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June 01, 2015

6:00 PM Non-public Session RSA 91-A:3,II,(c),(d)&(e)

PRESENT: Rusty Bridle, Vice Chairman
Mary-Louise Woolsey, Selectman
Phil Bean, Selectman
Jim Waddell, Selectman
Town Manger Frederick Welch
Assistant Town Manager Jamie Sullivan
Town Attorney Mark Gearreald
Tax Assessor Ed Tinker

The meeting convened at 6:00 PM in the Town Manager's conference room.

Selectman Woolsey MOVED to enter into a nonpublic session under RSA 91-A:3,II, c, d, and e SECONDED by Selectman Waddell.

VOTE BY ROLL CALL: 4-0-0

1. 38 Ocean Boulevard—Tax Assessor Tinker apprised the Board of the tenants' request to buy the parcel of land they are leasing from the Town for \$149,700 as put forth by their appraiser and that the Town's appraisal had come in at \$210,000. The average of these two appraisals is \$173,500. Where the two appraisal are more than 10% apart, either the Selectmen or the proposed buyer could appeal to the Leased Land Real Estate Commission for arbitration to determine the sales price.

On Motion by Selectman Ben, seconded by Selectman Waddell, the Board voted unanimously (4-0) to appeal for arbitration to have the Leased Land Real Estate Commission set the sales price.

2. Northern Utilities/Unitil settlements—Town Attorney Gearreald and Tax Assessor Tinker apprised the Board of the terms of the proposed settlements reached at a mediation on May 18, 2015, of the four pending cases (two in the Superior Court for the tax year 2011, whose trial is otherwise scheduled for three days in October, and two in the BTLA for the tax year 2013 that are not yet scheduled). The Board gave previous direction on approaching this mediation in a non-public session on May 11, 2015. As in other recent high value tax abatement cases involving property assessed in the millions of dollars, the Board had counsel to try and reach resolutions that would cover several years up to the 2016 revaluation. The proposed resolution covers 5 tax years' worth of matters. The Board asked a number of questions on this issue.

On a motion was made by Selectman Waddell and seconded by Selectman Woolsey to approve the proposed settlements and to authorize Town Attorney Gearreald to execute

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corresponding settlement agreements once they are finalized. The motion carried on a vote of 3-1 (Selectman Bean dissenting).

3. [This portion of the minutes was voted to be sealed pursuant to RSA 91-A:3, III.]
4. Tax Assessor Tinker advised the Board of his having hired Susan Thrumston, who currently works part time in the Building Department, to work the part-time position in the Assessing Department. No one objected and Mr. Tinker departed this meeting.

Public Works Director Chris Jacobs joined the meeting.

5. Waste Management/Commonwealth Waste Transportation protests of the bid processes for the disposal of solid waste and waste hauling contracts. A status update was given to the Board as to follow-up to the May 14, 2015 meeting and various options; the Public Works Director described the damage to Town equipment that has been occurring at the Waste Management facility in Rochester; the Board indicated that it wished to have a Motion drafted for its consideration in the public session that would confirm its prior approval of an award for waste disposal to Ecomaine based upon the price it originally bid in response to the invitation from the District.
6. Silver matter. Assistant Town Manager Sullivan brought the Board upto date on the status of the possible resolution.

Selectman Waddell made, and Selectman Bean seconded, the following Motion: I move to confirm the Board's acceptance of the terms of settlement with Christopher Silver as set forth in the "Settlement Agreement and Release of All Claims" that is before the Board and to authorize the Town Manager to sign this document in the Town's behalf.

This Motion passed on a vote of 3-0-1 abstention (Selectman Bridle, noting that he supports the Board's action but abstains due to the relationship he has with Mr. Silver to avoid any appearance of favoritism from his being a godparent of Mr. Silver's daughter)

Selectman Woolsey brought up the subject on non-union personnel raises, but it being almost 7:00 P.M., the non-public session was recessed until the end of the 7:00 PM public session.

7:00 PM Public Session

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

SALUTE TO THE FLAG

I. Public Hearing (07:00)

Under the provisions of RSA 31:95-b,III,(a) to apply for, accept, and expend unanticipated monies in amounts of \$10,000 or more under the Piscataqua Region Estuary Partnership Grant Program.

Ms. Dionne: a grant opportunity that recently came up with the Piscataqua Region Estuary Partnership; assessing communities eligibility for the national flood insurance community rating system program; voluntary incentive based program where the community gets credit

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for activities that are done to protect against flooding; flood insurance property owners can receive discount; 5% discount; total of 10 levels each level you go up you get an additional 5%; 1,750 policy holders; 1-1 match grant, they are offering \$10,000; our match 75% in kind; \$2,500 cash great benefit to join program; work with Rockingham Planning Program.

Mr. Bachand: earlier in May the Hampton Beach Village District offered \$1,250 of the \$2,500 that we need for the cash funds; Hampton Beach Area Commission meeting offered \$625.00.

Selectman Woolsey: great work; is there an option to apply for grant in future years? Ms. Dionne: we have one year to use the funds; it fluctuates; they don't always have it every year.

Selectman Woolsey: I thought the maximum amount you could get is 20% off your flood policy? Ms. Dionne: no, it can go up to 45%.

Selectman Woolsey: we can basically keep working in increments on this to help reduce the flood policy; so this is a first step? Ms. Dionne: yes

Selectman Waddell: what kind of things do you have to do? Ms. Dionne: public outreach; donation at library; having flood map available to know what zone you are in; more extensive things to protect your infrastructure from flooding.

Selectman Waddell: can you only go one level per year? Ms. Dionne: start at level 10 and go to 0; each level are in 500 point increments; a matter of tallying the points; 1200 communities in the rating system and there is only one in class 1.

Selectman Woolsey: will the letters that we are sending out in conjunction with the precinct, will that help you? Ms. Dionne: it could help with our public outreach would have to check, but things like that reaching out to the public.

Mr. Bachand: The Board is requested to make a motion on the additional \$625 needed.

Selectman Bean MOTIONED to authorize RSA 31:95-b,III,(a) the Conservation Commission to apply for, accept, and expend unanticipated monies in amounts of \$10,000 or more under the Piscatagua Region Estuary Partnership Grant Program SECONDED by Selectman Woolsey.

VOTE: 4-0-0

Selectman Woolsey MOTIONED to authorize the expenditure of \$625 in order to cover our portion of the \$2,500 non-federal cash met SECONDED by Selectman Waddell.

VOTE: 4-0-0

II. Public Comment Period (10:25)

Mike Pierce, 84 Locke Road: at the end of High Street the seawall is falling apart; concrete blocks on top of seawall because chunk fell out; thinking since Audley Construction Co. still has equipment there they could give that a repair job to keep the chunks from falling out of that one section; they might give us a better deal since their equipment is already there won't hurt to ask; if too expensive might require warrant article.

Charlie Preston: consent agenda #3; 2 weeks ago at the DRED meeting I think they might give that a shot we are gaining traction; trying to get bus shelter at the corner of Brown and

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Ashworth and scooter parking; North Beach there are 10 scooter spots, would go down and paint the lines himself if there isn't enough money in the budget, as there is a need for parking for high school and college kids that work at beach.

III. Announcements and Community Calendar

Selectman Waddell: I was at the beach on Saturday and businesses were doing well, support the beach.

Selectman Woolsey: Mr. Welch I am concerned with that section of the wall, should we have that posted danger keep off? Town Manager Welch: we can, but we put the jersey barriers up on top of it so people couldn't climb on it.

Selectman Woolsey: had complaints about the stairs at Joe Billy Brown Park somebody needs to fix the bottom 2 stairs. Town Manager Welch: We didn't get approval from the state to do the work until today.

Selectman Woolsey: I don't see why veterans in the state should have to pay \$85 for veteran's plates; they should have the right to park in those spaces.

IV. Consent Agenda (18:54)

1. Entertainment Licenses & Posted Permit
 - a. North Beach Bar & Grill
2. Parade and Public Gathering Licenses
 - a. Granite State Quest - 07/11/15
 - b. Reach the Beach - 09/19/15
3. Use of Town Property
 - a. Ashworth Parking Lot - Reach the Beach - 09/19/15
4. Termination of Leased Land Lease
 - a. 17 F Street, The Sea Curl, LLC
5. Lease Land Lease
 - a. 17 F Street, The Sea Curl, LLC
6. Hampton Cemetery Deed
 - a. Maguire One Family Trust
7. Request of No Objection for Outdoor Service of Alcohol
 - a. Smuttynose Beer Garden, 105 Towle Farm Road for the Smuttynose 5k - 06/21/15
8. "Chucky's Fight" Permission to clean the area between the Bridge and the Breakwater at Sun Valley Beach.
9. Raffle Permit
 - a. Hampton Arts Network
10. Dance Hall Permit
 - a. S & S Hotels

Selectman Woolsey MOTIONED to move the Consent Agenda SECONDED by Selectman Waddell.

VOTE: 4-0-0

V. Approval of Minutes (20:25)

1. May 11, 2015

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Selectman Woolsey MOTIONED to approve the minutes of May 11, 2015 SECONDED by Selectman Bean.

VOTE: 3-0-1

2. May 18, 2015

Selectman Woolsey MOTIONED to approve the May 18, 2015 minutes SECONDED by Selectman Waddell.

VOTE: 4-0-0

3. May 18, 2015 Non-public Session Sealed Minutes

Selectman Woolsey MOTIONED to approve the May 18, 2015 Non-public Session Sealed minutes SECONDED by Selectman Waddell.

VOTE: 4-0-0

VI. Appointments (21:14)

1. Donna Bennett, Tax Collector

a. Tax Deeding

Ms. Bennett: results from lien placed for 2012 mailed 57 letters, currently 35 remaining properties waiting to pay; property #17-25 looking to deed those properties, #29 and #31 donate to conservation land; #5 small parking area; would like to work out payment agreement; have a little over \$1,000,000 outstanding in uncollected liens.

Town Manager Welch: agree with tax collector on #5 tax bill is \$42; #29 wetland; #31 in middle of marsh; #17-25 perennial constantly \$100,000 in arrears, these are rental properties; recommend that you take them; properties are not in very good condition.

Ms. Bennett: the total of those properties with all the interest fees and principal about \$150,000 in arrears.

Selectman Bridle: #5 is that a multi-owned parcel? Ms. Bennett: yes, but would not affect the other owner's property.

Selectman Woolsey MOTIONED to approve the Tax Collector to execute the tax deeding for the following properties #5, #29, #31, #17-#25 SECONDED by Selectman Waddell.

VOTE: 4-0-0

2. Chief Sawyer (28:40)

a. Grant funding to Update Hazard Mitigation Plan

b. Chairman authority to sign Grant

Chief Sawyer: we are required by law to have a hazard mitigation plan and it expires June 9, 2016 requiring an update; the application to FEMA for the grant is now open and we have been approved for our grant funds and a 25% cost share to the town in the amount of \$2,500; this is a planning tool to be used by the town as well as other local, state and federal government in their effort to reduce the threats from natural and other manmade hazards; having previously served on a planned committee is a daunting task, the town's previous plan was to develop utilizing a private firm specialized in planned development, I would recommend the same course of action during this update and would further recommend

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Hubbard Consultant LLC as our consultant on this update; Hubbard was the consultant on our previous plan and has intimate knowledge of the issues we face in Hampton as a coastal tourist destination; I would like permission to move forward with acceptance of the grant and also to authorize the chairman and the vice chair to be the signatory authorities, there will be quarterly reports required to submit to FEMA, but has to come from the board of selectmen as one of the signatories; there are costs with the consultant and we have to report our progress and expenditures, so would be simpler to add one person as opposed to tracking down 5 selectmen for signatures; signature would have to be done in front of notary.

Selectman Woolsey: grant from whom? Chief Sawyer: FEMA; with all law enforcement grants it will be the NH Department of Justice; emergency management is the NH Homeland Security Emergency Management under the Department of Safety.

Selectman Woolsey: would this give us any credit having this in place with the CRS, the town planner and conservation coordinator we were just talking about? Town Manager Welch: it may very well.

Selectman Woolsey: so we may be able to put another notch, if we are eligible. Town Manager Welch: I agree.

Selectman Woolsey: does this have anything to do with the State, state property, the evacuation route for the state; is this strictly weather driven? Chief Sawyer: manmade or natural disasters, same plan from a couple of years ago.

Selectman Woolsey: for example, Route 1A does that factor in? Chief Sawyer: if Route 1A should wash out for some reason, either manmade or something exploded; we identify this as critical infrastructure needs; and that does include sometimes the evacuation process.

Selectman Bean MOTIONED for the authorization to expend the \$2,500 share of the 25% and to accept any received monies associated with the grant, and to require the board to accept that the chairman or vice chairman sign the grant agreement SECONDED by Selectman Waddell.

VOTE: 4-0-0

VII. Town Manager's Report (33:30)

1. The Board will have the completed information on June 15, 2015 for North Beach parking and other issues as addressed at your prior Public Hearing for your action.
2. We have received a request by an individual who owns property on Ancient Highway; had property surveyed and found that part of his property is on town land; would like to purchase land that the building sits on.

Selectman Woolsey: the land that his building is sitting on is adjacent to what? Town Manager Welch: it faces the Atlantic and the building is apparently on the beach property.

Selectman Woolsey: there have been instances at the beach that property belonging to one citizen was also on another's property; was wondering if this could cause us problems. Town Manager Welch: no, it was positioned too far forward.

Selectman Bridle MOTIONED to sell the town land on Ancient Highway to the owner SECONDED by Selectman Waddell.

VOTE: 4-0-0

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Town Manager Welch: the acting fire chief approached me this past week; the board amended a large ray of fees for the fire department; it is going to effect the precinct's ability to pay for fireworks and it will increase that fee substantially; would the board consider going back to the old fee for the remainder of the year and then work with the precinct to come up with another fee; their contract is 3 years in length, this being the 3rd year; the fee would be outside their budgeted appropriation.

Selectman Woolsey: would it be easier and more sensible to exempt the precinct from the price increase for this year only? Town Manager Welch: it would, except the statute requires that if you change a fee it be at a public hearing. I would like to know if the board wants me to make up the required paperwork for their next meeting.

Selectman Woolsey: I hate to lose the increased revenue right across the board for all those fees. Town Manager Welch: no, this would only be for 1 item for one year, the fireworks shoot.

Selectman Woolsey: ok, so it is not going to wipe out the increased fees. Town Manager Welch: no, we will go back and revert to that one fee.

Selectman Waddell MOTIONED to accept Town Manager Welch's recommendation to revert back to the original fee for fireworks SECONDED by Selectman Woolsey.

VOTE: 4-0-0

Town Manager Welch: the building inspector spoke with me about a former lease purchase property on 16th Street with a problem, no fence can be higher than 4' and must be ornamental; problem is they have a pool and law requires us to put something else around that pool other than a 4' fence; if the board has no objection he would like to allow the proper fence to go around that pool.

Selectman Bean MOTIONED to approve the proper required fencing to go around pool SECONDED by Selectman Waddell.

VOTE: 4-0-0

Town Manager Welch: I have the following statement on behalf of the board to read: "The parties have reached a resolution on the matter of Silver vs. Town of Hampton; this resolution has been entered into to avoid the disruption that litigation has caused both parties and is not an admission or determination of liability or wrong doing on either party."

Selectman Woolsey: we had a letter from a lady on River Avenue regarding complaint from neighbor who is causing significant problems for her; I am concerned about the stink and the storage of implements that could be taken as to be work related; I don't think that you have a right to run a business out of your residential home on leased land property; is there any way we can get relief for this person? Town Manager Welch: I received the letter the other day and will refer to counsel as there are provisions for the leased land program and within the individual leases they are not to be used for commercial purposes in residential zones.

Selectman Woolsey: and the health factor here. Town Manager Welch: that is something we would have to talk to the health officer about; if it violates either of those things, we would have to go investigate and talk to the individual to find out what is really going on; once that is determined, counsel could give us a recommendation and the health officer can give us a recommendation, then come back to the board for your action.

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Selectman Woolsey: it is intolerable to have a situation like that in your neighborhood and should be some remedy. You mentioned conservation property and I want the board to know that I spoke with the Town Planner and asked him if the section that shows town property, if there would be a way to separate from conservation property? Town Manager Welch: we could make a separate list.

Selectman Woolsey: whatever is more convenient, I think it would help people see the extent of the land in the town that is subject to the conservation. Town Manager Welch: that list comes out of my office; we have it on computer so it would not be a problem.

Selectman Bridle: the letter I received from the lady about the cemetery, I did pass that on to the cemetery trustees; I told her that was what she had to do.

Selectman Woolsey: they did buy the vehicle? Town Manager Welch: yes

VIII. Old Business (43:20)

1. Budget Committee Request of 4/27/15 for Guidance on Legal Procedures (MLW)

Selectman Woolsey: I put that on because I am concerned about having things sitting; counsel received email from the Chairman of the Budget Committee asking a procedural question; on October 30, 2012 during budget hearings there were 2 items taken out, one being the legal money; talked about putting in a line item in the budget for legal expenses; and Attorney Gearreald explained that if there was an issue that they needed to hire counsel that if it was something he couldn't handle because of conflict he has outside counsel money funding in the legal budget. This is a request for procedure, not a specific request.

Selectman Waddell: wouldn't they come to us with the request, I don't understand.

Selectman Woolsey: so you feel comfortable with what counsel stated.

Selectman Bridle: I don't know what the request is.

Selectman Waddell: they had an answer didn't they? Selectman Woolsey: no, that is why I am bringing it up; it is up to us to respond.

Attorney Gearreald: the Chairman of the Budget Committee asked me what is the procedure and I indicated to her that she could come before this board with any specific request; the same question was asked of the NHMA and their response was the same thing it goes before this board.

Selectman Bridle: so she should come to us for a request.

Selectman Waddell: so there has been an answer, so come with a request and then we can answer the request; that seems simple to me.

Selectman Bean: I think the town attorney has responded and the procedure would be to come here; and if you're the budget committee and you have cut your own budget and there is no money that you need in addition to talking to the town attorney and the NHMA that we pay \$16,000 a year and got 2 legal opinions; I don't know what else we can do.

IX. New Business

Selectman Waddell: Speed limit on High Street from Route 1 to Mill Road it is 30mph and from Mill Road to the beach it is 35mph.

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Selectman Waddell MOTIONED to reduce the speed limit on all of High Street to 30mph
SECONDED by Selectman Bean.

VOTE: 4-0-0

Selectman Woolsey: received a request from Detective Gilroy representing the police unions asking if we would be prepared to sit down and negotiate as their contracts expire in March 2016; as far as I can see there was no response sent to that and we have received a follow up from counsel for the unions; is it reasonable for us to respond with an acknowledgement or something saying we would be happy to negotiate at such a time.

Selectman Bridle: it has been overlooked; is it time to start to negotiate? Town Manager Welch: you may do that at any time following town meeting; it is up to the board.

Selectman Bean MOTIONED that we respond immediately to the letter and commence negotiations immediately SECONDED by Selectman Woolsey:

VOTE: 4-0-0

Town Manager Welch: I received a request that came from Parks and Recreation, there is going to be a new modular home built over on Island Path and they would like to store the 3 sections temporarily starting at 7:30 AM and remove them before noon to build the house; I don't see a reason not to do that; it is Wednesday, June 3, the parking lot is not generally used this time of year and makes sense to accommodate one of our citizens who needs assistance; I wanted you to know that I was going to grant the request.

Selectman Bean: I didn't see a requirement for a certificate of insurance. Town Manager Welch: they do have insurance.

1. Protest of the award of Bids for Solid Waste Disposal and Waste Hauling.

Attorney Gearreald: the board wished to address the issue of the protest of the awards made by the board on March 23, 2015 as to awarding the bids for Solid Waste Disposal and Waste Hauling.

2. Confirmation of Vote of March 23, 2015 to award Bid for Solid Waste Disposal and Waste Hauling

MOTION by Selectman Woolsey: I hereby move to confirm the votes of the Board taken at its meeting on March 23, 2015 to award the contract for solid waste disposal to Ecomaine and the contract for waste hauling to Troiano Waste Services, based on the prices originally bid by each, in the separate bidding processes. This was not a combined bid process, as solid waste was bid on in response to the Southeast Regional Refuse Disposal District process on June 16, 2014 and the waste hauling bidding having occurred in December of 2014 in response to an invitation to bid from the Town. The acceptance of these two separate bid results is in the best interest of the Town and Ecomaine's original bid is the lowest on a per ton basis, even under its original bid price, and Troiano's hauling bid is the lowest for Ecomaine's location in Portland. Factors beyond price are involved such as the safety of personnel and vehicles and repair costs as to the current disposal site and the reliability of hauling services experienced with Troiano for the last two years SECONDED by Selectman Waddell.

VOTE 4-0-0

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X. Closing Comments

Selectman Woolsey: I think we should at least try to fit in some extra meetings, I think we have a lot on our plate and I really object to the every other Monday off in the summer.

XI. Adjournment

The Selectman Waddell MOTIONED to return to the previously commenced but recessed non-public session under RSA 91-A:3,II,(c) & (e) SECONDED by Selectman Woolsey at 7:55 PM.

VOTE: 4-0-0

The non-public session was resumed at 7:55 PM, at which time the discussion of the last item resumed. The Board reviewed the amount of money available for discretionary raises in the Budget and noted that a 1.5% across the Board raise for the employees on the list of non-union employees from the Finance Director was within that amount. The Manager was given instruction by consensus to implement such raises.

The non-public session was adjourned at around 8:15 PM, the minutes of the portion of the non-public session under item 3 above having been duly sealed under RSA 91-A:3, III, on Motion made by Selectmen Bean, seconded by Selectman Waddell, on grounds that divulgence of these minutes could potentially adversely affect the reputation of any person or render the proposed action ineffective. The motion carried unanimously.

Vice Chairman