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December 07, 2015

PRESENT: Rick Griffin, Chairman
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 Comment Period

John Doherty, 3 Toppan Street: have obtained required signatures and made a request to the Board to place a Warrant Article on the 2016 ballot. We request the removal of a restriction from their deed related to allowing only one single family dwelling to be placed on the lot; already two dwellings on lot and have been there a minimum of 50 years.

Chairman Griffin: we do not vote on zoning articles. Town Manager Welch: this is not a zoning article; it is a petition warrant article

Bill McLaughlin, 29 Hampton Towne Estates: I have known John Doherty for 50 years and he is a man of high ethical standards.

Selectman Waddell: for the past couple of weeks there have been many statements made, which in my opinion question the response time and voracity of answers from the Town Manager and the Finance Director; I would like to clear up any confusion. Two areas I would like to discuss: the first is the unassigned or undesignated fund. The Chair of the Budget Committee and individual members Jones, Znoj and Pierce keep asking for the balance. The Finance Director gave the Chair the balance in writing over a month ago and both the Finance Director and Town Manager have on a number of occasions verbally given the balance to both Selectmen and the Budget Committee; yet comments, unsubstantiated comments have continued to be made that the committee has not been provided with the information. I encourage voters to go back and watch the meetings, especially the beginning and ending of the meetings, to see the comments, the criticism and unsubstantiated things. At the December 1, 2015 meeting it was asked what the cash balance of the undesignated fund balance was, the Town Manager tried to explain that the fund is not a cash fund. I would assume the Chair, which has been a member for a long time and Mr. Znoj and Mr. Pierce who are former Selectmen would know the definition of the fund. The Finance Director can explain it better than I can, but it is an account construct, it is not a savings account. I did some research on this and came up with this definition: the very fund balance, however, is often misunderstood; some misconceptions are that the fund is a savings account, an amount of surplus cash or in less kind terms a slush fund; in fact fund balance is nothing more than an accounting construct.

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It is the difference between government's funds, current assets, cash, short-term investments, inventories, receivables and other restricted assets expected to be available to finance in the immediate future and its current liabilities. At one meeting, Mr. Jones said that a fund, that we were not getting the balance of the fund and that a fund by all terms a surplus, obviously Mr. Jones does not know the definition of what a fund is. At that same meeting, Mr. Pierce said to Mr. Jones it is a deliberative diversion, that the Town Manager and the Finance Director were making a deliberative diversion, rather than giving the proper information. I would recommend that these members do research before making what one could consider disrespectful remarks and remarks that information was either being withheld, or full disclosure was not taking place. Mr. Pierce according to his calculations said that currently the undesignated fund balance is most likely zero. Tonight I believe we may be getting some information and we will find out whether Mr. Pierce is correct or the Finance Director is correct on what the fund is. At the December 3, 2015 meeting, the balance of the undesignated fund came up, because they cannot do the warrant articles until they know what is in the undesignated fund and the question of why the audit was late was brought up and it has been explained why the audit was late. Up until last year when Selectman Bean reviewed the audit and it was brought up that GASB34 was not being adhered too and that we should do it. The Finance Director in her first year on the job took on the task, went out got the information, verified the information, compiled the information, entered the data; not a simple task, a huge undertaking. Prior Boards should have done this; a prior Board brought it up, but it was not followed through on. That is the main reason that the audit is late, not that anybody is causing any diversions, or that anybody is trying to pull the wool of anybody's eyes. At the end of the meeting on December 3, 2015, Mr. Pierce made the statement "I am waiting until they are out of earshot"; they being the Town Manager and the Finance Director; he then said, "he is sick of the BS, that we are not being told everything and are not being transparent".

Selectman Waddell MOTIONED that the Board of Selectmen give a vote of confidence in the Town Manager, the Finance Director and their staff that they have and will continue to provide appropriate information under appropriate circumstances in a timely fashion, honest and with full transparency SECONDED by Selectman Bridle.

VOTE: 5-0-0

Town Manager Welch: it is not pleasant coming to work each day, and be told you are a cheat and a liar, and that is exactly what has been going on. On Thursday night, I mentioned that on Tuesday I sent out all the Warrant Articles on the DPW, which you had approved on Monday. I do have a copy of the report here that it went to the Chairman of the Budget Committee, at 8:23 on Monday morning, and I had in fact sent that report out to both her home address and her work address. On Thursday night, I was told that she did not have it; but it was not returned, and if it were going to be returned, it would have been returned as undeliverable.

Selectman Bean: thanked Selectman Waddell for his motion; I was at the Budget Committee meeting and the Chairman did say she did not have them, what you said you sent and you sent it to both her personal email and her work.

Town Manager Welch: that is correct.

Selectman Bean: there is an integrity issue somewhere?

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Town Manager Welch: this has been going on for some weeks, but I am frankly sick and tired of being called a liar and a cheat and so are my staff and my people. If this had been a corporation and I had been the officer in charge, I would have fired the entire Budget Committee the night they went after the Chairman of the Conservation Commission, it was inexcusable. I thank the Board for their support and our people do, it is very difficult doing this work sometimes and being harassed on a regular basis is not fun.

II. Announcements and Community Calendar (22:10)

Selectman Waddell: John Nyhan wanted me to thank all of the Town's officials, the Boards and employees and everybody who helped make the Christmas Parade an extremely successful event.

Selectman Bridle: the tree lighting on December 4, 2015, I had never seen so many people in Downtown Square, there had to be 400-600 people down there enjoying the music and food; it was a lot of fun, would like to thank the Recreation Department and the Merchants who made in a warm and inviting place for the Town's people.

Chairman Griffin: wanted to mention this was the anniversary to Pearl Harbor.

Selectman Woolsey: please do not put large objects on the side of the road.

Selectman Bean: thank you to our Senator for coming down for the festivities this weekend.

III. Consent Agenda (26:52)

1. Request for No Objection for Service of Alcohol
 - a. "Tino's" Restaurant (formally Galley Hatch Function Hall) 325 Lafayette Road

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

VOTE: 5-0-0

IV. Appointments (27:05)

1. Jane Cypher, Town Clerk
 - a. Budget Revision Special Election

Ms. Cypher: I received notification on Friday that one of our State Representatives has resigned; one of the reasons is he no longer lives in Hampton; that will bring a special election and with that brings more funding. I worked up the numbers today and it is around \$7,400 more than we had anticipated, with what could possibly be two more elections. I have spoken with the Chairman of the Budget Committee and she advised I do not need to come before them, but to give her something in writing giving her those figures. I did that today and I cc the Vice Chair just in case there were any questions that I actually sent the information to her, because I have been in the same situation that Fred and Kristi have been in with her.

2. Peter Chapel, HealthTrust (31:55)
 - a. Health Insurance Rate Setting

Mr. Chapel: I have and will continue to be your benefits advisor on the benefits team. You wanted me to come over the renewal with you. Compared to 2015 it has gone up considerably, as you might remember in 2015 that there was an overall decrease of -10. This time for 2016 there was an overall increase of +17.3; it comes down to claim utilization. There were some

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spikes in claims and some large claims. The reported medical claims for June 2014 through July 2015 were \$2,882,146 add in the reported prescription claim; the total was \$3,638,840. I am going to order a report for you to see what factors caused the increase in claims.

Selectman Bean: you touched on benefits you provide, how well does Hampton exploit what you have to offer in order to reduce premium increases and usage? Mr. Chapel: I know it has not been utilized as much as it could be.

Selectman Bean: please tell us a success story for a municipality that vigorously drills down and exploits wellness opportunities to mitigate premium increase. Mr. Chapel: I cannot give you one off the top of my head a municipality, but I can give you some school districts; the Merrimac School District has done quite well. If a municipality or any of our groups can form a health committee or a wellness committee, where we can come in and engage them into wellness practices, biometric screenings.

Selectman Bean: do you work in negotiations and have a joint effort with the union heads? Mr. Chapel: we do.

Selectman Bean: read portion of letter from Mr. Don Mitchell dated in October regarding PLT (no longer in business) and Health Trust. Do you have the same actuary as PLT? Mr. Chapel: I do not know.

Selectman Bean: Perhaps human resources can evaluate the Mitchell document; we think there is substantial revenue that we are contributing from Hampton that has gone to the PLT and we do not want to pay that and we would like to negotiate; we should not be through health insurance subsidizing the PLT.

Attorney Gearreald: Health Trust provides the health insurance, but the actual administrator is Anthem Blue Cross Blue Shield. Mr. Chapel: that is correct. Attorney Gearreald: Health Trust is nonprofit. Mr. Chapel: yes. Attorney Gearreald: Anthem is for profit. Mr. Chapel: yes.

Attorney Gearreald: you count on Anthem for administering claims and for whatever discounts they negotiate with various providers. Mr. Chapel: that is right, we set our own rates, but they negotiate with the providers.

Attorney Gearreald: the problems that Anthem has with hospitals like Exeter Hospital, so it looks like no one is going to be able to use Anthem at Exeter Hospital the source is not Health Trust, it is Anthem, right? Mr. Chapel: Anthem has to work out their contractual issues with each provider.

Attorney Gearreald: Has Health Trust done an evaluation as to whether or not you might move to a different administrator than Anthem, to get perhaps better rates? Mr. Chapel: I know all our providers have contracts with us, and I do not know specifically how many times we might of looked at other providers as far as the health insurance goes, I know we go out periodically for our prescription benefits, but I do not know on the Anthem side. We do negotiate administrative fees, what they actually do for us as far as a partnership.

Attorney Gearreald: last year we enjoyed a decrease in rates of 10% and this year your projecting rate is a 17.3% increase. Mr. Chapel: overall, but it can differ depending on what plan type.

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Attorney Gearreald: is some of that attributable to Anthem as opposed to our own individual pool experience in claims? Mr. Chapel: that would be your own claim experience; the factors that are used as far as the administration fees, trend and so on are set for all groups, but then what those factors are basically related to your own claim experience to come up with the actual dollar amount.

Selectman Bean: you have your administrative charges and Anthem's administrative charges; it would seem to me that you would have a sole provider for that; it is \$137,000, is that just for Hampton? Mr. Chapel: yes, that is a Hampton number.

Selectman Bean: so we are paying about 5% for administration; the premium of 3.44 and 2.79; 6 points just to push paper in this era of technology to me there is fat in that. I think 6 points for administrative charges is too high and I think it should be more like 4 points.

3. Trustees of the Trust Fund

Attorney Gearreald: this Board at its meeting on November 9, 2015 engaged in questions of Trustees of the Trust Fund in relation to the SEC order of September 2, 2015, which found that had been fraudulent conduct on the part of Mackensen and Company in connection with their marketing of services to municipalities for their trust funds. The Trustees of the Trust Fund questions focused on what they knew, when they knew it, and what they have done about it. The answers indicated that once the Trustees knew about it there was very little discussion by them, very little investigation by them, before they took a vote on October 19, 2015 which they reaffirmed their relationship with Mackensen and Company. There was indication on the part of one or two Trustees that if they knew that there was a continuing relationship with Warren Mackensen then they might feel differently about the subject. We passed that information along to the Attorney General's office who had been investigating this along with 28 other municipalities. The Charitable Trust Division called Mr. Mayes up to Concord, had questions of him and answered open questions we still had after November 9, 2015. Those answers indicated in a letter dated November 20, 2015 that Mr. Mackensen has a right to remain on the Mackensen and Company Board of Directors until he is completely bought out by Mr. Mayes, and the business name cannot change during that period. The November 20, 2015 letter indicates that individual Boards of Trustees should separately seek assurances, on behalf of their own municipalities, about the practices of Mackensen and Company and whether they want to continue to do business with Mackensen and Company.

Chairman Griffin: In the interest of full disclosure, we should read this letter. The letter is from Thomas J. Donovan, Director of Charitable Trust, regarding Mackensen and Company SEC Sanctions Order dated November 20, 2015. Mr. Griffin read the letter.

Attorney Gearreald: it said Mr. Mackensen no longer serves in any other capacity with the business; he is the director and continues to be the director of the business. The Board had charged my office with looking into the facts of the matter of what the Trustees knew, when they knew it, and what did they do to follow up on it. We heard from them and we know have heard from the Attorney General's office. This Board has overall responsibilities of Town affairs including evaluating the Trustees of the Trust Funds performance. The Trustees, by the way, apparently are not going to meet on this subject until their quarterly meeting January 19, 2016. Their agenda is on the website, although Mr. Silberdick mentioned they would at that time evaluate to continue the affiliation with Mackensen and Company, I do not see that particular item on their agenda.

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Selectman Bridle: where do we move from here? Attorney Gearreald: I think this Board has the ability to voice its concern to the Trustees of the Trust Fund, to urge them to act more quickly on this subject, rather than waiting until the January meeting to look into it. This letter was addressed to them and did not come to us; this letter was issued November 20, 2016. It is not on their website and was not been provided to us by the Trustees, so they continue to not be forthcoming to this Board about what they are doing and you could certainly voice your feelings about that if you wished.

Selectman Bean: fraudulent conduct, he is profiting from fraud; the Trustees under Mr. Silberdick needs to start meeting in public, they need their meetings televised. This is tens of millions of dollars, there is fraud involved, we have never been kept informed, and I doubt we will be kept informed. I doubt how much the Trustees of the Trust Fund are informed about what is going on from Mackensen and Company. This is a huge problem for the Town of Hampton, NH. Secrets are being kept; were we disadvantaged when this fraud took place. We lost several hundred thousand dollars this summer. If you are fined for fraud, you are not doing business on my watch in the Town of Hampton. Based on this shadow, Mr. Silberdick's meetings need to be televised, his minutes need to be up to speed, and he needs to be more forthcoming with the people of this Town, or he needs to resign.

Selectman Waddell: When they were here that night, it was stated that Mr. Mackensen had nothing to do with the company anymore; now through this letter we find out he is on the Board of directors. I do not understand why they do not just switch to a different firm. There are just too many questions and when a company has been charged with fraud, we should not be doing business with that company. I do not understand why this letter was not made public by the Trustees.

Chairman Griffin: Personally, I have full confidence in the members of the Trustees of the Trust Fund. Twenty-nine other towns had the same problems; and would like to find out the results on what the other Towns are doing.

V. Town Manager's Report (1:30:40)

1. Let us remember that today marks the anniversary of the beginning of the worst conflict in human history with the bombing of Pearl Harbor. Let us give thanks to those who helped secure our liberties and those who gave their full measure in that effort.
2. Petitions for amendments to the zoning ordinance close at 5PM this Wednesday. Filings are to be made at the Selectmen's Office.
3. Petitions for warrant articles other than zoning amendments close January 12, 2016
4. An additional reminder to license your dog for 2015. This may be your last opportunity before you receive a court summons. See the Town Clerk to obtain your license.
5. I have a letter from the Vincent St. De Paul Society and they are having a drive to hand out coats for anyone in need; beginning December 14, 2015 from 10:30-12:30 at our Lady of the Miraculous Church, Lafayette Road, Hampton, NH.
6. The Board of Selectmen is holding a bond for work needed to be done on the wetland; the original planting failed, they put in a new one, should hold the bond until next spring as I do not think the taxpayers need to pay for that. There was a consensus by Selectmen to hold the bond.
7. The Executive Council through Chris Sununu has voted to include \$5.9 million for construction money on Ocean Boulevard.

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Town Manager Welch: I have a request from the Chairman of the Budget Committee, so far, we have honored all their requests; this one deals with information on the budget of the highways parks and streets, there are two pages of requests; with your permission we will answer these questions.

Selectman Bean: there were myriad requests from both members and the chair, we have a protocol; those requests were not emailed, there were 4-5 verbally, I have no written documentation; the professional communication is to send an email through channels from the Board liaison to Mr. Welch and to Chairman Griffin; would you make that known to Ms. Latimer.

Town Manager Welch: Hampton was named the top beer city. We opened bids on Friday for the Ice Pond Dam, and we were not pleased with the net result; the low bidder was in the \$200,000 range and the high bidder was in the \$318,000 and the appropriation was \$130,000. In order to construct the dam, I do not believe anybody is going to bid under \$318,000, so marginally I think this figure is low that we would need \$350,000, probably closer to \$400,000; that will require a warrant article.

VI. Old Business (1:45:29)

1. Cable TV Fee Distribution Warrant Article

Town Manager Welch: we are working on a draft and the figure is to increase from 25% to 40% the fees to be placed in the account. I requested our Finance Director to do a 6-year study on what happens with that change; as long as the expenses do not increase and we have no major breakdown, we should be fine over the 6 years. Her analysis indicates we should be between \$30,000-\$40,000 in the black. This must be approved by Town Meeting and if it is not we would be forced to cut the school off from all the systems. We will have the completed article for you next week.

Selectman Waddell: people who have Comcast are paying to reduce the taxes for people who do not have Comcast; it is not fair.

Selectman Woolsey: I like the concept of 40%.

Selectman MOTIONED to APPROVE Cable TV Fee Distribution Warrant Article
SECONDED by Selectman.

VOTE: 0-0-0

2. Return of Bond for Keefe Avenue

Please see 6. Above under the Manager's Report – there was a consensus by the Selectmen to hold the bond.

Selectman Woolsey: the entry to Bradstreet Road that has stone headwalls, it is still damaged. Did we ever get money from the person who caused the accident? Town Manager Welch: we just received money from the insurance company; Public Works has found someone to repair and they are trying to get that done.

Selectman Woolsey: It was a nice report from the Police on Moore Avenue. The ramp at Plaice Cove, which is no longer there; are we going to make plans to get a ramp in that area? Town Manager Welch: we can apply to the State again, but they refused it before.

Selectman Bean: perhaps Senator Stiles could assist with this.

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Selectman Woolsey: do we have a time from in getting solar power to the Town.

Town Manager Welch: we are investigating the contract they gave us, which is not very favorable to the Town; Counsel has been working on this; we are trying to get this done, but may take time to do it.

Selectman Woolsey: there have been concerns about constructing warrant articles with withdrawing money to fund the purposes from the undesignated fund balance. Read Ordinance 6:11-3. Town Manager Welch: I wrote it.

Selectman Woolsey: I am concerned we strip what is a valuable resource for us; that fund should be used in case of a big disaster.

Chairman Griffin: so you are suggesting it only be used in case of a disaster. Selectman Woolsey: the state intent is to have two months' worth our overall tax bill for 2015 was around \$53,000,000 so two months' worth of that is the untouchable amount.

Chairman Griffin: I would suggest that the snow last year was a disaster.

Town Manager Welch: the state's recommendation is you keep at least 5% of the town's appropriation, not including bond issues or capital outlay. We will not do anything until we get to the next to the last week of the year. We do not want to spent money from surplus if we do not have too.

Selectman Waddell: there has been so much time spent discussing the undesignated fund and not trusting what was said about it, and not waiting to see what it is. I am sure the Town Manager and the Finance Director are keeping a very close eye on that.

Chairman Griffin: Let us wait and let our employees do their job. Someone wanted to know about doing a citizens warrant article and to get the conversation rolling that would stop assault weapons from being sold in Hampton.

Attorney Gearreald: it is a Federal law. Chairman Griffin: so is this something we would not want to get involved in, as it would leave us open for litigation. Attorney Gearreald: I think there is always that potential.

VII. New Business (2:07:35)

1. Approval of Cover of the 2015 Annual Report

Town Manager Welch: the staff has put together a proposal for a different type of town report this year. On the cover, we have the old town hall, and then we have a selection on the back cover the two views down Winnacunnet Road. One from Whittier's Corner and the other one straight down the road to the old town hall and the church across the street. We also have one that shows the center of town before the bandstand was built.

Chairman Griffin: we are going to use the old Town Hall on the front. Town Manager Welch: yes.

Chairman Griffin: what is going to be on the back? Town Manager Welch: the two views down Winnacunnet Road and the center of Town will go inside the report.

Selectman Woolsey MOTIONED to APPROVE the Cover of the 2015 Annual Report SECONDED by Selectman Waddell.

VOTE: 5-0-0

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Ms. Pulliam: I have draft copies of the Audit; I need to go back and verify all the numbers. I was hoping that you have about a week to review the draft copy and then once you accept the draft of the audit by taking a vote, then the Auditors can go forward with printing, putting up on the town's website and then getting the hard copies we need to go forward. On December 21, 2015 if it is okay with the Board, Scott Eagan, the lead Auditor would like to come in and do an exit interview, go through the whole audit, speak on GASB34 and GASB45, which was also implemented. Discuss the undesignated fund balance, and anything else you would like him to discuss. Please let me know if there are any highlights you would like him to provide, he would be happy to do so. I had provided to the Board of Selectmen, before the tax rate was set, information in regards to the undesignated fund balance. The Auditors have to file an MS535 form with DRA prior to setting anyone's tax rate; that form states what the undesignated fund balance is as of 12/31/14 and it was \$5,057,505. A warrant article took \$400,000. The Board then voted to use \$500,000 of the undesignated fund balance to offset taxes; and after all that was done the undesignated fund balance was \$4,557,505. And \$4.5 million is the number Fred and I have been throwing out here and there.

VIII. Closing Comments

IX. Adjournment

Selectman Bean MOTIONED to adjourn the meeting at 9:15PM SECONDED by Selectman Bridle.

VOTE: 5-0-0

Chairman