

July 30, 2018

6:30 PM Non-public Session RSA 91-A:3,II, (a), (c) & (e).

PRESENT: Rusty Bridle, Chairman  
Regina Barnes, Vice-chairman  
Rick Griffin, Selectman  
Jim Waddell, Selectman  
Mary-Louise Woolsey, Selectman  
Frederick Welch, Town Manager  
Jamie Sullivan, Deputy Town Manager  
Mark S. Gearreald, Town Attorney

At approximately 6:30 PM, on MOTION made by Selectman Waddell, SECONDED by Selectman Woolsey, the Board voted unanimously by roll call (5-0-0) to go into a non-public session under RSA 91-A:3,II, (a), (c), & (e).

[Minutes Sealed]

At approximately 6:59 PM, the non-public session was recessed on MOTION made by Selectman Waddell and SECONDED by Selectman Barnes, passed unanimously (5-0-0) and the Board rejoined the public session.

7:00 PM Public Session continued

PRESENT: Rusty Bridle, Chairman  
Regina Barnes, Vice-chairman  
Rick Griffin, Selectman  
Jim Waddell, Selectman  
Mary-Louise Woolsey, Selectman  
Frederick Welch, Town Manager  
Jamie Sullivan, Deputy Town Manager

SALUTE TO THE FLAG

I. RSA 33:8-a Issuance of bonds in excess of \$100,000

1. Bond for replacement of the two wastewater force mains/temporary piping

Town Manager Welch: special town meeting in process; deliberative session next Monday to put new pipes in for the Wastewater Treatment Plant from the existing facility on Church Street underground to the plant in excess of \$4M; statute requires that the BOS hold a bond hearing before the annual town meeting deliberative session to have people come in to discuss that particular article.

Chairman Bridle: anybody from the audience want to speak on the issuance of the bond; seeing no one; bring back to Board.

Selectman Griffin MOTIONED to ADJOURN hearing at 7:05PM SECONDED by Selectman Barnes.

VOTE: 5-0-0

## II. RSA 41-14-a First Hearing

1. 15 Epping - Release Deed Restriction #4 - The Grantee will not erect any buildings upon the premises within seven (7) feet of any boundary line, nor shall the premises be subdivided. All outbuildings and sheds, other than stables or garages, shall be connected with and attached to the dwelling house, stable or garage on the lot.

Petitioner's request: The provision of the deed from the town for which the relief is requested is in paragraph 4, which restricts against the premises being subdivided and prohibits the erection of any building within seven (7) feet of any boundary line. The lot would not be physically subdivided (but would be changed to a condominium form of ownership) and the new building will have the same footprint as the existing building and will be farther from both the front and side boundary lines. Therefore, we are seeking release of the restriction against subdivision, and release of the first building on the east side from the seven-foot setback and the second building on the rear and both sides, including the existing deck on the east side and the staircase on the west side.

Attorney Saari: went to the Zoning Board; poor condition house in front; attempt to rehab it, but was too far gone; build new house, but wanted it set back; has been done; conform to ordinance; setback on front same as back; got rid of steps; relocated to side; improvement over what was there before; gone to Planning Board for its recommendation

Selectman Woolsey: what are the measurements of the parcel. Attorney Saari: 50' x 100'; standard lot.

Selectman Woolsey: pervious surface? Attorney Saari: zoning looked at that, within limits

Selectman Woolsey: zoning comfortable with this? Attorney Saari: their recommendation

Selectman Griffin: was it bigger? Attorney Saari: same size; just drew differently.

Chairman Bridle: to be clear there are two buildings here now and will be two buildings when you finish. Attorney Saari: correct

Hearing closed at 7:13PM.

2. 5 8<sup>th</sup> Street – Release Deed restriction # 3 “No Fences may be erected upon said premises other than ornamental fences of no than a 3-foot height”

Petitioner's request: Requesting an exception to the restriction in the deed from the Town so that we may erect a fence higher than 3-feet tall but no higher than 6-feet tall on our property line.

Charles Wright: go by Ted; building new house; would like to be able to build a 5' fence to provide privacy and security around home.

Selectman Woolsey: what type of configuration are the fences on neighbor's lots? Mr. Wright: directly behind us is a 3' fence; to east and west no fences; due south 3'.

Selectman Woolsey: would this fence be a see through or wooden fence. Mr. Wright: white plastic fence you see along Kings Highway; at the street would have a lower level, then when it gets back into the property it would go up; allow privacy from neighbor; area very tight.

Selectman Woolsey: would this be constructed along from and one side? Mr. Wright: would start on the easterly side and run to back pin; cut across from east to west and come along to the back of the house; will not wrap around.

Selectman Woolsey: are there openings for air circulation? Mr. Wright: yes, would be like a lattice type at the top, but would not be open; idea is for privacy.

Chairman Bridle: next hearing will be in two weeks.

Hearing closed at 7:16PM.

### III. Public Comment (17:19)

Charlie Preston: tired of studies, consultants, committees; cardboard invasion; get recycled while handling it less; spent year on Recycling Committee; would like to hear from Town Manager his Deputy; DPW Director and his Deputy even if they have different opinions; would like to hear from business owners and how they can reduce tipping fee, as it comes down to weight; weight of glass; get glass off beach; make it safer and save money; tired of hearing how much businesses deserve unlimited trash for the taxes they pay; sit down and compare tax bills; work together; reduce tipping fees and save dollars for all of us, whether residential or commercial.

### IV. Announcements and Community Calendar (20:09)

Selectman Woolsey: Hampton Fire Department received 2 letters from public citizens who had been assisted by members; kind to acknowledge the service of the men and women in our Fire Department; pleased to read those letters.

Selectman Barnes: confusion of people not finding meetings on Channel 22; placed on social media and town website; scroll down and will tell you the meetings before July 1 and after July 1; in regards to what Mr. Preston said; had requests for additional bins and the requests have been denied.

Selectman Griffin: spoke with a lady whose husband was on a scooter and he went down the stairs and a lady managed to keep his head from hitting the ground; has a lot of issues and many came to help; ambulance showed up very quickly; took him back to his house; compliments on how they were treated by the ambulance/paramedic. Meeting for the flooding at the beach; people from Gentian and Green Road were there and are concerned; warrant article; interviewing 2 groups that might be dealing with this study; Mr. Welch said due to so many things going on right now; everyone working very hard; are working on it and has not been forgotten.

Selectman Waddell: Channel 22 the volume/audio has been improved; Brian McCain is the one that pushed this through; Cable Committee did a good job.

Chairman Bridle: you can look around this room and see all the improvements; a lot has gone into it; kudos to Brian and all the people who work out back.

Selectman Woolsey: had a call from residents who went out for a walk on the north end of Route 1A and found residents out there with shovels; ramp was covered with sand and neighbors were out shoveling; very disappointed with State; hydrants are being color coded for the convenience for the Fire Fighters; to identify water pressure in hydrants.

Chairman Bridle: thank the people who shoveled off the ramp; see something/do something.

V. Approval of Minutes (27:14)

1. July 16, 2018 Public Session

Selectman Woolsey: page 2 speaking about amount of money that Experience Hampton had to raise; says \$1.5M should say \$2.8M; I misunderstood when I talked to Fred

Selectman Griffin MOTIONED to APPROVE the July 16, 2018 Public Session Minutes SECONDED by Selectman Waddell.

VOTE: 4-0-1 (Barnes)

2. July 16, 2018 Non-public Session

Selectman Woolsey MOTIONED to APPROVE the July 16, 2018 Non-public Session Minutes SECONDED by Selectman Griffin.

VOTE: 4-0-1 (Barnes)

VI. Consent Agenda (28:22)

1. Hampton Cemetery Deeds: Philip & Deborah Smith 6/I-1/1/B, Paul & Denise E. Marino Yeaton 7/I-1/2/A-B, Kathleen Traut & Heather Menke 24/I-1/4/A-D
2. Banner/Sign License: Hampton Historical Society Park Ave
3. Hawkers, Peddlers Vendors Licenses: Renewal by Andersen - Cohen, Granick, Harrington, Klebe, Sariol, Simet, Williams
4. Management Agreement 230 Exeter Road
5. Parade and Public Gathering Licenses: Hampton Historical Society Pig Roast, McGuirk's Firefighter Pipe Band Parade, Wheelman Seacoast Century Bicycle Ride
6. Petition for Underground Gas Line Unitil: 11 Pine Knoll Road, 109 Towle Farm Road
7. Pool Table Permit: Casino Mini Golf
8. Recreation Advisory Council Appointments: J.D. Seale, Duffy Cink
9. Seafood Sidewalk Vendor Licenses: Shirts R US, Bargain World

Selectman Woolsey: hawkers, vendors, and peddlers licenses for what? Chairman Bridle: it says renewal by Andersen – Cohen, etc.; do you know what these are Fred?

Chairman Bridle: the other one is for replacement windows; Renewal by Andersen.

Town Manager Welch: in order to go house to house they need a Vendors license.

Selectman Woolsey: so they are soliciting business. Chairman Bridle: yes, for windows.

Selectman Woolsey: could not figure it out; and management agreement, 230 Exeter Road, what kind of management agreement? Town Manager Welch: the agreement on 230 Exeter Road, Conservation Land; Conservation Commission will be maintaining that property;

Hawkers, Peddlers and Vendors the first one is to Cohen, his address is in Goffstown, NH, will be driving a white Ford transit with lettering and will be conducting an operation to go place to place to sell goods.

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

VOTE: 5-0-0

VII. Appointments (31:24)

1. Tim O'Connor, Chairman Mosquito Control Commission & Richard Reniere
  - a. RFP 2018-008 Mosquito Control Services for years 2019, 2020, & 2021 Purchasing Policy and Purchasing Procedures Waivers
    - i. §718.3.A Purchase of Supplies, Materials and Services;
    - ii. §718.4 Award of Bid and Professional Proposals;
    - iii. §718.5.1 Policy Waivers

Mr. O'Connor: only 2 vendors that do Mosquito Control; the second one is for awarding the bid to lowest bidder, want to award contract to our current contractor, been with us for 14 years, contract is a fixed cost, 3-year contract that is 2.5% lower than current contract.

Mr. Reniere: Dragon Mosquito Control and every month we get a precise and comprehensive report from them; read June report; very thorough; place 182 traps throughout Hampton; done excellent job of providing services for the town; urging you to allow us to go ahead with proposal.

Mr. O'Connor: Dragon also does Seabrook, Hampton, North Hampton and recently won bids to do Rye and Portsmouth; testament to quality of their work; best interest for town; green head traps; day to day direction.

Selectman Waddell: they do a super job.

Selectman Barnes: great job; thank you.

Chairman Bridle: Dave Webber puts out 60-80 bird houses each year; builds them each year; places them out for swallows; want to make sure he gets recognized for doing the bird houses.

Selectman Woolsey MOTIONED to APPROVE the Purchasing Policy and Purchasing Procedures Waivers for RFP 2018-008 Mosquito Control Services for years 2019, 2020, & 2021 SECONDED by Selectman Barnes.

VOTE: 5-0-0

2. Chris Jacobs, DPW Director & Jen Hale, DPW Deputy Director (39:45)
  - a. Waste Management letter on Recycling Contamination

Director Jacobs: times are changing in the whole waste industry; changing so fast; require that we visit with this topic over the fall; particularly when we go into budget season; level of contamination; foreign governments buy the materials we use; Foss Manufacturing buys recycled soda bottles; some products have good reuse; some markets lowered the amount of allowable contamination from 5% down to .3%; our particular contamination level is 25%; plastic bags from stores are not recyclable; Waste Management has notified us loads in excess of the 5% allowance they will start charging us \$225 a ton for the load; they do not test each

load; going from \$0 to \$225 per ton; last year we had 2,771 tons that equates to \$124,000 increase in our recycling disposal cost; construction and demolition waste is changing; paying \$48 per ton and were notified going to \$85 per ton; increased hauling cost from \$300 per load to \$450 per load; short notice; asked them to divert some of the construction and demolition waste to the landfill; the increase of the tipping and transportation over a \$52,000 increase in next year's budget; impacts our ability to serve the public; trying to get the best value we can for the tax dollars that the residents entrust us. Grant myself, deputy director and staff to deal with the mandatory recycling we collect for the next 60-90 days; divert into trash trailer; guys noticed a microwave oven in the recycling with a \$10 disposal fee taped to the top; that item should have been brought to the transfer station; seeing loads from various areas that the recycling is contaminated with trash; seen trash contaminated with recycling; work more with Waste Management to determine what they feel constitutes contamination; asked to have a meeting; do audits they promised; invite is tomorrow morning; have asked them to postpone the penalty clause out another 30 days; response was show up tomorrow and discuss; do not have the authority to discuss; contractual matter; would like to work with them to what sort of things they see in recyclables that constitute contamination. Would like to cease the collection of recyclables that overload the carts; pursuant to the collective bargaining agreement limits the weight in the carts to 75 pounds; have a number of carts that are being overloaded and splitting on the sides; stick with the union agreement and not pick up carts in excess of 75 pounds; a number of businesses in the beach area would be problematic as they are limited in area and the number of carts; replace 2-3 cart flippers per year; gaskets and joints wear out, as they are flipping carts in excess of the weight limit; a new flipper costs about \$3,500; we rebuild them for about \$2,500; always need to keep one in stock; overloading the containers is having an effect on the wear and tear on the flipper; seek other options with recycling with c & d waste, they would like to have the volume we have; their contamination rate schedule is a sliding; maximum is \$75 per ton, but only for the ton that is contaminated, not for the whole truck; transportation has gone way up; a company 15 minutes up the road on Route 101 would take all the construction and demolition waste (c & d).

Selectman Griffin: where do you get the c & d waste? Director Jacobs: pallets, scrap 2x4 from house building, renovation and construction.

Selectman Griffin: you do not pick that up? Director Jacobs: no, it is brought to us; we charge for that; look into cost of transporting our own recycling and waste to the other sites; \$450 per haul; \$300 a haul to go to Billerica; price is going up; look at the cost of leasing or purchasing a long haul truck; we have our own trailers; would need a few more trailers; floated idea to a driver (past employee) he said he would love to; floated idea to our drivers that have a CDL B license and they would like to get an CDL A license; something we should look at; big portion we pay is in the transportation area. Increasing our recycling education; contract with recycling educator; videos to Channel 22, You Tube; be more modern to get message out there; look at rates we charge at the Transfer Station; maybe certain things we do not charge for that we should; all expenses add up to \$177,000; avert cost increase.

Selectman Woolsey: timely; appreciate what you brought in; probably a national emergency as far as waste is concerned; assuming the DPW worker can determine that the cart is overloaded can he just not attach that to the truck. Director Jacobs: yes; when we have had non-compliant residents/businesses in the past we sticker the cart; supervisor would go by and explain why we do not pick them up.

Selectman Woolsey: is there any way we can segregate glass; grinding leftover waste glass; be used as a component in road paving. Director Jacobs: yes; but right now we are single stream recycling, so there is not a way; would need to go with three stream, waste, co-mingle recycling and glass.

Selectman Woolsey: glass is heavy; has useful purpose. Director Jacobs: yes; there is a possible reuse for it; would change how we accept glass.

Selectman Woolsey: SAU 90 and SAU 21 would be happy to cooperate with you; kids enthusiastic; terrible burden on you right now; concerned about Public Works; things are changing so fast; notices on cable; I try to recycle; only filling half of my container; only put out every other week; save trips; thank you for rescuing residents; 15,000 carts out there. Director Jacobs: yes; started with 10,000 and are at about 15,000.

Selectman Woolsey: we cannot keep doing this; have to start being more discriminating on the carts if people damage their cart or if someone steals it; big problem; look for better way to manage and possibly limit; developing going up on 315 Ocean Boulevard; businesses on bottom floor; 26 carts in front of one business; looking for suggestions; I think we should have stayed with Eco Maine; terrible problem for this community and a huge challenge; public better wake up and understand; not funny and cost a lot of money.

Selectman Barnes: I agree with all suggestions; do not give any new bins out until we figure out how to take care of the people we are already trying to take care of; \$177,000 to add to a default budget is huge; do not understand how Waste Management on an existing contract; is there anything in there that says they can go from \$0 to \$225 per ton? Town Manager Welch: no.

Selectman Barnes: what is happening at Waste Management they need to deal with issues that is going on nationwide/worldwide; they are trying to pawn off their additional costs upon the taxpayer; if Eco is not going to do that, then we should find that out; figure out what is going on over at Waste Management is a good idea; recycling is a good idea, but not if it is going to cost that much more money. Director Jacobs: Exhibit C on the contract; excluded materials.

Selectman Barnes: separate glass; proactive use; Board agrees with what you came up with; see changes. Director Jacobs: it is an issue that we have to face; looking for guidance.

Selectman Griffin: Dominican Republic trash; due to trash in plastic bags; dogs, birds, rats got into them and the trash blew into water; hit a homerun when we went with the carts; things are so much cleaner; do not think you should pick up carts if they weigh more than 75 pounds; should not be crushing the bottles; we have a policy that the only new carts we pick up are from new single-family homes; do not pick up carts from condominiums, unless under 5 units; not picking up new businesses; should raise rates; people voted for recycling; people want their trash picked up; buy the barrels; where do the carts go when places go out of business; do you pick them up; need policy. Director Jacobs: we clean them and reissue

Deputy Director Hale: we charge residents what we pay; do not make any money on them; they thought because they paid for the carts that they were theirs; think about this when we write the policy; we did track them; paid barrels/given barrels; I prefer we take them back so they do not end up on someone else's property; someone was selling a Hampton barrel on Craigslist.

Selectman Griffin: need to discuss it; not handing them out anymore; let people buy them; are we selling them. Director Jacobs: yes; selling replacement parts.

Selectman Griffin: are you ordering new carts? Director Jacobs: no

Selectman Griffin: willing to make motion that we should not order anymore new carts; if people want to buy carts that are compatible with the trucks, then let them buy them. Director Jacobs: my only concern is if we do not buy a cart equal in strength and condition to the ones we acquire.

Selectman Griffin: if you do not want to be in the cart business, then you need to get out of it.

Director Jacobs: I want to be in the cart business; but not free.

Selectman Griffin: you want to be able to sell them.

Chairman Bridle: if you need them.

Director Jacobs: it has been very successful when we went to carts.

Selectman Griffin: if selling carts should be making a profit just like other stores do; market up 25% to 50%; not do for free. Director Jacobs: we will come back with a suggestion.

Selectman Griffin: maybe need to eliminate glass.

Selectman Barnes: no one wants glass anymore.

Selectman Griffin: they are not going to take it anymore.

Selectman Woolsey: we want to stock pile it, if we can.

Director Jacobs: having been to 2-3 recycling centers; hard for them to deal with crushed glass; cut back on cardboard; clean paper; plastics 1 & 2; things that they can reuse, those are the things the market has really tightened up on.

Selectman Griffin: all the discussions I have had; I was under the impression that we do not want glass.

Director Jacobs: I have another memo that I did not release; I recommend that we no longer take crushed glass; part of the recommendation was that we almost adopt a town ordinance that we do not want glass.

Selectman Griffin: you need to come here with a plan about whether you want beer bottles or coke bottles, or jars; it should be one way or the other; what about plastic bags, trash liners.

Director Jacobs: those apparently are fine.

Selectman Griffin: what about the grocery store bags, I see a lot of people putting those in; unclear what is acceptable. Director Jacobs: not, acceptable, that is why education is a big part.

Selectman Griffin: we really need to make a decision; do we want glass or not; be clear in everyone's mind.

Selectman Waddell: good luck with Waste Management; do not use the glass; a town in western MA did that and every time it rained bicyclists got flat tires; did not work out well; the only way we are going to solve this problem is people using less; education should be use less.

Director Jacobs: change our habits; foam peanuts are not used anymore; seaside community; reached out to Blue Ocean and asked if glass was a problem; they pick up pieces of glass; spoke with Lifeguard Assoc. and 1,700 first-aid incidences; not making assumption it is glass related; because of our beach area; maintain water quality; maintain quality of life; maybe glass is not the best thing for our community.

Selectman Waddell: bring to warrant article; if we continue it is going to cost.

Selectman Griffin: outlawing wine bottles in this town; is not going to happen. Director Jacobs: those make it through the recycling; heavier bottle.

Selectman Griffin: are cans a problem. Director Jacobs: no.

Selectman Griffin: warrant article; only sell beer cans not bottles. Director Jacobs: if town in process of handing out liquor licenses and entertainment establishments; could part of the rules with those establishments say no glass bottles.

Selectman Griffin: that was part of Smuttynose problem. Director Jacobs: he told me it was transportation; paying to ship glass not beer; better to ship in cans.

Selectman Woolsey: can we get a list or guidance to show/waste on Channel 22; State of NH waste; only State park in NH where the town handles the State park waste; all other communities the state park handles the waste; they paid us \$20,000 in 2017 for disposing of their waste; sending personnel in the DPW yard after hours, unsupervised to dump waste; you should not have to handle that; notify state that we will no longer handle their waste; should cut down on your waste stream.

Chairman Bridle: we need to address all your points; people like to recycle; they have asked for it; continue to do that; however, if it starts costing us so much and is cheaper putting it out as trash, that we are going to save \$150 per ton, then we need to look at that.

Selectman Griffin: let the people decide.

Chairman Bridle: we cannot do that between now and next year. Director Jacobs: short term.

Selectman Griffin: I would make a motion that we allow that; need to come up with a plan; let the people vote; realize their taxes are going to go up; have recycling or not; short term give him the leeway to do it.

Chairman Bridle: his memo? Selectman Woolsey: what is stipulated in his memo.

Selectman Waddell: plan; accepting and not accepting.

Selectman Griffin: is the State in the memo. Director Jacobs: no; we have standing agreements; understanding; not going to pull the rug out in the middle of the summer.

Chairman Bridle: we can charge them, if we are going to send it to trash instead of recycling. Director Jacobs: right now most of their recycling is so contaminated, it is all going into the trash.

Selectman Griffin: does it cover the cost? Director Jacobs: yes.

Selectman Griffin MOTIONED to APPROVE the stipulations in the DPW Memo and come back with plan SECONDED by Selectman Waddell.

VOTE: 5-0-0

Selectman Griffin: you should come back with a firm decision about glass and the state.

Director Jacobs: thank you for understanding; this could have been a 20-page dissertation; longer term things need to look at.

Deputy Director Hale: need to find the answers to the questions; do education so people can recycle the right way.

b. Lafayette Road Drainage and Roadway Improvements

Deputy Director Hale: recommendation to award Wright Pierce the design contract for the drainage on Lafayette Road; a last phase of project; go from High Street to the Rite-Aid area; take care of paving; look at High Street parking lot drainage; look at sidewalks; the design fee for the project is \$59,000; have construction documents to bid by late winter.

Selectman Woolsey: not saying any ornamental lighting? Deputy Director Hale: no.

Selectman Woolsey: estimate to complete project. Deputy Director Hale: the bidder would have a set schedule; will talk about work hours; too premature right now.

Selectman Woolsey: plastic pipe? Director Jacobs: pipes will be plastic.

Selectman Barnes: the actual construction is when? Deputy Director Hale: spring of 2019; 2020 would be paving project; depend on the construction schedule; can get drainage done in spring; do not want to be working in the summer; not ready to answer how long it is going to be; neighborhood meetings.

Selectman Griffin: someone started saying how bad the potholes are; ballpark figure do we spend on roads per year? Director Jacobs: in that section \$50,000 per year.

Selectman Griffin: I mean on all the roads? Director Jacobs: 2 years ago it was \$600,000 for paving; this year \$375,000.

Deputy Director Hale: last year we did Woodland Road, Hardardt's Way, Drakeside Road, water tower road; was \$625,000 plus what the state had given to us; this year the warrant article is for \$300,000; use portion to clean Lafayette Road and Anns Lane went out to bid last week, which is a sewer and drain project with a full reclaim from Lafayette to Mill Road; that will take the \$300,000; have \$120,000 in our budget that is highway maintenance.

Selectman Griffin: do we spend as much or more than other towns in this area?

Chairman Bridle: many years we did not spend much on our roads. Deputy Director Hale: playing catch-up; we are spending the money; trying to do it the right way; not patching; slow process; better process.

Selectman Griffin: warrant article for Greene and Gention Road? Deputy Director Hale: received 8 submittals for what we put out request for qualifications; storm water hydraulics, flooding, transportation, roadway design, coastal engineering projects that relate to erosion; sewer collection, wastewater treatment system; get the best firm for the area of expertise; narrowed down to 2 top firms; will come to Board with our recommendation; take preliminary design for Kings Highway money \$80,000 and then money for actual study and distribute that work to come up with a scope for these people to get us what we asked for.

Selectman Griffin: timeline? Deputy Director Hale: hoping by the end of the year we have reports to report out; we have not forgotten about it.

Director Jacobs: we are interviewing 5 of the 8 firms.

Selectman Woolsey: are we going to be using the plastic pipes for drains and sewers from now on? Deputy Director Hale: yes

Chairman Bridle: they have told us this a number of times.

Selectman Barnes: ice pond dam looks different. Director Jacobs: letter will go out tomorrow to abutter's addressing questions raised about status of pond; drought; reinstall overflow pipe to lower level; work planned for mid-August; did flow test; more work planned for September/October after overflow pipe are done; did not plan on drought; makes doing work easier; Meadow Pond is experiencing the same thing.

Chairman Bridle: work on Route 1; many places where telephone poles are in the middle of the sidewalk; is there anything we can do to require Unitil to move their poles out of our sidewalk as we are doing this project. Deputy Director Hale: we are going to look into; difference between in the sidewalk on the edge or right in the middle; poles can be in sidewalks as long as you have 3' clear and you have 250' on either side; but cannot have it where you need to get off the curb.

Chairman Bridle: of the poles are behind the sidewalk, less apt to get hit, less apt to have damage; when we put up our non-ornamental lighting. Director Jacobs: pole location will be part of the design.

Chairman Bridle: should encourage Unitil that they need to move their poles back; some are on corners of driveways; where people can get hurt. Director Jacobs: move to a more protected location; they are happy too.

Chairman Bridle: some places you are not going to be able to do that; poles at edge of the road; make safer for everybody.

Selectman Griffin: the smell coming out of Mill Pond; is it rotting material or waste? Director Jacobs: it is rotting material; we have checked the pump stations, pipes, manholes; have employees that live in neighborhood and said every so many years this is what happens.

Selectman Griffin MOTIONED to APPROVE the Lafayette Road Drainage and Roadway Design Fee Improvements of \$59,000 SECONDED by Selectman Waddell.

VOTE: 5-0-0

#### VIII. Town Manager's Report (1:49:03)

1. The Deliberative Session of the Special Town Meeting is August 6, 2018, at 7 PM and will be held in the Selectmen's Meeting Room at the Town Offices, 100 Winnacunnet Road.
2. Workshop #3 on building a flood smart seacoast, ways to protect your property from coastal flooding will be held August 21 from 6 to 8 PM in the St. James Masonic Lodge, 77 Tide Mill Road.
3. The Special Town Meeting will be held on August 24 at the Marston School from 7 AM to 8 PM. Please come and vote.
4. The Department of Public Works is currently bidding the replacement of sewer lines on Ann's Lane to begin this fall and will be completed in the spring of 2019.

5. State DES Wastewater Engineering Bureau issued approval for the grant to the Town of Hampton for replacement of sewer lines from Church Street Station to the Wastewater Treatment Plant; \$58,982 more than what we have in the warrant; ask that warrant be amended for \$4,996,850 which is the price the state is willing to pay out for work on this particular project.

Selectman Griffin MOTIONED to AMEND the Warrant to \$4,996,850 SECONDED by Selectman Woolsey.

VOTE: 5-0-0

Selectman Griffin: what day is the election? Town Manager Welch: August 24, 2018 at Marston School 7AM-8PM.

Selectman Barnes: received letter from Senator Shaheen about getting the harbor dredged; did she do another follow-up? Town Manager Welch: yes; spoke with both Senator's and they are trying to get an appropriation from Congress; not in the Army Corp of Engineers budget; talking about 2020 to do any work; they suggested if the fishing coop wanted to clean the harbor themselves they could; the companies would be out of business by the time they do anything.

#### IX. Old Business (1:53:30)

Selectman Barnes: hear from Town Counsel on update on the complaint against the State.

Attorney Gearreald: the Town's 5 count suit against the State was brought on February 14, 2018; have sent a standard set of questions to be answered under oath; request documents; the State without answer any of those filed a motion to dismiss based on various grounds that include; sovereign immunity, alleged failure to state a claim upon which relief can be granted and other grounds; we have sought extensions of time on answering that very broad ranging motion to dismiss and our current deadline is September 10; in the meantime I have filed with the court because the State contrary to its representation to me that they would entertain some limited discovery requests to assist us in answering the motion to dismiss; filed a motion to compel those answers; last week received an order from the court, which denies our motion without prejudice; court indicates in responding to the State's motion to dismiss if we argue that further discovery may result in an amended complaint; one avenue we have to follow is to dismiss the complaint without prejudice and seek the discovery by other means, such as the Right-to-Know law; after the suit was filed the NH Supreme Court came out with a fairly broad ranging opinion that laid out some new ground rules on the issue of Sovereign Immunity; the discovery we are seeking can help us to file an amended complaint that would withstand such a challenge; if we take Judge up on his suggestion of a dismissal without prejudice we would be able within a year to file another complaint, which would be amended with the benefit of the answers to the Right to Know Law requests that could help us to meet this challenge. My recommendation to the Board is that we take the Judge up on the avenue that is offered; recommend the Board move to authorize the Town Attorney with the court a voluntary non-suit without prejudice as recommended by the Superior Court Judge in his order dated July 18, 2018 to enable the Town to obtain official records through the Right to Know Law and other requests in order to file an amended complaint against the State as needed within a year.

Chairman Bridle: what happens if we do not do this? Attorney Gearreald: if we simply try to amend the complaint with the information we have now, which could be enhanced greatly, we

may not get it in as sufficient form as we would like; if we filed this answer, the objection to the motion to dismiss and it were granted then we would not have the ability to file this voluntary non-suit without prejudice; would lose that opportunity.

Selectman Barnes: this is recommended by a Superior Court Judge, correct? Attorney Gearreald: he put it out to us if we wish to obtain further discover to file an amended complaint, that it is something we could do.

Selectman Barnes: the motion we made was to voluntary non-suit without prejudice? Attorney Gearreald: yes

Selectman Barnes: I am not backing down on this case; read something Max Sullivan wrote on May 31, 2018; Judge upheld jury's verdict awarding \$9M to a crash victim and her husband; we know that bringing suit against the State was going to be a process and we are figuring out how to do it; definitely needs to be done; whatever Town Counsel advises us to do, I agree with.

Selectman Griffin MOTIONED to AUTHORIZE the Town Attorney to file with the court a voluntary non-suit without prejudice to enable the Town to obtain official records through the Right to Know Law and other requests in order to file an amended complaint against the State as needed within a year SECONDED Selectman Woolsey.

VOTE: 5-0-0

X. New Business (2:00:15)

1. Fire Department Software 2018 Warrant Article 18 Purchasing Policy and Purchasing Procedures Waivers
  - a. §718.5.1 Policy Waivers
  - b. §718.9 Control Supervision and Enforcement

Deputy Town Manager: on behalf of Fire Department to grant waiver of purchasing policy; institute a portion of the software package that was part of the warrant article; evaluated a number of different vendors; selected a particular vendor; finding right product that fits; about \$75,000 purchase.

Selectman Waddell MOTIONED to APPROVE the Purchasing Policy and Purchasing Procedures Waivers for the 2018 Warrant Article 18 Fire Department Software SECONDED by Selectman Barnes.

VOTE: 5-0-0

2. 10 Brooke's Lane Street Light removal request (2:02:56)

Town Manager Welch: last property on Brooke's Lane has requested the street light in front of their property be turned off and the pole removed; do not have object, but made it clear to them that they would need to pay \$1,000 to have the pole removed and they agreed with that.

Selectman Waddell MOTIONED to APPROVE the 10 Brooke's Lane Street Light removal request with the understanding that the owners will remove the pole at their expense SECONDED by Selectman Woolsey.

VOTE: 5-0-0

3. Acceptance of Bond "Labrador Lane" for \$737,476.77 - Lyons Subdivision (2:03:38)

Town Manager Welch: result of a subdivision approval by Planning Board; awaiting check; would like approval to receive it.

Selectman Griffin MOTIONED to Accept the “Labrador Lane” Bond for \$737,476.77 - Lyons Subdivision SECONDED by Selectman Waddell.

VOTE: 5-0-0

4. Vote of Numerical Tally on Warrant Article (2:03:58)

Town Manager Welch: to move in accordance with the division of NH revised statute; chapter 40 section 13 subsection 5-a that all votes from the BOS and Municipal Budget Committee relative to budget items on any warrant article through ballot questions shall be recorded votes and numerical tallies for such votes will be printed in the Town Warrant next to the effected warrant article or on the ballot next to the effected ballot question; we do this every time we have a meeting.

Selectman Woolsey MOTIONED to APPROVE the Vote of Numerical Tally on Warrant Article SECONDED by Selectman Barnes.

VOTE: 5-0-0

Selectman Barnes MOTIONED to SUPPORT the Warrant Article SECONDED by Selectman Waddell.

VOTE: 5-0-0

5. Request of Rational Taxpayers of Hampton, Inc., for Public Access TV (2:05:16)

Selectman Woolsey: I would like to postpone this and have the representatives come in on a separate night; have questions, need to talk out.

Chairman Bridle: I would like to hear from the Town Manager.

Town Manager Welch: give you a copy of the request; given you a copy of Article 6 – Access Channel on the Cable TV franchise; I have read through this and each of you should; clarity; appears you cannot use the existing governmental channel or school channel to honor the request; would have to be a request made by the Franchise Authority to the Cable TV system for a general access channel for the public, which would have to be completely separate from the Town.

Selectman Griffin: that says it all, doesn't it?

Town Manager Welch: the last time we asked the cable company to give us a channel was for the schools and it took over 2 years to get the channels; long process; problem with this, it must be completely divorced from the Town TV system; separate; carried by the cable company; cannot use this system here; built their own facility, have a place to house it, other than town property.

Selectman Waddell: in favor of public access; they would have to form their own 5013c; board of directors; public education government.

Chairman Bridle: on his request, he wants to have a TV program; length of 1½ hours on our channel; we cannot do that.

Town Manager Welch: it appears the contract says we cannot do it on this channel.

Selectman Bridle MOTIONED to DISAPPROVE the Request of Rational Taxpayers of Hampton, Inc., for Public Access TV SECONDED by Selectman Waddell.

VOTE: 5-0-0

6. Capital Improvements Plan to Planning Board (2:08:06)

Town Manager Welch: over a month ago we gave the Board a copy; asking your permission to forward to the Planning Board.

Selectman Barnes MOTIONED to APPROVE sending the Capital Improvements Plan to Planning Board SECONDED by Selectman Woolsey.

VOTE: 5-0-0

XI. Closing Comments

Selectman Woolsey: very productive meeting; well done.

At 9:08 PM, the Board rejoined the earlier recessed, non-public session at the conclusion of closing comments on the public session agenda.

On MOTION of Selectman Woolsey, SECONDED by Selectman Waddell, the Board of Selectmen voted unanimously by roll call (5-0-0) to resume the non-public session at 09:08 PM under RSA 91-A:3,II, (a)&(c).

[Minutes Sealed]

The rejoined non-public session was adjourned at 9:41 PM on MOTION made by Selectman Waddell, SECONDED by Selectman Barnes, which passed unanimously.

Back in public session on MOTION made by Selectman Woolsey, SECONDED by Selectman Barnes, the Board voted unanimously by roll call vote (5-0-0), at 9: 41 PM to seal the minutes of the non-public session (both earlier and later segments) under RSA 91-A:3,III on the grounds that they could affect adversely the reputation of any person other than a member of this Board, or jeopardize the effectiveness of the actions to be taken.

XII. Adjournment

The public session was adjourned at 9:42 PM on MOTION made by Selectman Waddell, SECONDED by Selectman Barnes.

VOTE: 5-0-0

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Rusty Bridle, Chairman