

August 26, 2013

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

SALUTE TO THE FLAG

I. Public Comment Period (5:16)

David Lang, 66 Park Ave, made comments as follows: an important topic is the corporate structure of Local Government Center; time he served on the Board of Trustees for LGC; resigned January 2003 because of the direction LGC was heading; mission of Health Trust has become a problem for him; negotiating benefit levels; story of the corporate structure; video tape of recent meeting by Board of Directors of LGC which he has available for any members of this Board; more money that is coming back to the Town; encourages Board to join in this challenge; tell the Local Government Center to stop and do it right.

Arthur Moody, 3 Thomsen Road, made comments as follows: remembers the time David Lang sat on the Board of Trustees for LGC; mentioned tree cutting and the increase in budget; Tree Warden statute and whether or not it ever went anywhere; large pines that have been cut on Academy; process to go through before removing Town shade or ornamental trees; Town meeting vote for every tree that is removed a new tree/plant is planted.

II. Announcements and Community Calendar (13:31)

Selectman Woolsey reminded everyone of the great films running on Channel 22 and wonderful DVDS done by the Historical Society.

Chairman Nichols announced a public forum being held by the Legislative Delegation on Thursday night at 7 pm in the Selectmen Meeting Room.

III. Appointments

1. Bureau of Security Regulation Representative on LGC/NHMA (14:33)

Chairman Nichols provided the following background on this: this came up late Friday afternoon; subject is a vote taken by LGC Board of Directors approving a corporate reorganization of the LGC Health Trust; Secretary of State has the responsibility of oversight for LGC; concern that reorganization may not be in the best interest of the Town of Hampton and other municipalities; reorganization will be commenced on September 1st; if Hampton would like to take action it would have to happen this week; thanked David Lang for alerting

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the Town and thanks to Adrian Larochelle and other two gentlemen who came down from the Secretary of State's Office; would like to start with a presentation by Adrian Larochelle and then questions to follow; Atty. Gearreald will then meet with them and may come back to the Board at the end of the meeting with any further information.

Mr. La Rochelle made comments as follows: handed his presentation out to members of the Board; with him tonight is Kevin Bannon and Earle Wingate; went through a brief history of LGC corporate structure; prior to 2003 structure of LGC was significantly different than today; listed the 4 separate non-profit entities; with separate boards and by-laws prior to April 2003; reorganized into a parent subsidiary model with a Board of Directors that would govern the new four for-profit entities (LLC's), which he explained in detail for the Board; discussed the merger in 2003 in detail and the problems with it not being completed appropriately; how the assets are used by the four for-profit LLC's; LGC was noticed in 2005, 2006, 2009, 2010 and 2011 that the merger was not done properly; no real attempt to remedy the reorganization; what LGC proposed last Friday is a very similar process in reverse to what was done in 2003; read the LGC press release; reorganization proposed involves a transfer of all or substantially all the assets of the LLC's that are currently running the 5B Risk Management Programs back into Non-Profit Organizations; went through the concerns with this; problem with it taking from 2003 to now to determine what happened with these entities and these assets; issues with transparency with these entities; other concern stems from documents that relate to Town or political subdivision participation in these entities; read a portion of the application and participation agreement political subdivisions enter into with LGC and its risk pools; read portion of by-laws related to dissolution and how all remaining assets should be liquidated and the proceeds shall be distributed equitably to the participants; transaction proposed by LGC is an asset transfer back to non-profits and then a dissolution; under proposed plan there would be no assets left to be distributed; this raises concerns considering the connection to the by-laws; Secretary of State is troubled by this mostly because of the lack of transparency.

Board Members Woolsey, Pierce, Bean and Nichols asked questions and made comments which were addressed by the gentlemen: legal standing, timeframe to intervene and stop this action; will they be petitioning the court; discussion explaining the Secretary of States power over these 5B groups; communities will have the option of petitioning the court; options for Town of Hampton will need to be discussed with Town Counsel; Atty. Gearreald pointed out as far as the corporate statute, in the end it would be in the hands of the Attorney General and will find out what the Atty. Gearreald options are; what are the Town's options; the liquidation of assets and copy of financial reports from LGC; will forensic accountants be going in to verify that the financial reports are accurate; will the Bureau of Security be doing something to stop this activity by September 1st, the Secretary of State is looking at their options; questions for Atty. Gearreald to bring into the discussion with the members of the Bureau of Securities; requesting information on the litigation; damages the Town may be subjected for not filing; Attorney General does have capability to deal with the situation under other RSA's; Town may have standing whereas the Bureau may not; thanked them so much for coming down tonight.

2. Finance Director (37:27)

The MS-5 Financial Report was discussed first.

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a. Monthly Financials (41:32)

Mr. Schwotzer made comments as follows: the report is for the month of July; target is 58.3%; next month will start to predict YE savings; total income including motor vehicle revenue, Highway Subsidy, Rye Sewer, Departmental, Parking Lots, LGC refund of General Liability Insurance and Real Estate Trust; Expenses Summary came in at 56.3% of target, Personnel Administration NHRS rates running below target, Property Liability Insurance, Police Department, Police Specials, Fire Department, seasonality factor, holiday pay later in the year, DPW both sections are within overall budget, solid waste transportation, Police mounted patrol saddles, outstanding PO's for Police and DPW, Cable Committee franchise fees, Police: private details continue to run ahead, new equipment cost now includes purchase of cruiser and command vehicle.

Board Members Pierce, Woolsey and Nichols asked questions and made comments which were addressed by Mr. Schwotzer and Chief Sullivan: money coming in this year and transferred from previous fund to Cable Committee; payment that the Town will be receiving from Comcast in regards to settlement associated with the historical home shopping network stuff which will possibly be spent on the second channel; money for this payment has not been received yet; \$300,000 in Road Improvement Capital Reserve Fund and need to have a warrant article to expend those funds; \$31,000 in Detail Fund for vehicle maintenance was used to outfit new vehicles; cruiser purchase of about \$30,000; difference between actual cost of vehicle and the amount needed to outfit these vehicles; all vehicle purchases were off the State contract; are we any closer to getting a feel for rewriting some of the SRF bonds.

b. Approval and Signing of the 2012 MS-5 Financial Report (38:12)

Mr. Schwotzer made comments as follows: received the Auditors 2012 MS-5 Report of the Town; State form; copies have been supplied to the Board; deals with and is all generated by the audit; not easily track able from his monthly reports to the audit; asking that the Board accept the report as presented by the Auditors; this needs to be done so he can file report.

Selectman Woolsey MOTIONED to APPROVE the 2012 MS-5 Financial Report SECONDED by Selectman Plouffe.

Discussion on Motion

Chairman Nichols made comments and asked questions as follows: forecasting and model done in regards to tax effect spending compared to bottom line of the report; possibility of difference being related to fund balances.

VOTE: 5-0-0

c. MS-4 Form (58:51)

Mr. Schwotzer made comments as follows: revenue form for the State; increased the original budget by \$700,000; if this additional revenue holds, will lower the 2013 tax rate by \$.25; (rate of \$7.21 to \$7.25) strictly for the Town portion of tax rate; listed out what additional revenue contributors were; due at State September 1st.

Board Members Woolsey and Nichols asked questions and made comments as follows: the assessed valuation as of April 1st of some projects should have some sort of impact and it was stated it would not make much difference this year; possible that the Town portion of tax rate going down for 2013; possibility of a flat tax rate.

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Chairman Nichols and Pierce discussed the following additional items with Mr. Schwotzer: like to see forecasting of YE spending start with August report; the 2011 contribution holiday has been distributed; supposed to receive two more distributions and still waiting on one check; are there any problems with unions in regards to contribution holiday, no, using the same idea with the 2010 as the 2011 money.

3. Ed Tinker, Chief Assessor (1:04:24)
 - a. 2013 MS1Report
 - i. Setting of Hampton's 2013 Tax Rate

Mr. Tinker made comments as follows: report ready to be sent to the State; sent Board an electronic copy to review along with a signature page; taxable value less exemptions is \$2,751,933,900 around 2/10ths of an increase from 2012.

Selectman Pierce MOTIONED to APPROVE 2013 MS1Report with a taxable value of \$2,751,933,900 to set the 2013 Tax Rate SECONDED by Selectman Woolsey.

VOTE: 5-0-0

4. Atty. Gearreald and Chief Sullivan (1:06:49)
 - a. Code of Ordinance Chapter 149 Entertainment Activities Ordinance

Chairman Nichols explained that this is amendment to the noise section of the Entertainment Activities Ordinance, commented that this has been discussed at previous meetings and the goal is to find a balance to satisfy the business owners and residents.

- i. Correction to Chapter 149, Section 149-6 Issuance of License, sub-sections A, (3) and B, (1), (b) by deleting "Fire Prevention Officer, or his designee" and replace with "Fire Chief, or his designee"
- ii. Changes to Sections 149-3 Definitions; and 149-15 Noise Standard Applied sub-section A.

Chief Sullivan made comments as follows: have followed some of the discussions; want to make sure they are still on track with consensus on how the Board wants to proceed; basis is to control the noise; language prepared to go to the Town meeting for vote; will present this language in the future; approach noise issue on three different avenues: one to deal with the decibel level, second to deal with complaint and the third is time limitations; going through a number of ordinances; will prepare some stuff for the Board to decide on; possibility of different decibel levels being acceptable in different areas and at different times.

Board Members Woolsey, Nichols and Pierce made comments as follows: what about windows and doors being closed; fix problem created by 2012 ordinance in regard to time; some limitations on loudness of level; using decibel scale of A, an objective metric such as DB levels is a good method for defining limits; felt 11:00 pm is a tipping point, volume levels after 11:00 pm should be lower than before 11:00 pm; suggestion of doing something similar to what they do with the construction ordinance; clarification that they are talking about the entertainment ordinance not noise ordinance; 11 pm deadline Board has discussed previously; tipping points of other communities between 10 and 11 pm; decibel levels of other communities was discussed; observations made when spent some time with Rich Sawyer at 375th; need to have at least a 10 decibel level; substantial difference in order to see a difference in the levels; possibility of having a certain DB level up until 11pm and then having a lower decibel level; did not see any other communities with an 80 decibel level,

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may want to set the decibel level less for Hampton; should be conscious about hearing loss at a 90 decibel level; trying to make it livable for community; ambient level of the noise just walking the Blvd was 70 DB; it was cautioned that the machines used can have variances, the machines can differentiate on the reading of the decibel levels; Deputy Sawyer went through in detail the experiences he and Selectman Pierce had when testing decibel levels of noise in various locations of the music that was playing at the Casino; tested the Seashell noise level and how buildings are design to project sounds; deck bars becoming popular at the beach; a 93 DB level inside is different than a 93 DB level outside, this should be looked at, with respect to how and when it the noise is played; Chairman Nichols would like to see something like a 80 DB prior to 11 pm and a 70 DB after 11 pm; how to deal with complaints; went through current language in regards to 50 feet boundary from property edge; possibility of the decibel level measurements being taken at the property boundary of the receiving property; might want to limit outside entertainment as of 11 pm to help with complaints; some establishments in residential areas may need to be limited to 10 pm; problem with commercial areas abutting residential areas; limit through licenses; doors and windows should remain closed during such entertainment; net benefit of being consistent with this; authorization for Selectmen to approve onetime events or exceptions to the ordinance.

Chairman Nichols asked Atty. Gearreald why Chapter 328 was on the agenda. Atty. Gearreald explained that in other communities they deal with both entertainment and noise in the same place.

Chairman Nichols discussed the timeline and to have a draft warrant article in about 4 or 5 weeks, once the draft is completed, get it out to the public and then hold a public hearing.

b. Code of Ordinance Chapter 328 Noise

- i. Changes to Sections 328-3 Unnecessary Noise prohibited, and 328-4 Definitions

5. Chief Sullivan and Deputy Chief Sawyer (1:37:09)

a. Purchase Approval

- i. Emergency Equipment for Four Police Cruisers

Chief Sullivan made comments as follows: dealing with the outfitting of cruisers; followed purchasing policy and went out for sealed bid; went out to 4 vendors; only received 2 bids; would like to award to the low bidder.

Selectman Woolsey MOTIONED to award the bid for outfitting four new cruisers to Adamson Industries for \$33,194 SECONDED by Pierce.

VOTE: 5-0-0

IV. Approval of Minutes (1:38:24)

1. August 12, 2013

Page 4, 1st paragraph, replace “unanimous” with “an anonymous”

Page 5, 1st sentence, add a “s” to the word dollar

4th paragraph replace the portion of the sentence that begins with “Department Heads” with the following “DPW Department was instructed to submit a specific

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equipment list as opposed to just a figure amount related to vehicle purchases for the Capital Reserve article”

8th paragraph replace “number 25 and 26” with “the Pedi-cab and Taxi cab articles”

9th paragraph replace the word "remove" with “repeal”

Page 6, 5th paragraph, add “the” after the word “under” and “it is” before “not”

Page 7, 2nd paragraph 7th line change “statue” to “statute”

5th paragraph, add “being over \$50,000” after the word “amount”

Page 8, 1st paragraph, 2nd line add the word “reduce” after the word “to”

Chairman Nichols MOTIONED to approve the minutes of August 26, 2013 as amended SECONDED by Selectman Pierce.

VOTE: 5-0-0

V. Town Manager’s Report (1:43:38)

1. The Finance Department has received the 2012 Annual Town Audit Report. The report will be placed on the Town’s Website for public viewing.
2. We will be moving forward the reports of the Department of Public Works on solid waste and changes to disposal fees to October 7, 2013 so that it will not interfere with budget deliberations and presentations.
3. I would request the Board to clarify its position on multiple purchases from vendors that would exceed \$15,000 during the financial year and under what circumstances such purchases would require bidding or Board action.
4. The Church Street Station construction continues on schedule. Structural steel was delivered the past week as work continues on bring the structure to ground level.
5. The Town Clock Committee is working diligently to raise the remaining funding for the erection and dedication of the Town Clock in front of the Center School. The Committee needs to raise about \$30,000 in final funding.

Mr. Welch added the following to his report: received from the Police Department today that they will be holding low light training at DPW later in the week; invitation to the Board to be present on September 11th at the American Legion.

Chairman Nichols made comments as follows in regards to the purchasing policy: DPW had questioned what happens when you use a vendor several times a year and total purchases exceed \$15,000; does the purchasing policy apply to these types of purchases; using an automotive supply vendor as an example; his opinion that it does not apply to these types of purchases; it might apply in some situations such as furniture purchase; electricity receive a monthly bill and any given month does not reach \$15,000 the purchasing policy would apply to this type of thing so this would be required to be bid; the Board agreed with Chairman Nichols comments.

VI. Old Business (1:50:28)

1. 2014 Warrant Articles
 - a. Updated Warrant Article List

Chairman Nichols stated that he did not anticipate talking about the warrant articles will ask Kristina for an updated copy to be sent to the Board. Selectman Pierce pointed out that Exeter Road is missing but it was pointed out that it is on the list.

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Selectman Woolsey asked if there is an accounting on the 375th and it has not been completed yet.

VII. New Business (1:52:57)

1. Ciancio Dog Warrant Fee Waiver Request

Atty. Gearreald made comments as follows in regards to whether the Board has the authority to waive this fee: RSA's have been provided to the Board; discussed the Board's responsibility in regards to issuing the warrant; there is nothing in the statute giving them the authority to waive; however if the Board wishes to change the warrant that could possibly be done; he would ask the Board to defer so he can talk to the Town Clerk. This item will be placed on a future agenda. Selectman Pierce wonders where the Clerk gets the information on the rabies shots.

Other New Business

Chairman Nichols brought up a letter they received in regards to alleged illegal business on a street in the Island district and wonders what the status is on this letter. Mr. Welch explained that it has been given to the Building Inspector and will be investigated. Chairman Nichols requested that if information like this is provided to the Board he would like to see what the resolution is in the future.

VIII. Consent Agenda (1:58:31)

1. Parade and Public Gathering License
 - a. Seacoast Century Weekend September 21-22
2. Pool Table Permit – Waters Edge Yacht Club
3. Seafood Festival Sidewalk Vendors License
 - a. Beach Bums – 205 Ocean Blvd
 - b. La Spiaggia Pizza – 215 B Ocean Blvd
4. Hampton Cemetery Deed
 - a. Jeffrey and Robin Josselyn
 - b. Neil and Ruth MacNevin

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

VOTE: 5-0-0

IX. Closing Comments – None

X. Adjournment (1:59:05)

Selectman Woolsey MOTIONED to adjourn at 8:55 PM SECONDED by Selectman Bean.

VOTE: 5-0-0

Chairman