

March 09, 2015

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

SALUTE TO THE FLAG

I. Public Hearing RSA 31:95-b,III(a) (07:00)

To apply for, accept, and expend unanticipated monies from NHDES, in conjunction with the Conservation Commission's "Soak up the Rain Program" with approximate value of \$8,500 during the fiscal year 2015.

Jay Diener: statewide program to help to promote and protect our waterways; works with local communities; encourages installation of rain gardens, drywells and other types of green infrastructure that will help property owners to manage storm water on their properties; works with individuals to help protect their properties.

Rayann Dionne: hoping to open rain garden at individual resident and a business; cost shared grant they would contribute 50-75% of the cost; will be doing 2 workshops to promote; March 30, 2015 at the library from 6:30:7:45; in April application for residents to fill out to apply for funding to install rain garden on property deadline on April 22, 2015; 2nd workshop May 18, 2015 at library; award grant May 8, 2015; hoping DES will help with design; rain garden was installed in front of library last year; source of funding painted rain barrel.

Jay Diener: hoping to expand communities knowledge of green infrastructures so communities can do on their own; Hampton/Seabrook estuary has one of the highest percentage of fertilizer pollution in our waterways.

Selectman Waddell: the \$8,500 comes from DES? Jay Diener: yes.

Selectman Waddell: sounds like a good program; I am all for it.

Selectman Woolsey: how about the soak up the snow garden; great program; would it be possible to consider installing a rain garden in one of the elementary schools in Hampton, would be good to get the youngsters involved.

Selectman Bridle: great idea; good for the whole community; a well-balanced program.

Selectman Woolsey MOVED to accept the unanticipated monies from NHDES, in conjunction with the Conservation Commission's "Soak up the Rain Program" with approximate value of \$8,500 during the fiscal year 2015 end SECONDED by Selectman Griffin.

VOTE: 5-0-0

II. Public Comment Period (07:08)

Corinne Baker, 244 Exeter Road: last week's selectman's meeting in favor of the budget; see very little that is spent on infrastructure in the budget; \$6,000 for sidewalks (this year's budget) don't approve; last year's amount was \$26,000; highways, streets and buildings \$1.96 million out of that \$1.35 million is administration; not spending that much money fixing roads; all in favor of fixing roads; in favor of putting money for infrastructure but this budget doesn't fix that.

Rayann Dionne: conservation commission is sponsoring second snow shoe tour; March 14, 2015 from 1-3, meet at town hall at 12:45; go over to Drakeside Road to 20 acre parcels; please register through the conservation at (603) 929-5808 and the information is also posted on the town website.

III. Announcements and Community Calendar

Selectman Waddell: tomorrow is Election Day; everyone civic duty to get out and vote and know what you are voting about.

Selectman Woolsey: will look forward to seeing a lot of voters at the polls tomorrow and will be over there in shifts; wish luck to my fellow selectman.

Town Manager Welch: the reason there is no money in the budget for roads is because the budget committee cut it 3 years ago and we have not been able to get it restored and cut the sidewalk appropriation to \$6,000 this year; we agree with you that yes it should be in.

IV. Consent Agenda

1. Veteran's Requalification: Hopkins 27 Little River Rd 128/42; Leach 20 Seavey St 89/35; Lylis 561 Ocean Blvd #5 245/10/5; Martin 27 Munsey Dr 76/11; McDonald 395 Ocean Blvd 265/32; Naff 493 Ocean Blvd #9 266/8/9; Parker 67 Leavitt Rd 192/51; Philbrick 6 Leary Lane 178/38; Quinney 100 Seabury 218/10/100; Scagliotti 2 Pawnees St 95/13; Shea 3 Nudd Ave 282/42; Stewart 1 Thomsen Rd 163/70; Sullivan 8 Riverwalk 124/6/8; Sullivan 7 Coffin Dr 70/58; Toscano 13 Huckleberry Ln 98/26; Trembley 259 Mill Rd 72/12; Vallier 17 Great Gate Dr 78/2; Walker 1 Emery Lane 162/5; Wall 597R Lafayette Rd #302 144/60/302; Weber 8 Walnut Ave 209/32; Wentworth 23 Hedman Ave 193/16; Winkley 3 Gray Ave 163/75; Woodward 3 Yeaton Rd 147/12; Woolsey 148 Little River Rd 147/35; Zak 70 Esker Rd #A 209/20/A
2. Park Bench Donation at Ruth C. Stimson Park – Mark & Holly Lambert
3. Banner Sign License Smutty Nose, 105 Towle Farm Road
4. License to sell Pistols and Revolvers – Bradford L. Denison

Selectman Bridle MOVED to APPROVE the Consent Agenda SECONDED by Selectman Waddell.

VOTE: 5-0-0

V. Approval of Minutes

1. February 23, 2015 Continued to March 16, 2015

VI. Appointments

1. Brian McCabe, Channel 22
 - a. Maintenance of Equipment, and purchases

Brian McCain: renew the online live feed and also the programming; yearly expense at \$1,780.

Selectman Bridle MOVED to APPROVE yearly expense of \$1,780 SECONDED by Selectman Waddell.

VOTE: 5-0-0

Brian McCain: need 2 additional storage cabinets at \$114.99 each for a total of \$229.98.

Selectman Bridle MOVED to APPROVE storage cabinets \$229.98 SECONDED by Selectman Griffin.

VOTE: 5-0-0

Brian McCain: need DVD printer; right now when we sell a DVD to somebody it is my handwriting and not very professional looking; Channel 13 has one and is very nice to have a simple print out; we have never had one; it is a basic printer and does 20 at a time; smallest professional one could find; list price \$890.00; if someone wants to buy a DVD for \$10-\$15 they don't want my scribble all over it.

Selectman Bridle: how many DVD's do we go through a year? Brian McCain: if we were to put on the website I am sure we would sell more.

Selectman Bridle MOVED to APPROVE purchase of DVD printer \$890.00 SECONDED by Selectman Waddell.

VOTE: 5-0-0

Brian McCain: we had a refurbished Nexus; the actual brain of the channel, but gave to Channel 13 to get them up and going; wanted to see if you wanted to have one on the shelf at \$7,900; that is a lot of money, but if something happened to the ultra-nexus and it had to be shipped out if it couldn't be fixed on line or come down to fix, we would be down probably a week to ten days; but has never happened since I have been here; sometimes our supplier has a lender unit, but not guaranteed to get it.

Selectman Waddell: what is your recommendation? Brian McCain: if it was my business, I don't know if I would have an \$8,000 piece of equipment on the shelf; wants to leave up to board; been here for 8 years and never lost it for more than a day.

Selectman Woolsey: if you should purchase that piece of equipment, how much money would be left in your account; assuming everything you have discussed with us tonight got spent? Brian McCain: \$58,357 and if you agreed to everything it would be \$17,469.99, so approximately \$51,000.

Selectman Woolsey: I appreciate that; it is a conundrum, because if we should be down a week, that would be a terrible disservice to the community? Brian McCain: that is worse case.

Selectman Waddell: if we were down, could we tape the meetings and then put up later? Brian McCain: yes we could, there would be a method; would not be live, there would be a way; could do with a camera; there is always a way.

Selectman Griffin: it doesn't sound to me like we really need it; I would be against.

Selectman Bridle: I would hold off right now.

Chairman Bean: there will be no motion on that.

b. Air cond. for Fire Dept. Server Room

Brian McCain: this is where Channel 22 and Channel 13 are housed; also some other servers of the town and some radio equipment for the fire department; right now it is fine because it is winter, but once summer hits the room should be locked and shut off so it is not accessible to anybody; if we shut off will heat up; Paul recommended that we get an air conditioner unit for it like he has in his server room; to keep cool so there is no breakdowns of the equipment; we have 3 bids; Lighthouse Heating & Cooling being the cheapest at \$6,450; it will heat up in there and eventually will overheat.

Selectman Waddell: the last item was it could happen; this item if it does heat up it will happen? Brian McCain: nobody wants to spend that kind of money but possibly lose the channels, having them overheat and shut down.

Selectman Waddell: what kind of money; equipment in there? Brian McCain: just our equipment is \$17,000 each; plus all the other equipment.

Selectman Woolsey MOVED to APPROVE an air conditioner for \$6,450 in the server room SECONDED by Selectman Waddell.

VOTE: 5-0-0

c. Ongoing problems with Comcast Equipment

Brian McCain: sound problems; still not good and not our equipment; it is what is going from the transmitter/receiver that Comcast gave us; clarity doesn't sound great over TV; they just brought them back and we are not happy with them; going to look into our own transmitter and receiver; what we have seen are not that expensive; working on it and hope to get it done in the next month or so and come back before you.

Selectman Waddell: is there a reason why their stuff doesn't work?

Brian McCain: they say it is great stuff; it failed out of the box and it was horrible; everything sounds over modulated.

Selectman Woolsey: anything in the contract that requires them to provide that equipment; working equipment? Brian McCain: I haven't heard back from them; am hoping they will come out and say this is what is wrong; they hooked it up; the sound getting to it is fine; but the sound going over the airways is frustrating; they don't get right back to us.

Selectman Griffin: I don't like the idea of them giving us faulty equipment.

Brian McCain: I don't know if it is faulty; they just show up and fix it; but it is not working out like that; looking into it; hopefully they will call back with solution; looking into alternative solutions.

Selectman Bridle: keep after it, you do a good job.

VII. Town Manager's Report

1. The most important item of the report this week is the Town Election and vote on Warrant Articles tomorrow from 7AM to 8PM at the Winnacunnet High School.
2. Please vote, this is your community and you need to instruct us on what you want done to make it better for all. The system requires your vote in order to accomplish those things you see as needed for yourself and your fellow townspeople.
3. We have completed the major portion of snow removal within the community. While a few operations are continuing, our contractors have been placed back on call. We will be tabulating the total costs for all Departments due to the winter storms and will be prepared to file for State and Federal Aid should the Governor and President approve the emergency declarations.
4. It is that time of year again when you should check with the Assessing Department regarding exemptions from property taxes for Veterans, the Elderly and other exemptions.
5. Those requesting an exemption from Precinct taxes should contact the Beach Precinct.

Town Manager Welch: City of Portsmouth has requested the board's attention to senate bill #253 and are requesting the town's support; it would assess \$1.00 fee each night and for each unit in a hotel that is rented; no rentals no charge; the idea is money to be paid at a semi—annual basis to the municipality not to the state. As of this morning the total for snow removal is not complete; do not have police and fire expenses, fuel expenses and do not have repair expenses; total is \$381,210.85; that is \$220,645 over the current budget. We had an email today from the municipal association requesting support from the board members to our representatives to vote against house bill 547 which would again place many of the telephone poles in town as tax exempt; heavy lobby going on in Concord to restore; call representatives as would be a significant loss of revenue to us. Equalization ratio for the town has been established by the state which is 90.9%; dropped approximately almost 10% in the value of our properties within the community. We did sign with the state the funding loan for the Church Street pump station; receiving payment of \$57,035.69 this month. Mrs. Stiles sent email for board to consider support of senate bill #230 which she has filed on behalf of one of the town's she represents to set seasonal speed limits where there is excessive pedestrian and bicycle traffic.

Selectman Waddell: what are we going to do about Portsmouth; not in favor; it only has one sponsor.

Selectman Woolsey: Town Manager please reiterate on state and federal aid for snow emergency; contingent upon Governor of State.

Town Manager Welch: the chances are good we are not going to get anything back; the Governor did not declare a snow emergency on storm #2 or #3; only declared emergency on storm #1; the President or FEMA did not follow suit; changes of receiving money is remote.

Selectman Woolsey: if money came in would come in as an unreserved fund balance; wouldn't go into budget; would be revenue? Town Manager Welch: true, if it was federally approved would only be 75% of what the approval is; certain items are not accepted as reimbursement; state would not fund their 12 1/2% because they need appropriation and it is not in the hopper for the budget.

Chairman Woolsey: wants to clarify that for vote tomorrow; people are thinking that we are automatically going to get a great windfall from the federal government; in reality that money is coming out of your operating budget, ladies and gentlemen.

VIII. Return to Recessed Public Hearings of February 23rd for Lot B for Continuation should need arise

Town Manager Welch: unnecessary to return to that as a number of different items that need to be done and we have to wait until the snow is gone off the ground to do several of them; will not happen for some period of time.

IX. New Business

1. Section 805-45 Speed limits established Amendments

- a. 805-45. A. Limit of 20 miles per hour add "for School Zones" in title and add "Academy Avenue" and "High Street from Academy Avenue east to George Avenue"; and
- b. 805-45. A. Limit of 20 miles per hour remove all listed streets except Winnacunnet Road;
- c. and to place those streets removed from Section 805-45. A. under Section 805-45. B. Limit of 25 miles per hour without wording "sign posted on Ancient Highway"

Town Manager Welch: we are reviewing the ordinances; had questions in regards to speed limits over around Ancient Highway and the side streets they are all posted for 20 MPH which is an illegal speed zone except in school zones; requesting that move all the listed streets to the 25 MPH speed limit, which is lowest it can be set by state law, then establish something more than just the speed limit on Winnacunnet Road for the high school, but the speed limit for the Academy on High Street and Academy Avenue so that area will be posted for 20 MPH when school is in session.

Selectman Bridle: how about out here? Town Manager Welch: that is posted at both ends.

Chairman Bean: does that need any board action? Town Manager Welch: it does need a formal vote.

Selectman Waddell MOVED to APPROVE as proposed the amendments to Section 905-45. A. and B SECONDED by Selectman Bridle.

VOTE: 5-0-0

2. Approval of Conservation Commission's acceptance of Marshland – 1.5 acre parcel on Elkins Street Tax Map 273, Lot 22 from Douglas E. Hunter, Jr.

Town Manager Welch: this is a donation to the conservation commission; it is a piece marsh land; a little on the wet side and in keeping with the prior votes of the annual town meeting; on a number of different occasions this land was offered to the conservation commission for

perpetual care and for ownership; the conservation commission by law must have the selectman accept that donation according to the statute.

Selectman Woolsey MOVED to APPROVE the acceptance of the Conservation Commission's acceptance of Marshland – 1.5 acre parcel on Elkins Street Tax Map 273, Lot 22 from Douglas E. Hunter, Jr. SECONDED by Selectman Bridle.

VOTE: 5-0-0

X. Old Business

1. 2015 JOP DRED

Town Manager Welch: you asked to have this added to the agenda for any discussion you would like to take.

Chairman Bean: in light of our substantial support from the state in recent months of our legislative efforts.

Selectman Waddell: something we need to get done; that satisfies our needs; even though we feel we are getting slighted we need to work with them; in favor of going ahead with it.

Selectman Woolsey: I agree we need to communicate; my only caveat is that the meeting is held in public.

Selectman Griffin: I agree with Mr. Waddell.

Chairman Bean: we do contribute out of 03842 in excess of \$150,000,000; we do quite a bit for the state; more legislature response; money doesn't come back to Hampton it benefits others; expenses are really starting to impact people's budgets; we need our money and need more support; the days of doing business on state property unreimbursed needs constant re-examination.

Selectman Waddell: clarification; we need more legislative support but not necessarily from our legislators as they are supporting us 100% and Senator Stiles works like crazy up there; Remy Cushing, Fred Rice, Tracy, Dave Wood; they are all up there fighting for Hampton all the time; we need support from other legislators in other areas.

Chairman Bean: I was in Concord twice last week there were other special business interest there that did have state agency direct testimonial support; there were committee members that stepped off of committee tables to support efforts going forward on myopic narrow interest legislature efforts; an attorney came to testify was introduced by committee member that attorney was testifying in support of legislation; had state agency support; when Senator Stiles does make initiatives and efforts and testifies we simply get Commissioner Rose doing a place holder and then offering written testimony not supporting our efforts to keep \$1.2 million dollars; sharp distinction who is getting support up in Concord and it certainly isn't Hampton.

2. 86 Woodland Road

- a. Discussion of Hydrants
- b. Discussion of Street Lights
- c. Discussion of proposed Bonding for the Road Improvements

Town Manager Welch: current subdivision that has been approved by the planning board; the applicant for the subdivision has come before the board of selectman and the public works department has reviewed the proposal. Discussion on Hydrants: recommended that the town accept the placement of hydrants and pay for those as part of the annual fee to Aquarian Water Company to make sure there is a fire hydrant sitting on that road. Discussion of Street Lights: we suggest that it be held in abeyance; would like to see how the lights are installed; how the underground wiring is going to be installed; should be placed in conduit so we do not have a high expense trying to fix when it breaks; suggest to them since the issues are not decided yet the town and country fixtures similar to the ones on Church Street be placed; those are the type of fixtures we have materials to maintain for; suggesting when street is ready for public acceptance as a town road; prior to that bring in all this information to be examined and we can make a good recommendation to the board to accept the street lighting.

Selectman Griffin: I agree with Fred.

Selectman Woolsey: I think that we need to focus on end result of this development before we make any decisions; primary focus has to be whether this will or not be a public or private road; issues are proximity to the primary town wells; proximity to private wells; unenforceable provisions that have been placed by the conservation commission and lack of supervision on many developments in my understanding and I think this will be another; huge liability to this town or a homeowners association; if this is deemed a private road the homeowners association will have to take responsibility for any contamination associated with run offs going down to the wells; if this is designated a private road which I think it must be because of liability factor; homeowners association should pay for annual rental of hydrant; \$491,822 that is \$16,000 over budget in the last year for hydrant rental; town does benefit; not willing to add another hydrant rental to the taxpayers; was present at planning board hearing for this proposal; they discussed that test wells would have to be drilled and has to be ongoing monitoring; configuration of the land is a downslope from Woodland Road; one condition is no salt on the road; who would enforce; doesn't reference fertilizers; Aquarian would have to drill test wells; water runs downhill; contaminated water; private wells adjacent and if those wells become contaminated because of the development; will sue us or sue homeowners association; can't rest easy if my actions will potentially cause harm to a very valuable water source in this community; aquifer protection zone; does not see anyone come around to check if anyone is using fertilizer; neither the conservation commission nor the planning board have performed routine inspections; I refuse to vote for anything on this plan until and unless we clarify that we are willing to accept this as a public road or force the developer to do a private road; which will mean no waste collection, no snow plowing, will have to pay for their own hydrant; thinks this is a terrible risk; a terrible liability to the town of Hampton and I want no part of it being a public road.

Selectman Griffin: if Aquarian Water has an issue with the well they need to come in and talk; if residents of that road are paying taxes then they need a hydrant; Hampton doesn't have enough money in the budget to go around enforcing every single little thing; I am against this enforcement of issues when people who live next door might not even be held accountable; the residents that live beside them may not be responsible or even have to answer to the same enforcement; this is an issue that should be left to the planning board; the planning board is not an enforcement board; the conservation board is not an enforcement

board it is an advisory board; against making all these rules you can't enforce; be surprised if this ends up a private road, hasn't seen that happen anywhere else; we are in dangerous territory here.

Selectman Woolsey: Mr. Chairman.

Chairman Bean: standby you spoke for 10 minutes; allow each member speaks.

Selectman Bridle: I understand we are not going to vote tonight; one question when they do put a caveat in there that they cannot use salt on the road; can we put a sign there that no salt will be used on the road; as a town, I know some of the towns do that when they do have salt restricted areas.

Town Manager Welch: they do have salt restricted areas, they do have signage; if it were a public highway we could do that; if it is a private road we could not do that.

Selectman Woolsey: first of all the planning board must have a lot of time on its hands if they can put in all these stipulations that are unenforceable; don't lie to the public.

Chairman Bean: I don't want to be talking about lies; I just want to say we are not going to make any motions tonight; we are not going to change the destiny of this project; we know how you stand and how Rick stands; we are not going to be talking about lying to the public; the floor is yours.

Selectman Woolsey: the former town planner didn't go out and inspect a lot of these properties; should have been inspected; planning board has all these rights and is an independent board it should be supervising it's planner over which they have specific jurisdiction.

Selectman Griffin: Mr. Welch is the planning board an enforcement board? Town Manager Welch: no sir they are not; it is this board here that has the enforcement power.

Selectman Woolsey: inspections of properties? Town Manager Welch: no, not even that.

Chairman Bean: is there any final wrap up Mr. Welch? Town Manager Welch: I was invited into a meeting today with town counsel, town planner, deputy director of public works, discussing the bonding for the public road improvements for this particular subdivision; something I wasn't aware of and I don't think many other people are aware of is that the approval requires test wells, monitoring wells to be installed within the layout of the projected road; that is a problem; it doesn't specify who owns them; doesn't specify who maintains them; doesn't specify who tests them; and doesn't specify what the test needs to be for; doesn't specify what happens if contamination is found in those wells and who is responsible for it; we have regrouped and asked the questions on all those areas and have requested we receive answers; will have great bearing on what the public bond is on that particular road; should this become public road and those wells are on town property once the road is accepted are we responsible for that and if we find contamination in the wells are we responsible to clean up the ground water.

Selectman Griffin: I believe the water company is responsible for monitoring the wells.

Town Manager Welch: that is not what I was told today; well maybe monitoring the wells, but not responsible for what they find; that is the issue; also asked if these wells are going to be registered to the department of environmental services since they go to ground water and

that is the current federal law; we are getting into an area we don't know anything about here; we want to find out about it so we can set a reasonable bond and move forward with the subdivision if that is what needs to happen; so we are suggesting that it not move forward at this point.

Attorney Gearreald: before the board adjourns I ask that there be a motion to go into a nonpublic session under RSA 91A:3,II,e consideration or negotiation of pending claims or litigation; a motion which would require a roll call vote.

Selectman Woolsey MOVED to enter into nonpublic session under RSA 91A:3,II,c and RSA 91A:3,II,e and asked for roll call at 09:27 PM SECONDED by Selectman Waddell.

VOTE BY ROLL CALL: 5-0-0

XI. Closing Comments

Selectman Waddell: vote tomorrow

Selectman Woolsey: I can do 8:30-1:00 then 5:00-8:00

Selectman Bridle: I will be there first thing when it opens; then after 1:00 until Rick gets there. Get out and vote.

Selectman Griffin: I can only be there at the end.

Non-Public Session Minutes

In attendance

Philip Bean, Chairman
Mary-Louise Woolsey, Vice Chairman
Rick Griffin, Selectman
Rusty Bridle, Selectman
James Waddell, Selectman

Town Manager Fred Welch
Town Attorney Mark Gearreald
Tax Assessor Edward Tinker

Upon motion duly made and seconded at about 8:00 PM, at the conclusion of the public meeting, the Board voted unanimously by roll call vote to go into a non-public session under RSA 91-A:3, II, (e). The motion passed unanimously.

Utilizing written materials provided last week to the Board, the Tax Assessor and Town Attorney briefed the Board on the terms of the proposed resolution of 4 years' worth of pending tax abatement cases filed by Foss Manufacturing, LLC, three years of which have already been filed with the Superior Court and one of which was recently filed with the Board. The proposed resolution came out of a mediation held before a volunteer mediator on Wednesday, March 4, 2015 and actually concluded with a proposal that would cover assessed values through the 2016 revaluation year. The agreed upon amounts for the tax years 2011 and 2012 came in right on the authority previously given by the Board to its mediation team, and what is new is the prospect of including the 2013-2015 tax years, inclusive. The proposed assessed values for those years would result in corresponding fair

market values (after application of the equalization ratio) having progressively increasing amounts, consistent with the improvements in the economy.

On motion by Selectman Waddell, seconded by Selectman Woolsey, the Board voted unanimously to approve the handwritten settlement proposal from the March 4, 2015 mediation that will now be filed with the Court.

The Tax Assessor then updated the Board on pending litigation before the New Hampshire Legislature that would restore, at least partially, the exemption for real property taxation that telephone companies previously enjoyed for their poles. The Tax Assessors Association vehemently opposes this legislation, and Mr. Tinker outlined the evils that would be achieved by this legislation. The Board commented on the frustrations it has encountered in the legislative arena, where special interests seem to rule, at the expense of ordinary taxpayers. No decisions were made about this matter, other than to endorse by consensus, the continued participation of the Tax Assessor in his group's opposition efforts.

At 8:24 PM, the non-public session adjourned and the minutes thereof were not sealed. Mr. Tinker departed and the Selectmen then met in a non-meeting with Legal Counsel under RSA 91-A:2, I (b). The public meeting was not rejoined at the conclusion of the non-meeting.

XII. Adjournment

Chairman