. Bowley said tonight; importance of telling other Boards in Town to teach their members how to speak and for Chairs of Boards to announce the votes for the public at home; importance of meetings in public.

Derek Hurley commented on the following: work done at the beach; clean beaches; excellent accessible facilities; jobs that have been created; only seen ups in the growth over the past 20 years.

Jay Diener here as the Chairman of Conservation Commission and commented on: rain barrel auction; issues with tax cards that Assessor will be discussing later tonight and additional responsibilities of property owners who boarder wetlands area; work he has done with Mr. Tinker; Toscano property on Huckleberry Lane and concerns with this; repair of seawall at 12 Nor'East Lane.

Arthur Moody, 3 Thomsen Lane, commented on the following: time he spent at the beach as a child, lack of State presence at that time; changes that took place in 1962.

II. Announcements and Community Calendar

Mr. Pierce commented: that he is still looking for keyboards and mice for Computer for Kids Program; look at the recording on website advisory study on downtown area; changes to flood insurance and upcoming meetings in regards to this; American Legion Memorial Day Celebrations that will be taking place.

Mr. Moore commented on: compliments to Police Department in regards to recent arrest in some cases; Tow Truck Parade.

Mr. Bean and Mr. Nichols also commented on the Tow Truck Parade.

### III. Appointments

#### 1. Elliot Berkowitz

##### a. RSA 47:17, VII Use of Public Ways - Permission

##### Placement of Jersey barriers on sidewalks of the Lane Block Building

Mr. Berkowitz discussed the following: completion of buildings; jersey barriers that need to go up to complete work; can do simultaneously on each side or separate; will take about 1 month to complete project; sidewalk.

Board Members Pierce, Moore, Nichols and Woolsey discussed the following with Mr. Berkowitz: exact location of the barriers; anything being done in the curvature of the corner or just the straightaways; like to hear Mr. Welch's thoughts; why did Mr. Berkowitz receive the run around; any expected problems with items falling from above when work is being done; concerns with weather.

Atty. Gearreald made comments as follows: motion has been provided for the Boards use tonight; number of weeks work will take; actual section of RSA is 41:11.

Mr. Welch made comments as follows: spoken with Police Department endorses project; put out jersey barriers all at once; leave adequate space.

Selectman Pierce MOTIONED to permit Elliott Berkowitz [under RSA 41:11] as the owner of property known as the Lane Block at the corner of Lafayette Road and High Street to temporarily for a period of time of 6 weeks a) to block the Town's sidewalk adjacent to said property for the purposes of erecting scaffolding to replace siding on the structure, and b) to provide a secure area with a jersey barrier, 3 feet from the curb into the streets if necessary, for those who would normally be using the sidewalk area as pedestrians so that they will have safe passage through the work area; to restore Town Property to its previous condition; and to complete the work within 6 weeks. Mr. Berkowitz is to provide \$2 million for comprehensive general liability, \$500,000 for automobile liability, and workers' compensation insurance in the statutory amounts for this activity naming the Town as an additional insured on certificates of insurance, work not to commence until after such certificates are provided to the Town SECONDED by Selectman Woolsey.

VOTE: 5-0-0

#### 2. Ed Tinker, Chief Assessor

##### a. 2011 & 2012 Aquarion Right of Way Tax Refund

Atty. Gearreald provided the following update: court case filed and conclusion reached at the Superior Court level; lack of written agreement so can't tax for 2011 and 2012; therefore result is a refund for 2011 and 2012; Aquarion rate increase hearing that will take place this week; positive impact on hearing this week if the Town does not appeal the Superior Court decision; motion provided if Board wishes to not appeal.

Mr. Tinker commented: that there was no written agreement in 2011 and 2012; should forego the appealing process; move forward for 2013.

Board Members Moore, Nichols and Woolsey discussed the following with Atty. Gearreald and Mr. Tinker: prevent property tax from being assessed in the rate case that is now pending; amount of refund is \$126,493 plus interest; commended Mr. Tinker for getting creative and getting the Town to move this way; starting in 2013 in a legal position to start this tax; this is one of six utilities; listed off the six utilities.

Selectman Nichols MOTIONED that the Board will not file an appeal to the New Hampshire Supreme Court from the Superior Court's April 29, 2013 final decision in the case of Aquarion Water Company of New Hampshire, Inc. v. Town of Hampton Tax Assessor, et al, Case No. 218-2012-CV-01166 and that appropriate refunds be processed for the tax years 2011 and 2012 for the right of way tax paid by Aquarion plus statutory interest SECONDED by Selectman Woolsey.

VOTE: 5-0-0

b. 2013 First Half Property Tax Warrant

Mr. Tinker submitted to the Board the first half of 2013 tax warrant in the amount of \$24,388,557.03.

Selectman Moore discussed the following with Mr. Tinker: why warrant is not 50% of total; amount down from last year.

Selectman Nichols MOTIONED to APPROVE the 2013 First Half Property Tax Warrant in the amount of \$24,388,557.03 SECONDED by Selectman Woolsey.

VOTE: 5-0-0

c. Assessing Database

i. Properties with Special Permits

Mr. Tinker explained the request by Mr. Diener earlier about adding additional information to the tax cards; showed an example of what the card would look like; what information would be included.

Board Members Pierce, Nichols and Woolsey discussed the following with Mr. Tinker and Mr. Diener: location of the information that would be added to cards; what types of information would be added; benefit of adding this information about wetlands; criteria that would be used to determine if information is included on tax card; looking at it from an insurance point of view; good idea as a starter.

The consensus of the Board was it is appropriate for the Assessor to begin the adding of information of the issuance of a Special Permit identifying the property has had a wetlands permit issued on Assessing Cards.

3. Michael Schwotzer

a. April 2013 Financial Reports

Mr. Schwotzer discussed his April Financials including revenue, expenses and special revenue and revolving funds. The report is posted on the website.

Board Members Pierce, Nichols and Woolsey questioned and discussed the following with Mr. Schwotzer: Parking Administration telephone bill being activated year round; Police overtime wages; overtime in the Highways & Streets Administration account; Transfer Station overtime account at 47%; telephone expenses in Recreation Department and overtime

in the same department; NHRS actual rate increase of 25% over a two year period; run rate on Transfer Station OT line; possible increase use of part-timers at the Transfer Station; Private Details running about double that of 2012; why concerned with Private Detail when these cost are billed out which Selectman Nichols addressed; issue with how many part-time employees can be used at the Transfer Station; reason for tree trimming could be related to the PUC coming down hard on the utility companies after the Ice Storm; additional discussion on tree trimming.

b. Proforma 2014 Default Budget/Board Direction on 2014 Budget Preparation

Mr. Schwotzer provided a synopsis for the Board: NHRS rate; CBA impacts; insurance rates using 5% increase; debt service increase and explained what makes this up; increase of 5.22% if nothing is done; looking to Board for guidance on where the Board would like to see the proposed 2014 budget.

Board Members Pierce, Nichols, Moore, Woolsey and Bean made comments as follows: anticipating a big jump; need to keep budget as close to flat as possible; look at budget and build it from scratch/zero; feasibility of presenting a budget that is lower than the Default Budget; problems with overtime can be reflected by Departments not budgeting accurately; direct the Town Manager and Finance Director to come in with a budget that is as close as possible to the default level; total CBA wage increase and other possible CBA impacts; four major areas of increase compared to the past 10 years; gone in the last 2 years looking to be conservative; flat budget is not realistic but comes as close to the 5.35% increase as discussed by Mr. Schwotzer; every month look at revenues first; have to see sources of revenue; interest percent on a lot of the Debt Service; bundle some of the non SRF loans in Debt Service to save; like to see some more realistic budgets from Department Heads; possibility of getting insurance quotes from other vendors besides LGC; plead with Planning Board to look at impact fees and extraction fees; questions of possible savings in regards to non SRF bonds; the raw bone of the Department's needs, the budget need to come from the Department Heads, then to the Manger and then to the Board and finally to the voters who are the final decision makers; direction is simply to the Manager and he can meet the direction given by the Board, the Town Manager will give the Department Heads whatever direction he chooses..

Selectman Nichols MOTIONED/CONSENSUS MOVE that the Board would instruct the Town Manager and the Finance Director along with the Department Heads to come in with a budget as close as possible to an 5.35% increase that's in the Default Budget and that any additions to the Operating Budget be clearly delineated on the right hand side in the budget notes indicating what the additional item is and the cost associated with it and SECONDED by Selectman Pierce (if needed).

4. Brian Warburton

a. DRED Joint Operations Plan

Mr. Warburton discussed the following: introduced himself and time he served as the NH State Parks Regional Superintendent; expertise he has to offer; copy of JOP for 2013 given to Board; refuse and recyclable materials and containers/barrels; Town provides the resources the State uses to get the job done; payroll for State employees at the beach; concerns with trash pick-up on the Westside of Ocean Blvd; critical for the State to have an employee who lives in the Seacoast; magnitude of the operation; concerns with portion stating that the State

is not subject to following the Town ordinance in regards to trash trucks; recycling statistics; types of recycling containers; parking meter revenue; State Parks no longer in Rye now located at the Sea Shell; beach raking and equipment; history on raking; raking of Sun Valley; Lobster traps; municipal sewer and sanitation be billed for; Lifeguard operation; amount of Town employees that work with the State are overwhelming; person who makes the call to close the beach is the Police Chief; use of Town pier; relationships are not where they were at one time; possibility of State providing lifeguards for the Town; joint Town and State cooperation; Police controls on the beach; the revenue is there; transmitters; firework displays and meetings held weekly on this; list of special events and use of the facilities; always offers his assistance and sadly the Town Officials are the only ones who ask him for help.

Selectman Nichols discussed the following with Mr. Warburton: beach raking on Town property is strictly referring to Sun Valley and possibility of contracting with Seabrook for this service; weekly updates from the State; 2012 State Park revenues.

Selectman Woolsey suggested a copy of the current JOP be posted.

New Business Item #4.

4. 12 Nor' East Lane – discussed above before Approval of Minutes
  - a. Permission to enter upon and use Town Property for Sea Wall Repair

Mr. Hoefle the owner of property along with contractors present to discuss repairs needed to the Sea Wall on this property as a result of winter storms.

Board Members Pierce, Moore, Nichols and Woolsey asked about the following: question on the exact location of the Sea Wall in diagram provided; the exact plan of what is going to be done; how will the Town give access to them; equipment to remove the large cement blocks; spoken to abutters; location of property lines. Mr. Welch stated that they will have to work with the Department of Public Works and discussed some other problems in this area unrelated to this project.

Selectman Nichols MOTIONED to grant permission to Daniel C. Hoefle, Co-Trustee of Noreast Lane Irrev., Trust, the contractor and its subcontractors to enter upon Town Property through Plaice Cove; to grant permission to park equipment during the day at Joe Billy Brown Park aka North Side Park; to grant permission to store equipment overnight at Brown Park in order to repair the sea wall at 12 Nor' East Lane; to restore Town Property to its previous condition; to complete the work within two weeks [of commencement]; and to provide \$2 million for comprehensive general liability, \$500,000 for automobile liability, and workers' compensation insurance in the statutory amounts for this activity naming the Town as an additional insured on certificates of insurance, work not to commence until after such certificates are provided to the Town SECONDED by Selectman Woolsey.

VOTE: 5-0-0

Mr. Moore MOTIONED to amend the language of the fourth line regarding the location of storage of equipment to read as follows "to store equipment at locations agreed upon by DPW Deputy Director" SECONDED by Selectman Nichols.

VOTE: 5-0-0

#### IV. Approval of Minutes

##### 1. May 06, 2013

Selectman Woolsey MOTIONED to MOVE the Minutes of May 06, 2013

Page 6: add to last paragraph second line “CIP Subcommittee limited the items to those over \$75, 000”

Page 7: Under the minutes, change the word “statue to statute”.

Page 8: Second paragraph, second line change “purchaser to bidder” third line replace “assumed with require only” last line change “emergency to normal”; fourth paragraph fourth line add “that remain at 2/3rds”.

Page 10: Correct the spelling of “Wolsey to Woolsey”; change “moving to mowing” and add an “l” to Mil.

SECONDED by Selectman Nichols.

VOTE: 5-0-0

#### V. Town Manager’s Report

1. The final notice preceding the eviction process on 4 leased lots have been sent to the leaseholders. The sums due total \$10,274.93 and must be paid by June 1 or eviction proceedings will be filed in Court; 6 of the previously 10 notified delinquents account have paid.
2. A very large Thank You to Unitil for the donation of a used telephone pole that will allow us to run the overhead wiring to replace the underground damaged wiring at Eaton Park. This particular electrical system feeds ½ of our field lighting.
3. The Board has received the copy of the Mayberry Report on Impact Fees that was requested last week.
4. Another very large Thank You to John Gephardt and all of those who work so hard to keep Bi-Centennial Park looking so great. John was able to secure a \$150 beautification grant from the Portsmouth Garden Club to purchase flowers for the Park, and installed mulch that was sponsored by Cinnamon Rainbow. Cathy Silver’s Science Club helped with the Park’s spring cleanup.
5. The Town will be looking for easements on Auburn Avenue Extension so that our sewer line can be replaced. The original line was installed without easements.
6. A letter has been forwarded to the Superintendent of Schools for the School Board requesting that they consider appointing 2 members to meet with the Selectmen’s 2 members and 2 members of Channel 22 to address the school’s needs on Cable.
7. The walkway on to Brown’s Beach is closed because of damage caused by past ocean storms. Public Works has been requested to repair this area as soon as possible.
8. I will be on vacation the week of June 10<sup>th</sup> and request that Michael Schwotzer be appointed as Acting Town Manager.

Board Members Nichols and Moore discussed the following with Mr. Welch: concerns with Billy Brown’s Beach area work being completed by Memorial Day; change sign in this area to read “steps closed” for clarity; eviction notice in regards to leased land payments; the Casino places their trash in the proper receptacles in front of their property on Ocean Blvd and concerns with the impact on 5,000 lbs. a day; parking signage for the residents parking lots to be completed by Memorial Day.

Selectman Woolsey MOTIONED to appoint Michael Schwotzer as Acting Town Manager during the week of June 10<sup>th</sup> SECONDED by Selectman Nichols.

VOTE: 5-0-0

## VI. Old Business

### 1. RSA 41:14-a

- a. Vote to Release of Right of Way Interests on Tax Map and Lots 295/60, 64, and 65 from Bk2197, Pg1427 to the adjacent property owners
- b. Vote to Deed two mostly underwater lots to the Conservation Commission

Atty. Gearreald explained the following: two parts to this according to the RSA; discussed the properties in detail; explained deed; right of way that leads nowhere; this is a liability to the Town as the right of way runs through private buildings that were built on the right of way before the United States gave these properties to the Town; the United States holds the right of reverter and rite of entry, if the conditions of the deed are not met; the United States will remove these conditions with the recording of an amendment.

Paperwork filed by Arthur Moody with the Attorney General; Office of Charitable Trust, claiming that this RSA cannot be used, because it involves charitable property, the Attorney General Office believes that the recording of the amendments and deed; these concerns disappear; Atty. Gearreald has addressed this and it should not be a problem; right-of-way and two lots have no value to the Town; the property owners will have to give a release from liability for any activity involving this right of way; authorization to deed once the Town received the released; whether lots under water can be sold to the Conservation Commission, and that the Commission can acquire land and hold land in the name of the Town.

Selectman Nichols hereby moved that once the United States of America has provided a signed Amendment to Deed for the right of way and the two mostly underwater lots conveyed to the Town in Book 2197, Page 1427, the Board pursuant to its authority under RSA 41:14-a shall sell:

- A. The Town's rights in the portions of the right of way to those property owners whose property such portion crosses, in return for the corresponding property owner's providing a signed Release to the Town and the United States of America in a form acceptable to the Town Attorney that releases them from any liability for claims or damages that have arisen from the presence of the right of way and their plans to develop same in the past present or future, and in return for bearing the expense of drafting and recording the deed to convey the right of way rights;
- B. To the Conservation Commission for \$1, the Town's rights in the two mostly underwater lots for purposes of holding same as open spaces.

SECONDED by Selectman Woolsey.

VOTE: 5-0-0

### 2. Tide Mill Road

- a. No-through Trucking

Mr. Welch commented as follows: has checked through the Police Department who has no objectives to this proposal; concerns with signage that will be addressed.

Selectman Nichols MOTIONED to prohibit through trucking on that portion of Tide Mill Road from Landing Road to the first business on Tide Mill Road (from the Landing Road end of the roadway); and to post “No Through Trucking” signs at the beginning and end of such area in accordance with the authority contained in RSA 41:11 and RSA 47:17, VII and VIII and to add this traffic regulation to Chapter 805 of the Town Ordinances as Article IX subsection 57 SECONDED by Selectman Pierce.

#### Discussion on Motion

Board Member Moore suggested additional signage to avoid a mess; informational sign on Landing Road for the Trucks; four signs will be placed.

VOTE: 5-0-0

#### Additional Old Business

Selectman Woolsey MOTIONED that the Board meet every Monday during the summer SECONDED by Selectman Pierce.

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

#### 3. Selectmen’s Goals/Objectives

The Board discussed their goals and what goals the Board has agreed on; the list was narrowed to three; Selectman Nichols will make a list to present to the Board.

### VII. New Business

#### 1. Records Retention

##### a. Disposal of VHS Tapes of Board/Committees Meetings

Board Member Pierce made comments as follows: no problem with this; quality of VHS; destroy if no one else wants them such as the Library or Historical Society.

Selectman Moore MOTIONED to grant permission to the Cable Committee to destroy VHS tapes of Public Meetings once they have been copied to DVD SECONDED by Selectman Woolsey.

VOTE: 5-0-0

#### 2. Channel 22

##### a. Increase of Stipend

Selectman Moore suggested that this be moved to a non-public meeting.

#### 3. Toscano Property – 13 Huckleberry Lane

##### a. Permission to enter upon Town Property for remedial work

Selectman Woolsey MOTIONED to grant permission to George and Karen Toscano to enter upon Town property to perform remedial work in compliance with the conditions of the Hampton Planning Board’s Special Permit for property at 13 Huckleberry Lane and to provide the standard comprehensive general liability insurance for this activity naming the Town as an additional insured on certificates of insurance, in the amount of \$2 Million, work not to commence until after such certificates are provided to the Town SECONDED by Selectman Nichols.



Selectman Pierce expressed concern with the Conservation Commission not coming before the Board. It was pointed out to him that Jay Denier made comment on this during public comment.

VOTE: 5-0-0

#### Other New Business

Selectman Nichols shared a call he received from Fred Rice in regards to the signalization at High Street and Rte. 1, the signal needs to be looked at once again. It was discussed that the Traffic Engineer is the one who made the change and Mr. Welch was asked to go back and discuss this further with the Police and Fire Chief and come back to the Board with their comments.

Chairman Bean made comments as follows: synchronization of the traffic lights; State input; report from the Traffic Engineer with the State; emergency responders going through the intersection; serious issue; this will be on the agenda for next meeting.

#### VIII. Consent Agenda

1. Conservation Commission Logo
2. RSA 178:21 Restaurant On-Premise Beverage/Wine/Liquor License “Beach Bites” 5 F Street
3. Taxi Business License “Charmingfare Farm” John Pyteraf
4. Taxi Operators License “Charmingfare Farm” Zachery Curtis

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

VOTE: 5-0-0

#### IX. Closing Comments

Selectman Nichols suggested that they need to schedule a non-public to discuss about 7 items. Chairman Bean is happy to meet for any non-public meetings on Monday and weekends. Selectman Nichols thinks that is a little rigid and they should be much more flexible. Selectman Pierce suggested possibly meeting weekends or evenings.

#### X. Adjournment

A motion was made by Selectman Moore to go into a non-public session under RSA 91-A:3,II,(e), this motion was seconded by Nichols. A roll call vote was taken, and all 5 Selectmen were in favor

Selectman Moore MOTIONED to adjourn the public meeting at 10:02 PM SECONDED by Selectman Woolsey.

VOTE: 5-0-0

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Chairman