

June 12, 2017

7:00 PM Public Meeting

PRESENT: Jim Waddell, Chairman
Regina Barnes, Vice-Chairman
Rick Griffin, Selectman
Rusty Bridle, Selectman
Jamie Sullivan, Assistant Town Manager

ABSENT: Phil Bean, Selectman

SALUTE TO THE FLAG

A moment of silence for Thomas Barnes, Selectman Regina Barnes' Dad who passed away last Wednesday.

- I. Public Hearing pursuant to RSA 41:14-a Proceedings "Amend and Release of Town owned Deed Restriction on formerly Leased Land" First Hearing
 1. Paul M. Ahlin and Dana J. Mogauro 4A and 4B Atlantic Ave: Request to amend Deed Restriction #3 "No Fences may be created upon said premises, other than ornamental fences of no than a 3-foot height" to install a six-foot fence.

Kathy Keer, 7 Boston Avenue: condominium property consists of four detached units on a 50' x 100' lot and abuts 4 Atlantic Avenue; one has deck with rail; other unit has 3' fence to end of property to east; already barriers dividing property. One cottage level, the other 1' higher; placed wall 17" high behind one of the cottages; beach already congested; land becoming over intensified; putting decks, etc. next to already existing decks and fences. Not in favor of changing deed restrictions at the beach to allow 6' fences, would make beach more boxed in.

Gary Keer, 7 Boston Avenue: not in favor of changing deed restrictions; going to 6' quite a change than the 3' they have now. A condominium owner added a 4' fence, against deed restriction of 3' high and had to cut down to 3'. Already poles in ground where they started the fence; invalid plan; Attorney Ells wrote up declaration.

Jeanne Mogauro, 4A Atlantic Avenue & Lisa Ahlin, 4B Atlantic Avenue: we are thrilled with our purchase; posts that are there are a neighbors.

Selectman Griffin: are you in the same condominiums as the Keer's? Lisa Ahlin: no, we are just looking to secure our backyard; have people cutting through yard and dogs; Jeanne has three dogs and they would go over 3' fence; neighbors are all for it.

Selectman Barnes: is there an RSA restriction stating how high a fence can be? Attorney Gearreald: 5'; although the Board in two past incidences allowed up to 4'

Selectman Bridle: why is the reason we use 4' as a standard. Attorney Gearreald: one had to do with a sand dune nearby.

Selectman Griffin: people going to the bathroom.

Attorney Gearreald: the last one was to cover garbage disposal containers.

Selectman Bridle: if somebody has a pool in their yard, they have to have a 4' fence.

Selectman Griffin: I am all for going to 4'; would not be in favor of 6'.

Chairman Waddell: I tend to go with the 4' also; first public hearing will have the second in two weeks.

Closed Public Hearing at 7:11PM.

2. Ms. Kara Eder, 911 Ocean Blvd: Request to amend Deed Restriction #4 "The Grantee will not erect any building upon the premises within seven (7) feet of any boundary line"

Attorney Ells: the property now the north wall is within 4' of the property line; zoning requires 10' and deed restriction requires 7'; would like to go up, put a new dormer, will not be closer than 4'; south side line add second story deck, which would put them over .2' the 7' boundary. Will need relief from both boundary lines; been to the Planning Board and they said would recommend; have to go to Zoning Board; small amount of decking would encroach into the 7'; longtime property.

Attorney Gearreald: you are looking for a modification different depending upon which side you are on. Attorney Ells: to completely eliminate restriction; have 10' side setback in zone; this part of the beach zoning is more restrictive; will accept modification.

Chairman Waddell: first public hearing will have the second one in two weeks.

Close Public Hearing at 7:16PM.

II. Public Hearing pursuant to RSA 41:14-a Proceedings "Donation of Land to the Town" First Hearing

1. Tuck Realty Corporation "Parcel A" Land to be Deeded to the Town of Hampton and Combined with Map 150 Lot 52", containing 1.33 acres

Mike Gariby from Tuck Realty.

Candy Stellmach, 488 High Street: given Selectmen history of boundaries of lot; study has been going on for years to determine outline of pond; the Town owns the pond; confusion; may have to be surveyed; should be cleared up if someone wants to sell property; why rush.

Attorney Gearreald: this has been through the Planning Board process; one condition of approval is donation of land; applicant is here.

Mike Gariby: met with the Planning Boards condition of approval; deed to Town in quitclaim fashion; surveyor did all research and compiled data; present ownership is owned by the Mason family; willing to donate land to the Town.

Candy Stellmach: he is giving the land back to the Town; making a deed correction.

Mike Gariby: we have a surveyor that this is the boundary and the better steward for this property is Town; gifting to Town; if Town does not want it we will hold title to it.

Attorney Gearreald: the information provided previously by Ms. Stellmach was there had not been a stamped plan provided on her end, but there is on this end; if Town already owned it and this would serve to confirm that.

Selectman Griffin: I would like to hear from Fred.

Chairman Waddell: this is the first hearing and we will have another in two weeks and will have more information at that point.

Candy Stellmach: my problem is not with him, it is with the Town, as they have not kept up with the deeds and surveys in this area; flawed deeds; when we registered the gristmill on the historic register they wanted to know what the north boundary was and we could not tell them. So we did the research and found out the Town owns the pond; as far as we are concerned; his plan says the Mill Pond is subject to the rights by others. I think the onus is on you more than him to figure this out.

Close Public Hearing at 7:25PM.

III. Public Comment Period (28:55)

Chairman Waddell: I know there are many people here to speak on Bernie's; we already had two public hearings on Bernie's, have extended time to put written comments in on that aspect; will accept people speaking at the public comment if they have something new to add to the issue, not a rehash of things before. Public comment is 3 minutes per person.

Patricia Murphy, 4 Haverhill Avenue: 149.2 of the Hampton Code identify it is the Board's obligation to regulate entertainment activities; issuance of temporary license on April 17 it was anticipated actual testing would have been accomplished, but due to the weather proved impossible; June 10 only testing day; inadequate information; report by Doug Bell was submitted. Code 459.15-disturb quiet is prohibited; noise levels; 75 decibels until 11PM and 50 decibels between 11-1; if he complies will be no problem; needs mechanism to validate noise level; request Town monitoring be implemented; cost must fall to business creating problem. Any license issued must be temporary and independent monitoring must be required, if not no license should be issued.

Jackie Cavanaugh, 6 Dumas Avenue: noise factor; formerly on L Street; in Boars Head; windows open cannot sleep; hope can work out; quality of life; not saying shut music off; looking for a reasonable time.

Bob Blair, 4 Haverhill Avenue: report from engineer to do monitoring; was able to monitor on 3 occasions; tolerable but a little loud; no band playing; bands bring own equipment amps/speakers, while PA system able to direct sound, the band amps are just speakers going out; drum/guitar solo over 75 decibels. Two other occasions with band; there were violations; over 75 decibels; engineer went to Boars Head on both tests and it was fine. We have proven ordinance is fine; enforce ordinance; monitor sit on pole, would give notices to employees.

Jane Bradley, 26 Cliff Avenue: last summer was horrendous, this summer so far; one night heard drums, but was not as bad as it has been; I liked what Mr. Blair said about monitoring it; do not want as loud as last year; intolerable.

John Cardarelli, 3 Bradford Avenue: this year has been much better; reduced sound dramatically; we are monitoring it; ordinance law of 75 decibels is ok; would not go for full license; give temporary license

Bruno Battistoli, 6 Bradford Avenue: spent 20 years in entertainment/hospitality industry including designing, installing and supervising entertainment facilities; made terrible mistake by allowing the creation of an open air entertainment concert facility in such a fragile environment. Astonished that such a facility was built; cannot imagine another community would allow in such a fragile environment, a large facility; be built in an area jammed with people and traffic; acoustically fragile. This is a major venue in Town; had to turn TV on to drown out music; one block away; guests renting on his property not coming back, down to 30%; pay a lot of taxes; bad deal; jammed and loud; think made terrible mistake.

Philip Bradley, 5 Bradford Avenue: were hoping for testing, but not able to do because of weather; Mr. Blair has come up with proposal of monitoring device that would allow all to see the numbers where the sound levels are; appreciate he is making an effort.

Frank Depippo, 26 Dumas Avenue: submitted letter and recommendation; said you control permit; you control cut off times; former assistant corporation counsel for the entertainment licensing board in Boston many years ago; if there is a problem someone should be allowed to shut down; shut down during week at 10PM; weekends 11PM; other vendors put up glass. Someone should be able to go out after receiving many calls and shut it down; under NH rules of conflict you need to instruct; table to study; should be granted for two weeks only; voters watching tonight.

Selectman Griffin: how many properties do you own? Mr. Depippo: own more than one.

Selectman Barnes: I thought we were all agreed to figure out the problems; went out with Chief and tested it and did not have anything over violation; need more time; do not understand how if AI had a device for a 24/7 monitoring, any type of noise around Bernie's would be picked up. If you go down with monitors in front of other restaurants on the beach, they would be in violation too.

Selectman Bridle: problem is, have not had enough time with good weather; went to Bernie's twice; had a band playing, drummer had glass around him to keep sound out and was able to have conversation; went across street could barely hear music. Drove to Boston Avenue at 10:30 and could not hear anything; went to Haverhill Avenue and shut car off and music coming out of one of the homes was louder than Bernie's was. If you have sound monitoring devices, how can you say what area it is coming from; Boars Head cannot say all of the noise is coming from Bernie's; we have not had enough time to make judgment.

Selectman Griffin: heard from Jane Bradley and her family have owned the place since the 1920s and they know where the music is coming from. This is against what our master plan is all about; family beach; have entertainment venues; allowed to keep music until 11PM. AI is very responsible, but is something different; built on top of roof; not in favor of granting anything if we have the same problem as last year, with people having no recourse. Somebody came in from Stacy Janes and they also want to have music until 11:59PM; their requirement right now is until 9PM; they are in more residential/intense area. We have to legally follow master plan.

Chairman Waddell: monitoring thing would be extremely difficult to isolate exactly where it is coming from.

Selectman Griffin: I am in favor of looking into the monitoring thing; should not be between us, should be between Al and them, up to Al to make them happy.

Assistant Town Manager Sullivan: any conditional conditions or under the same terms as before.

Selectman Barnes: same terms as we had before, have not had summer yet.

Assistant Town Manager Sullivan: the 30 days will put you until July 12, 2017, which is the middle of the week; you have meetings on the 10th and 24th; suggest put for the 24th.

Agreed to the 24th.

Selectman Barnes MOTIONED to extend license for 30 days without restrictions SECONDED by Selectman Griffin.

VOTE: 4-0-0

Al Fleury: if people wish to speak with him, will be outside.

IV. Announcements and Community Calendar (1:02:06)

Selectman Barnes: thank the Fire Department and Chief Ayotte for assisting her father last Wednesday; the Firefighter Paramedics and EMTs, my whole family appreciates your service

V. Consent Agenda (1:04:50)

1. Beatrice Lane Pole Petition Until Gas
2. Shea-Porter Hampton Open Office Hours June 21, 2017 Use of Selectmen's Room
3. Dance Hall Permit "Victorian Inn & Pavilion" 430 High Street 2016

Chairman Waddell: Shea-Porter using Selectman's room for office hours and we have clarified the ordinance. Assistant Town Manager Sullivan: the ordinance is for partisan political purposes; having a staff member come to listen to constituent concerns; does not appear to be an election type of activity.

Selectman Barnes MOTIONED to MOVE the Consent Agenda SECONDED by Selectman Bridle.

VOTE: 4-0-0

VI. Appointments (1:06:05)

1. Chris Jacobs, DPW Director, Jennifer Hale DPW Deputy Director
 - a. DPW Asset Management Funding Memorandum

Director Jacobs: request to tack onto the warrant article that was approved; went through process to procure asset management software; keeps track of things we are asked to do. Will allow us to know all the things we have to maintain, where they are, what documentation and repair schedules are, call-in system for service, create work orders; get things done in a timely and orderly manner. Use loan through DES; software will cost \$49,000 and training package; warrant article allowance is \$60,000.

Assistant Town Manager Sullivan: this has been approved by warrant article; authorize Town Manager to execute the necessary documentation to make purchase, training and all items the warrant article authorized; resolved reservations.

Selectman Bridle MOTIONED to approve a loan through DES for \$49,000 for DPW Asset Management Funding SECONDED by Selectman Barnes.

VOTE: 4-0-0

b. Unitil Gas request to Open Pavement on Exeter Road

Director Jacobs: bringing forward a request by Unitil; forwarded letter to you; they are replacing all their steel uncoated gas mains; Robie Street is one of the last ones; remove 1" service to put in 2" service; have full confidence that they will make the road whole; restore pavement. We have a written policy on these types of repairs, which include heating of pavement to make it smooth.

Chairman Waddell: what if they were not to replace the line. Director Jacobs: they would not be in compliance, safety issue.

Deputy Director Hale: with any excavation permit in Town, will be responsible for trench for the next 5 years and we will have collected a bond to make sure it is repaired the right way.

Director Jacobs: we have standing bond with them.

Selectman Bridle MOTIONED to APPROVE Unitil Gas request to Open Pavement on Exeter Road SECONDED by Selectman Griffin.

VOTE: 4-0-0

c. Release of 10% Bond Retainage for N Street

Deputy Director Hale: it was a development plan was approved and built per Planning Board, all inspections have been done and signed off on all aspects; has been a year.

Selectman Bridle MOTIONED to APPROVE the Release of 10% Bond Retainage for N Street SECONDED by Selectman Barnes.

VOTE: 4-0-0

Director Jacobs: asked to give a brief update; finished paving Mill Road, Acorn and Cusack still have shoulders to back up and go back to repaint lines; GMI has installed base course on High Street, adjusting curbing and drainage structures. Aquarion and Jamco have been installing around 100'-150' of pipe per night; Drakeside Road construction due to start just after July 4th, road will close when started; gravel bid due in June. Bicentennial Wall met with vendor so they will be able to start permitting, 8-9 month permitting process. Mill Pond Dam Design met with them and they are proceeding with their permits, for fall. Took measurements on Atlantic Avenue, painted thin white lines, and heard back from residents that they loved it; safety concerns; number of parking spaces.

Selectman Griffin: beach was a mess this morning; barrels were overflowing; went out at 9AM and were picking them up at 12:30PM; beach was full; need to voice for the record it was deplorable condition; hot and could be a health issue. Comments about charging for parking and not giving us our services; person was driving my car and put 50 cents into meter to pick up a sandwich and got a ticket; have to pay \$25. Do not think all the condominium's businesses

are going to make it. The minute the meter must go off, someone must run over there, they must know where to go; no one stood up when I walked into the office, not professional feel; do not like getting a ticket, but I will pay it.

Assistant Town Manager Sullivan: I do not think anything notifies them; with regard to the trash issue, I emailed Mr. Huntsman and Mr. Bryce asking the question and was referred back to Brian and he indicated that they have limited staff and it is what lead to the problem on nighttime collections. They feel confident as school ends they will have sufficient number of people to deal with it; brought it to their attention that we received numerous complaints; showed photographs; staffing was their issue; we have are challenged with that also; our folks got ours picked up.

Selectman Griffin: that is the point I wanted to make; our side was perfect.

Selectman Barnes: I understand staffing is an issue everywhere, but we have known as early as last week that we were going to have a couple of 90 degree days, the State has more resources than we do, they need to take people from other places and bring them down here for the day.

Selectman Griffin: getting late into the season to be having this problem; DOT was cleaning the highways.

Chairman Waddell: everybody is having Visa problems and not getting the foreign students. On High Street the hole in the street where it is draining in front of the condominiums. Director Jacobs: that is the drainage improvement that we are going to be working on.

Selectman Bridle: what are we going to do to mediate that? Director Jacobs: get a wetlands permit and dredge.

VII. Town Manager's Report (1:25:45)

1. The Department of Public Works continues paving operations on High Street the week of June 19th after the raising of structures and pipe work.
2. We expect Aquarion to begin night operations for the replacement of the Lafayette Road water main now that monsoon season is over. Operations will be accomplished at night commencing at 10 PM through 6 AM and will involve detours. Please be mindful of workers and equipment in the roadway during these night operations.
3. State DOT is continuing construction on US Route 1 south of the traffic controls at Stickney Terrace and on Route 101 at Route 1. Please be mindful of the construction and the various detours that are in place but are redesigned daily to meet operational needs.

Selectman Bridle: will see more traffic on Exeter Road over the next week or two while they have that area closed.

Selectman Griffin: thank you for your report.

Chairman Waddell: question on procedures at the beach and how if there is a first aid issue.

Assistant Town Manager Sullivan: the circumstance was a child stepped on or foot came into contact with a hypodermic needle; parent removed and took the child to the lifeguard and they were given a container and recommend they go to the hospital. That is their process, and the

lifeguard was an EMT/Firefighter and they make the decision on whether to call an ambulance. We were never called or consulted.

Chairman Waddell: is it something we should have been notified of? Assistant Town Manager Sullivan: it is their protocol; they have two different kinds of processes; on the sand or bring people to first aid station; they are trained in first aid; we advised them to use our fire department when appropriate.

Chairman Waddell: wondering that it is most likely drug paraphernalia. Assistant Town Manager Sullivan: could be a diabetic needle; still concerning; needle was preserved; parent wanted to take child to hospital themselves.

VIII. Old Business

1. Review of "Big Bernie's Beach Bar" Entertainment License

Please see Public Comment.

Chairman Waddell: had an email questioning the purchasing policy; confusion with what was done and whether we did it appropriately; need to clean it up.

Assistant Town Manager Sullivan: first part is the process of dealing with the policy; there is confusion; practical part; \$15,000 limit that has historically been the number, as a practice that is what is being utilized; department heads believe that is the number. Kristi looked back at all the purchases that exceed that limit and every case it is bid process or they come for a waiver before the Board; every one fit the criteria. Looked back from the minutes of your meetings all the discussions on this issue; placed in your boxes the findings for you to read.

Chairman Waddell: just need to clean it up; no motive.

Assistant Town Manager Sullivan: you will see the chronology is fairly clear; one vote that is confusing; there has not been a substantial change to that policy; were discussions about moving the number; reaffirm vote, but no actual vote in the first place; further discussion is needed; \$15,000 has not changed.

IX. New Business (1:33:21)

Attorney Gearreald: ever since the Town Meeting vote in March approving Article 33, which allowed the Board to modify deed restrictions, a number of people have come before the Board; modifications have been made regarding fence height restrictions, resulted in my office drafting a document that is suitable for recording to verify and the Board has signed. It may be important to have a process put down in writing about what should be followed and what applicants should submit. Planning Board was asked for comments and they have questions about what is it all about; process be adopted which includes submission on certain materials by the applicant up front. The information can be passed to the Planning Board and then by the time it gets back to the Board with their recommendations, this Board would have a full packet and can assess the impacts on what is being asked. I have issued a memorandum to the manager, which recommends the process, and be put on the website. Therefore, applicants will know what needs to be submitted; fee required \$16.49 anticipated length of document to be recorded and to modify any particular restriction if it is approved; fee need to be collected for the two that the Board has signed off.

Selectman Griffin: does the aerial view mean it has to be a photo, or can they do it from a drawing? Attorney Gearreald: the tax assessor's office has the GIS system; people can accessed to show the view from above with the lot lines imposed.

Selectman Barnes MOTIONED to approve the Process for Article 33 Deed Modifications, Collect Fee, and Record Document SECONDED by Selectman Bridle.

VOTE: 4-0-0

X. Closing Comments

XI. Adjournment

Selectman Bridle MOTIONED to adjourn the Public Meeting at 8:33PM SECONDED by Selectman Barnes.

VOTE: 4-0-0

Chairman