

December 9, 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 (9:53)

Arthur Moody, 3 Thomsen Road, made comments on the following: concerns with Nuclear Plant in Seabrook and tunnels in Hampton, Hampton Falls and Seabrook; some history on tunnels and pollution control; negative fund balance in 1990 in part related to this; impact of taking this off the tax base; other counties that will be affected that have power plants; 375<sup>th</sup> anniversary not dead yet still have some memorabilia for sale and there will be a sale in the Town Office on Wednesday the 18<sup>th</sup> at 3 pm.

Fred Rice, 15 Heather Lane, made comments as follows: responded to Arthur's comments about the Power Plant and explained why the committee turned the bill down; issue was not clear and will have to bring it back again in another format; public hearing next week on trash; will not be in Town so wanted to make comments today; celebrating 40 years in waste collection; has some sound advice; reach equal treatment between commercial and residential; cannot be done with the present system with cost buried in the tax rate; 1% of the US does trash the same way as Hampton everyone else bills their customers; remove all solid waste cost from the tax base; do same thing as now but bill each customer; customer can take their trash to the Transfer Station for free; Town will still continue to pick up recycling; revenue stream in recycling; bag-in-tag does not work since there are too many commercial properties; system that can be put into place with very little cost using assessing data base.

### II. Announcements and Community Calendar (24:43)

Selectman Bean made comments as follows: reminded everyone about Marelli's 100<sup>th</sup> anniversary at their store this week; kudos to everyone involved with the parade; shout out to students from Seabrook at Winnacunnet and other Seabrook residents; Hampton Waterworks released their data.

Selectman Woolsey made comments as follows: Marelli's festivities and if they conflict with ribbon cutting at the Fire Station; amazing parade and turnout; parade is being re-broadcast on channel 22 and 13.

### III. Approval of Minutes (30:37)

#### 1. November 22, 2013

Page 1, 8<sup>th</sup> sentence, change the word “attention” to “intention”

Page 4, Vote on Article 9 should be VOTE: 3(Beau, Woolsey, Plouffe)-2(Nichols, Pierce)-0

Page 9, after Warrant Article 36; rewrite the sentence as follows: “Selectman Woolsey commented that if they want to hook into the sewer system, that they should pay the cost of doing this.”

Chairman Nichols MOTIONED to approve the November 22, 2013 minutes as amended  
SECONDED by Selectman Pierce.

VOTE: 4-1(Woolsey)-0

#### 2. November 25, 2013

Page 1, Correct spelling of the name “Coronati”

Page 4, 8<sup>th</sup> paragraph, 4<sup>th</sup> line change “build” to “built” and “then” to “than”

Page 6, last paragraph, 6<sup>th</sup> line add the words “from 2013” after the following “article 21”

Page 7, 6<sup>th</sup> paragraph, 9<sup>th</sup> line add the word “high” after the word “on”

last line, change “allowing then to go” to “addressing going”

Page 9, 1<sup>st</sup> paragraph list the following locations “locations (Town Offices, Library, and the Town Website) and add the word “the” after “that”

Chairman Nichols MOTIONED to approve the November 25, 2013 minutes as amended  
SECONDED by Selectman Pierce.

VOTE: 4-1(Woolsey)-0

Selectman Woolsey commented on the public hearing, specifically the concrete sidewalk work that Mr. Ross was willing to pay for; would like to have it done with concrete; discussion with Atty. Gearreald in regards to stipulating that he have it sealed; lost opportunity to have a nice sidewalk in this area; instead we will have asphalt sidewalk.

Selectman Pierce made comments as follows: money that has been in budget to seal the concrete sidewalks we already have in Town; does not understand why the work is not being done.

#### 3. November 25 Non Public Session

Chairman Nichols MOTIONED to approve the November 25, 2013 Non-Public Session minutes SECONDED by Selectman Woolsey.

VOTE: 5-0-0

### IV. Town Manager’s Report (42:36)

1. An underground storage tank, unknown to the Town or the Precinct was discovered during the installation of drainage in the Precinct Parking Area. Removal process has been undertaken to comply with State and Federal Laws. The cost for removal and compliance is estimated at \$5,000 and within budget for the Fire Station project.
2. Construction continues on the Church Street Pumping Station with the installation of electrical systems and mechanical requirements related to pumping operations.

3. Wednesday, December 11, 2013 at 5PM is the last time a petitioned amendment to the Zoning Ordinance can be received for action by the 2014 Annual Town Meeting.
4. For those Departments and Agencies who submit reports for the Annual Town Report you should be finalizing and submitting your reports as soon as possible.
5. We have received a request to establish a Town Auction for the sale of surplus materials. May we have the Boards permission to proceed to organize an auction, establish lists, and advertise for the auction at a future date and time to be determined?

The Board was in favor of organizing a Town Auction.

Selectman Woolsey made comments and asked questions as follows: wonders if have discussed beach raking at Sun Valley with Seabrook; Planning & Zoning article in regards to sub-districts which Atty. Gearreald commented on; requests that Board be notified when flowers are sent on their behalf to someone who is incapacitated or relative has passed away.

Selectman Pierce asked where they are at with the school payment of \$13,000 which Atty. Gearreald addressed stating that it is still being worked on.

Chairman Nichols shared with the Board a response from Mike Schwotzer in regards to paying for property liability insurance for first half of 2014. It was explained this has been the process since at least 2006.

Old Business (49:17)

1. 2014 Warrant Articles (49:20)
  - a. Review of December 06, 2013 Warrant Articles

Chairman Nichols suggested that they go through like they did last week and if anyone has any questions they go through in order.

There was a discussion on the ones that the Board has completed.

#### Article 8 – Budget

Chairman Nichols commented on the discussion the Board had last week in regards to the \$3,048 associated with the 1% raises being approved spread across the appropriate wage lines and this is not included in the Default Budget, and it needs to be added.

#### Article 14 – SEA Contract

Chairman Nichols pointed out that this has been ratified and now language can be added to this article.

Selectman Woolsey questioned if the contracts should be placed in the order that they are ratified and the Board agreed this could be done. This article will now be Article 9.

#### Article 15 – Grist Mill Dam

Selectman Woolsey made comments as follows: asked if the plan is to keep these in two separate articles; concerns with grant funding being contingent on replacing culvert; what happens if voters say yes to one and no to the other; will discuss this with Keith next week.

Chairman Nichols believes that after meeting with Mr. Noyes and Mr. Welch it was agreed that there would be two separate articles.

Atty. Gearreald added the following: language for both of these articles was run by DRA; new language added to Article 15, which he read for the Board in, regards to the amount raised and expended.

Selectman Pierce asked about adding language to Article 16 stating this article must pass.

#### Article 16 – High Street Culvert

Selectman Woolsey commented that before Keith comes in make sure he has the right measurement for the replacement culvert.

Chairman Nichols made comments as follows: Keith has experience with this in Exeter; has an engineer working on this; the cost of \$125,000 is place holder and is a solid number.

Selectman Pierce wants to make sure the culvert is big enough since when they replaced the one on Winnacunnet Road it was not the right size.

#### Article 35 – Rescission of Community Revitalization Tax Relief Incentive

Selectman Bean made comments as follows: in regards to Article 35 the rescission of 79E; thinks do to the better chunk of \$185,00; this should be moved up closer to the beginning; awaiting the fiscal note impact for this article.

Chairman Nichols would still like to see it follow all the money articles. He suggested that this be put off until the point when the articles are in more of a complete list.

Selectman Woolsey thinks it should fall after Article 19.

#### Article 17 – DPW Capital Reserve Equipment

Discussion on the required language of raise and appropriate.

Selectman Woolsey asked Atty. Gearreald if the same wording could be included the same language from DRA since we know there will be trade-in value for the old vehicles; have to raise and appropriate the whole amount but can include a note about the trade-in value.

Chairman Nichols commented that the number of \$385,000 is a placeholder and Keith is coming back with a more concrete amount; once we have solid numbers have the ability to change the numbers.

Atty. Gearreald will ask DRA about including the trade-in value language in the article.

#### Article 21 – Recreation Infrastructure Fund

Chairman Nichols spoke about the amount of \$90,000; essentially this amount is different than anything they have seen before; should be viewed like a new warrant article; has a lot of concerns with this; three separate categories of what they are doing with the \$90,000; listed out the 3 different items; need to know more about what each item cost; still wants to know what the fund balance is; what the other priorities are for this fund; need a list of these items; did these amounts come from quotes.

Selectman Woolsey commented that this information should have come in sooner.

Selectman Pierce agrees with Chairman Nichols comments in regards to needing more details.

### Article 22 – Parking lots Signage

Chairman Nichols made comments as follows: cannot see spending \$10,000 or \$12,000 for a parking lot sign; does not have an issue with whether or not we need new signs; amount just makes no sense to him; signs at other lots on the beach; fancier signs are not going to increase revenues.

Selectman Pierce made comments as follows: Ashworth Ave Lot is right there and will sell itself; can see wanting signs for the other two lots.

Chairman Nichols asked Mr. Welch to bring this dialogue back to Dyana. And this is a tax impact article.

### Article 26 – Wastewater System Entrance Fees

Chairman Nichols made comments as follows: that this article is still being drafted; Chris Jacobs is working on this; when the Board will receive the next draft; would like to see it by December 23<sup>rd</sup>.

### Article 27 – Solid Waste Ordinance Amendments

Chairman Nichols confirmed that this article is in progress with Atty. Gearreald and Keith Noyes.

- b. Petition Warrant Articles (1:12:54)
  - i. Child and Family Services request for increase in funding

Selectman Woolsey made comments as follows: there is still \$5,000 in the Health and Human Services warrant article; will it be removed or left there; if left there this article will need to be re-worded.

Chairman Nichols made comments as follows: he specifically asked Kristina to inform them that if they submitted a separate article they would be removed from the main article; however they still only submitted an article for the additional \$1,000; have to stick to what we said we are going to do and remove the \$5,000 from the group article; suggested that we communicate with them to have a Hampton resident amend it at the Deliberative; asked if they choose to they could amend the amount to zero and the Board could add them to the group article.

Atty. Gearreald made comments as follows: problem with language that DRA would not approve; possibility of submitting an additional article for \$5,000.

Selectman Pierce made comments as follows: asked if they can amend it at Deliberative; can they submit a new article; should the Board remove the \$5,000 from group article.

Selectman Woolsey asked if samples are available for people writing petitioned warrant articles and Mr. Welch stated there are if people ask.

It was the consensus of the Board to remove Child and Family Services from the Article.

- c. Noise and Entertainment Activates Ordinance Amendments (1:19:21)

Chairman Nichols made comments as follows: version Atty. Gearreald put out on Friday right around noon time; conversation he had with Atty. Gearreald this morning on a part of it related more to technicalities; definition of building and stuff like that; at this point would like turn this over to Atty. Gearreald for comments.

Atty. Gearreald pointed out that a new version was passed out today to reflect the comments made by Chairman Nichols.

Selectman Bean made comments as follows: there was a department head spoken to last week in regards to presenting information to the Board; he will be in Concord tomorrow; he has not had time to review this information; have talked in the past about a deadline for agenda items and that is Wednesday; not just related to this; brought up some past information that they received on Friday; will not participate in this conversation; this is a pattern and they should not have to jump through hoops.

Selectman Pierce agrees with Selectman Bean and he is not going to participate in this either.

Chairman Nichols made comments as follows: clarified that this item was on the agenda on Friday; along with a draft of this warrant article; this has been an issue since July of 2012; public hearing scheduled on Monday; important to have this conversation tonight; would like to send a draft of this article to several entities prior to Monday night; this can be changed subsequent to the public hearing; sense of urgency on this one.

Atty. Gearreald made comments as follows: version that was in Friday at noon had some additional language in regards to definitions such as outside entertainment; more precise definition of building; including definition of building in the Zoning Ordinance; the hours restricted, the Board had wanted outside entertainment allowed between 12 noon and 11 pm; Chairman pointed out that earlier times have been stated by the Board previously; suggested add language so that an earlier time can be specified by the Board; under noise levels have left blanks and consulting he is doing with outside counsel on this; discussion on the location of where the db. level will be read from; distance of 65 feet might not be the right distance; possibility of not including a foot distance; question about the ability of the Police to require doors and windows to be shut.

Selectman Pierce made comments as follows: thinks the background noise at the earlier hours in the evening such as 8 pm can be set at 75 db.; 11 pm to 1 am can have the level set at 65 db.; one can question the equipment being used.

Chairman Nichols made comments as follows: level between noon and 11 pm and 11 pm and 1 am needs to be at least a 10 db. level difference; explained why he feels this way; can go along with the levels Selectman Pierce suggested; reiterated that he really did try to get this information out to the Board in a timely manner on this one.

There was a consensus amongst the Board to have 75 db. between noon and 11 pm and 65 db. from 11 pm to 1 am. Selectman Bean made comments as follows: knows that there is a consensus amongst the Board on this; however, he is distancing himself from this now as this effect will only cause more problems and law suits.

The Board also agreed to eliminate the number of feet.

Selectman Pierce made comments as follows: language that states outside entertainment only allowed between 12 noon and 11 pm; believes they want to add on the warrant article itself or earlier if specified by the Board. This language has already been added in discussion above.

Coastal Economic Development Commission SleepNet Grant

Atty. Gearreald provided the following information to the Board on the Coastal Economic Development Commission: received some answers to some of the questions the Board has asked; asked if Board would like to put this on next week's agenda it was agreed it should be added.

## V. New Business

### 1. 2013 Municipal Budget (1:37:45)

#### a. RSA 32:10 Request for Line Item Over Runs (1:37:47)

Chairman Nichols made comments as follows: something went out from Mr. Welch on this on Friday; conversation he had with Mr. Welch and Mr. Schwotzer and he would like to defer this; basically they have 3 things that effect this and he listed them out for the Board; he would like to put this on the December 23<sup>rd</sup> agenda; this will give Mr. Welch and Mr. Schwotzer time to get the information together for the Board.

Selectman Pierce asked when Mr. Schwotzer plans to have the November reports and he hopes to have them completed this week.

### 2. Property Liability Insurance and Workers' Compensation Insurance (1:40:14)

Mr. Welch made comments as follows: did meet with the provider the low bidder; recommendation is probably going to be to go with the low bidder of \$104,000 less than what we are currently paying; the low bidder is the former Municipal Association; there are some things that they are concerned about with the other bidder Primex; essentially they do not cover a lot of the things in the Legal Department; required to indemnify both of the Attorneys; will put this on the agenda for next week for approval.

Selectman Woolsey made comments as follows: PLT is still hanging over the cliff; what protection do we have that they will not just throw out workers comp claims arbitrarily; just had a couple thrown out the door.

Mr. Welch commented that the workers compensation claims are thrown out if all the facts are not provided to support the case and both carriers do the same thing.

Selectman Bean made comments as follows: questioned how many firms were sent the bid information and it was around 12; how many completed bids were received with the same coverage we currently have, just one, the current vendor; Primex was the other bidder, and did not provide the same coverage, and was \$64,000 more.

### 3. 2013 Hurricane Sandy Coastal Resiliency Competitive Grant of \$400,000 for the purpose of decommissioning the Old Mill Pond Dam and Replacement of the High Street Culverts (1:46:35)

This item discussed during 2014 Warrant Articles.

### 4. Policy related to approval of wage and other unbudgeted expenditures impacting Default budgets and commitments in future years (1:46:53)

Chairman Nichols made comments as follows: put this together to provide the transparency in regards to expenditures carried forward into the New Year. This was included with the information the Board received on Friday; version created by Atty. Gearreald; happy with changes made by Atty. Gearreald; and asked if Board wishes to talk about this tonight and it

was agreed to talk about it. He read the proposal for the public and stated the reasons why he had drafted this policy.

“To assure public transparency, any non-budgeted expenditures, including non-budgeted employee wage increases, and other contractual commitments that carry forward to future years impacting the Default budget shall be brought to the Board of Selectmen by the Town Manager for review and approval in a public meeting, prior to consummation. If they come to his attention, the Town Manager will alert the Board of Selectmen to commitments that fall into this category, but fall under the authority of another appointed or elected body or official, in order to provide the Selectmen and the public with advance notification as the Selectmen will be asked to incorporate the associated spending increases into the Default budget.”

Selectman Woolsey has concerns with something like this is popping up so late in the year; and the comments of this Board made to Mr. Diener; and the Conservation Commission when they voted to grant a pay increase to an employee; how items such as this should be reflected in their budget process, they should plan for these budget increases; thinks the Board of Selectmen should follow this same advice and include employee increases in their budget process; these should have been planned in 2013 and in the 2014 budget process; potential problem during negotiating collective bargaining agreements and explained why; the Budget Committee is struggling with the \$17,000 or so, as it is not included with 2013 budget or the 2014 budget; wants to make sure the Budget Committee understands this.

Chairman Nichols made comments as follows: stated that this was discussed at the beginning; when Mr. Welch asked for the \$3,048 additional amount that was needed be added to Default Budget; agrees it needs to be done with transparency, and this is what he is trying to do right now through this proposal; for example the judgment the Board made in May or June to make the Assistant IT position from part-time to fulltime, not sure that that decision was relayed to the public as it should have been.

Selectman Pierce commented that the IT position was unforeseeable, but anything that is foreseeable should be approved by the voters; some things happened this year that were foreseeable and should not have taken place.

Selectman Woolsey MOTIONED to approve the policy related to approval of wage and other unbudgeted expenditures impacting Default budgets and commitments in future years as presented [read] by Chairman Nichols SECONDED by Chairman Nichols.

Selectman Bean commented that the “if they come to Mr. Welch’s attention” should be removed and expressed why.

Selectman Bean AMENDED the motion to remove the line “If they come to his attention” SECONDED by Selectman Woolsey.

VOTE to AMEND the Motion: 5-0-0

MAIN MOTION VOTE: 5-0-0

##### 5. HealthTrust Annual Meeting (1:59:34)

Chairman Nichols explained that there are two meeting tomorrow and asked Selectman Bean if he could attend; requests that the Board approve Selectman Bean as Boards representative.

Selectman Pierce MOTIONED to appoint Selectman Bean as the Boards representative at the PLT and HealthTrust Annual Meeting SECONDED by Chairman Nichols.

VOTE: 5-0-0

Selectman Woolsey commented that City Councilor Catherine Cheney from Dover contacted her; and that she and other councilors have been very active in the LGC matters; asked that the Board support her nomination; Dover has been probably the most active; she will make a motion if needed.

Chairman Nichols commented that he does not think that they should bind Selectman Bean; explained why he feels this way.

Selectman Bean agrees with them both; knows about the work that Catherine Cheney has done; will take this request into consideration.

#### 6. Purchasing and Policy Amendment (2:04:12)

Chairman Nichols stated that the Board received some corrections on this from Atty. Gearreald on Friday.

Selectman Woolsey MOTIONED to adopt the Purchasing and Policy Amendment SECONDED by Selectman Pierce.

Chairman Nichols made comments as follows: read a section he thinks should be changed; in regards to bids of \$15,000 or more being reviewed by the Purchasing Department; fact that there is not a Purchasing Department; if want to place accountability on someone need to choose an individual that exist; one would be the Department Head.

Chairman Nichols AMENDED motion to replace the wording "Purchasing Department" with "Department Head" SECONDED by Selectman Pierce.

VOTE to AMEND the Motion: 5-0-0

MAIN MOTION VOTE: 5-0-0

#### Other New Business (2:05:54)

Selectman Woolsey asked that a discussion be placed on a future agenda that the Town be removed from the Rockingham Planning Commission.

Selectman Pierce made comments as follows: agrees with this; not sure what they get out of it; problem he had with it when he was on the Budget Committee; sounds like it is a function of the Federal Government but it is not; absolutely worthless.

Chairman Nichols made comments as follows: role that RPC plays; amount is included with the Planning Board budget; problem this Board making a decision on behalf of another Board; suggested that Selectman Woolsey raise this issue at the next Planning Board meeting; bring their feelings back to the Board.

Mr. Welch reminded everyone of the Town Meeting vote allowing this Board permission to decide if the Town is a member or not.

Selectman Bean inquired about the funding given, it is about \$12,000, and he read information about the Commission found on their website and it seems to be a duplication of Town's efforts.

Selectman Woolsey added some additional comments about what the Commission does, the duplication and how in the end they do nothing for Hampton.

VI. Consent Agenda (2:15:43)

1. "Drinkwater Flowers & Design" 819 Lafayette Road – Retail Wine License
2. 38 Ocean Blvd – Tax Map 296, Lot 12 – Leased Land
  - a. Termination of Lease – O’Connell
  - b. Land Lease - Brouillette

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

VOTE: 5-0-0

VII. Closing Comments

VIII. Adjournment (2:16:15)

Selectmen Pierce MOTIONED to adjourn at 9:10 PM SECONDED by Selectman Woolsey.

VOTE: 5-0-0

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Chairman