

**HAMPTON BOARD OF SELECTMEN
SELECTMEN'S MEETING ROOM
MINUTES
September 13, 2004 7:00 PM**

PRESENT: William H. Sullivan, Chairman, Virginia Bridle, Vice Chairman,
James Workman, Cliff Pratt, Rick Griffin
James Barrington, Town Manager
Karen Anderson, Administrative Assistant

PUBLIC HEARING: The Board of Selectmen held a public hearing to take comments from the public in regard to the town's purchase as recommended by the Planning Board and Conservation Commission of 23 acres of land located at Map 110, Lot 3 C, fronting on Barbour Road for conservation use. This was the second hearing of two as required by RSA 41:14-a.

There were no public comments.
The Board will act on this matter on September 27, 2004.

I. SALUTE TO THE FLAG

Mr. Tom Nigrelli led the audience in the flag salute.

II. ANNOUNCEMENTS

Primary Day

Mr. Pratt encouraged people to support their candidates and vote in the Primary on Tuesday.

Annual Pig Roast

The Hampton Historical Commission will be holding their annual Pig Roast on September 18th at Tuck Field. Mr. Pratt noted that this is the major fund-raiser for the Historical Society and tickets are available for \$20.

Hampton Beach Commission

Mr. Workman announced that the Hampton Beach Commission will be meeting on Thursday, September 16th at 7:00 PM at the Precinct Hall.

Seafood Festival

The Board commended everyone involved in the Seafood Festival. Mr. Workman noted that it was a flawless event as a result of the numerous people involved and the excellent job that was done.

III. APPOINTMENTS

1. Julie Iffland, Trust For Public Land, Re: Update on the status of the Hurd Farm

Ms. Iffland updated the Board of Selectmen on the status of the Hurd Farm conservation easements and noted that after the successful vote in March there have been successful grant applications to assist with the purchase. The Trust for Public Land has been working hard to pull all of the pieces together.

Ms. Iffland told the Board that as in all typical real estate processes there is "due diligence" that must be exercised and that has been taking place but is time consuming. At this point, the bids are in for the surveying work and the formal application process is being completed for the Federal Grant. The appraisal had to be redone to meet federal standards. As a result of one of the grants that was awarded, there will be two easements on the property, one for a working farm and one for recreational purposes. The Hurd's will be retaining some of the property and the lines of the property divisions are being worked on at this time. Ms. Iffland told the Board that the goal is to have all of the parts pulled together for a closing by the end of the year.

Mr. Pratt said that he had requested this meeting and told Ms. Iffland that he has spoken with the Hurd's and feels that they have had some anxiety over the process. Mr. Pratt said that he does not understand why the property has not been surveyed yet and why the process has taken so long. Mr. Pratt said he also has concerns for the town in respect to the voter's wishes being carried out within the same calendar year and the impact a delay could have on future projects.

Ms. Iffland said that part of the reason TPL has waited to do the survey is due to the requirements of the CELP grant program that have not been finalized. She added that the Hurd's have to make a decision in regards to the cut line and that decision has not been made. She assured the Board that they are pushing on all ends to get this completed, but there are a lot of coordination issues. Mr. Pratt asked if the Board could get a monthly update on the process through the remainder of the year and Ms. Iffland said that she would do that.

Mr. Workman thanked Ms. Iffland for the update and he asked if there is a surveyor lined up to be able to do the work as soon as the CELP requirements are finalized. She said that there was. He asked if there were any other hurdles she could foresee. Ms. Iffland said that she did not think there was and she would keep the Board informed.

2. Grace Murningham and Kreon Cyrus, Re: Appeal of ZBA Decision on Drakeside Road

Mrs. Murningham said that she was present to ask the Board of Selectmen why the Board was not present at the Zoning Board of Adjustment meeting and if they will appeal the Zoning Board of Adjustment decision regarding development on Drakeside Road. Mrs. Murningham said that at the Board of Selectmen meeting in May she expressed concern with the density of the project and the Board members all agreed that the proposal was too dense and they felt that the road was already busy enough. Mrs. Murningham added that there were misstatements made at the ZBA meeting, one being that the plan had the approval of two boards and she did not feel that was true as the applicant implied that the Board of Selectmen was in favor of the plan. She said many people, residents of Drakeside Road, as well as residents in other parts of town are opposed to this project. Mrs. Murningham noted that further development on Drakeside Road is no secret with some plans already approved and the potential for more development. She asked if the Board of Selectmen decide not to appeal the decision if they would at least consider a moratorium of further development in the Drakeside Road area..

Mr. Cyrus said he was present to urge the Board of Selectmen to appeal the decision of the ZBA Case # 66-04. He explained that the Board of Selectmen should appeal the decision because there were four variances granted that go far beyond the zoning ordinances. For example, the first variance was for a height of 49' where 35' is allowed. Mr. Cyrus said that the criteria of what is reasonable for the character of Drakeside Road was not considered. Mr. Cyrus also expressed concerns that after a significant change to the plan, the removal of one floor of the building, there was no opportunity for the public to speak. He said that although the Board of Selectmen did publicly state that the project was too dense, the Board of Selectmen's absence was referred to as a tacit approval of the plan. He added that Mr. Griffin was unmercilessly browbeaten for not taking a stand on the Board's behalf at the meeting. Mr. Cyrus asked the Board to consider filing an appeal, which is due September 18th and that the Board of Selectmen consider a moratorium on anymore town houses on Drakeside Road until the major issues, such as traffic can be studied.

Mr. Griffin said that he was not sure how he was supposed to handle his representation on the Zoning Board. He said that the Town is an abutter and the picture that was painted by the developer's attorney was that the Town was for the project and he was not in agreement with that. Mr. Griffin said that he did state at the meeting that he was against there being a parking variance based on the size of the parcel. Mr. Griffin agreed that something will be built at that site, and he is not opposed to height variances in the right locations, but he does not feel that is the right area for a height variance. Mr. Griffin said that he felt he was in an awkward situation at the meeting. Mr. Sullivan explained that prior to Mr. Griffin's election to the Board of Selectmen he was an elected member of the Zoning Board of Adjustment. He is not an appointed representative of the ZBA as a Selectmen's Representative, but rather an elected, voting member.

Mrs. Bridle stated that she would not be participating in this discussion due to an agreement that was made between one organization and the organization that she is employed by.

Mr. Pratt said that he has a hard time supporting one Board going against a decision made by another elected Board. Mr. Sullivan told the Board that Mr. Nigrelli is present and can explain the revised proposal if the Board desires.

Mr. Workman said that this and other land use issue are not "beauty contests"; the land use boards have clear regulations on what they can or can not approve. Mr. Workman said that as the Board of Selectmen's representative to the Planning Board he does not want to say anything that could jeopardize his role in that process.

Mr. Sullivan said that Drakeside Road is being seriously overbuilt, but if an individual owns a piece of land he should be able to develop it according to the conditions placed by the Planning Board and Zoning Board.

Mr. Barrington said that the Board of Selectmen has the authority to request a rehearing or appeal to Superior Court any decisions made by the Zoning Board of Adjustment. In this particular case, the Board of Selectmen has an interest as an abutter and it was in that capacity that the Board of Selectmen invited Mr. Nigrelli to make the earlier presentation. Mr. Barrington said that if the Board of Selectmen does wish to file a petition for rehearing, the issues upon which the rehearing is being requested must be filed at that time and cannot be added to throughout the appeal process. The Town Manager added that because Attorney Gearreald represents and advises the ZBA, it would not be appropriate for him to assist the Board of Selectmen with the appeal. If the Board of Selectmen wants to go forward there should be a non-public meeting to discuss the reasons for appeal and the selection of an attorney.

The Zoning Board of Adjustment minutes show that four variances were requested and the three that were granted were for 25 units per building where 8 per unit are allowed, 49' height limit where 35' is allowed and for the placement of fill within the wetland conservation district.

Mr. Sullivan asked if the Board of Selectmen wished to put forth any motions in this matter or wish to meet with the attorney in non-public on this matter.

Mr. Griffin said that in the past, at the Zoning Board of Adjustment when there has been a question regarding a decision, a rehearing has been requested.

Mr. Griffin MOTIONED that the Board of Selectmen request a rehearing of the Zoning Board of Adjustment case #66-04..

Mr. Pratt SECONDED

Mr. Pratt said that the due process has been followed and a decision has been made, and he is not in favor of one board asking another board to review their decision. Mr. Griffin said that he understands how Mr. Pratt feels, and he feels strongly that the proposal is just too high. Mr. Griffin said that the lot is unusual and there are some variances that should be granted. Mr. Pratt said that he believes that the Zoning Board of Adjustment made their decision in good faith.

**VOTE: 2 FOR (Sullivan, Griffin)
1 AGAINST (Pratt)
2 ABSTAIN (Bridle, Workman)
MOTIONED PASSED**

Mr. Pratt MOTIONED that the Board of Selectmen meet in a non-public session at the conclusion of the meeting to discuss this matter further with Attorney Gearreald.

Mr. Griffin SECONDED

**VOTE: 3 FOR
2 ABSTAIN (Bridle, Workman)**

3. Judith Park Re; Highway Safety Matters

Mr. Vic DeMarco, Vice Chairman joined Judith Park, Chairman of the Highway Safety Committee. Mrs. Park said that she wanted to discuss having a traffic study done at Five-Corners. She said that the committee feels this is a problem area and it is time to address the issue with a professional traffic study. She explained that the Rockingham Planning Commission is willing to assist with the study upon request of the Board of Selectmen. Mr. DeMarco said that the RPC has indicated that they could do the study and make recommendations for a reconfiguration of that intersection at a low cost. Mr. Barrington said that he has discussed this with Dave Walker, the Transportation Planner with RPC and is now waiting to talk with Mr. Cliff Sinnott, Director of RPC in order to determine the cost involved for the study. Mrs. Park said she would like to have the study costs available so that the cost could be included in their 2005 budget. Mr. Pratt said that he would like to have a study done, but he would like to know the costs first. Mrs. Park said that another issue relating to Five-Corners is some arborvitae on private property that is obstructing the view crossing over High Street to the east. The Highway Safety Committee would like to have those relocated. Mr. DeMarco confirmed that the arborvitae have been taken care of.

Mrs. Park said she is still upset about the situation at 58 Winnacunnet Road. She asked why it took over two years to get the parallel parking accomplished. She explained that the Board of Selectmen requested that the Highway Safety Committee look at the traffic concerns around the Centre School during pick-up and drop off times at the school. The committee looked at the problem and one of their concerns was with the vehicles backing out from in front of Dr. Wine's at 58 Winnacunnet Road. The recommendation was made to eliminate the parallel parking and the Board was informed of that by letter.

Mr. Barrington said that the original recommendation from the Highway Safety Committee was that there be no parking at that location and when staff looked at the situation they did not agree with the recommendation and the Board did not approve it. Mr. Barrington said that that a more serious issue around the Centre School is with parents parking illegally in the Towle Avenue intersection which creates far more problems than what goes on in front of this business. Mr. Barrington said that the Board did recently vote to enforce the parallel parking, the area has been painted to note that and it will be enforced.

Mrs. Park stated that she was not satisfied with the answer and asked the Board members why it took two years for this to be accomplished. Mr. Pratt said that the diagonal parking did interfere with the use of the sidewalk. Mr. Workman said that sidewalk issue was looked at and the painting was what was recommended. Mrs. Park said that she is concerned with the safety of children darting behind cars that are backing out. Mrs. Bridle explained that no children are allowed to leave Centre School unless they are in the hand of a parent, so if a child is darting behind a car their parent is responsible for their safety. Mrs. Bridle said that it is not fair to blame an area business for that situation; the town has done the best they could. She added that there are many issues that take longer than the Board of Selectmen would like. Mr. DeMarco said that the basic reason they are present is that it appeared to the committee members that communication with the Board of Selectmen was lacking. He added that they felt that at that particular location with cars parked over the sidewalk, children were being forced to walk out into the street. The committee is looking for better communication and responses in a more timely manner. Mrs. Park said she is concerned when it snows that the lines will be obliterated and asked that signage be placed in that location as well.

III. OLD BUSINESS

Town Manager's Report

Five Corners

Mr. Barrington told the Board that the repaving of 5 Corners is complete and that intersection is now open. The striping is scheduled for later this week. Mr. Barrington added that Engine 2, which fell into the first sink hole, does have some frame damage and that is being looked at. The insurance adjuster has been involved throughout the process.

School Resource Officer

Chief Wrenn has announced the appointment of Officer Stephen Champey as School Resource Officer.

Budget Review

Mr. Barrington told the Board that he has been working on the budget requests and expects to have printed documents to the Board this week. A suggested schedule has been outlined for the Selectmen's budget review. Mr. Barrington told the Board that he has confirmed with Brad Jett that it would be possible to videotape the meetings on the evenings that the School Board would be using the Selectmen's meeting room so that the tapes could be replayed in the regular time slot and the Precinct Hall is available on September 20 and October 18 if the Board wishes to meet there those evenings.

Concerts at Gazebo

Mr. Barrington said that Mrs. Martin asked him to convey that the concerts held at the gazebo were difficult this year, with light crowds and several rain cancellations. She has suggested that the concerts be tried again next year to see what happens. Mr. Barrington said that the concerts have become a community tradition in North Hampton, and maybe Hampton can get something started.

Mrs. Bridle said that the concerts should be planned earlier in the season in order to publicize them adequately. She also suggested getting other groups involved, such as North Hampton does to provide food. Mr. Griffin agreed that more advance publicity is needed.

Artwork

Mr. Barrington announced that local artist, Mr. Harold LaPointe came by today with a fresh supply of artwork that he did this year and it is on display in the lobby of the town office. Mr. LaPointe was thanked for sharing his talents with the town.

District Court

The Town Manager reported to the Board that he had a call from Peter Goodwin from the State on Friday asking if the town was still willing to donate the land on Winnacunnet Road for the court house and he was assured that nothing had changed with that offer. Mr. Barrington said that Mr. Goodwin was going to relay the results of the meeting this week.

Fire Department Activity

Chief Lipe reported that the Fire Department responded to 32 fire calls and 31 medical calls over the Seafood Festival weekend.

School Resource Officer

Mr. Workman asked the Manger if the Winnacunnet School Board had agreed to reimburse the Town for the costs of the WHS Resource Officer. Mr. Barrington said that they had.

Budget Reviews

Mr. Workman told the Manager that in regards to the budget review scheduling, he was completely opposed to having the review of General Government at a meeting that was not televised live. Mrs. Bridle suggested that General Government be done on the Columbus Day Holiday. The Board agreed to meet on Columbus Day and move the entire schedule down one week. The School Board will be asked to give up the Selectmen's Meeting Room on October 18th.

Town Clock

Mr. Sullivan read an email to the Board regarding the Heritage Commission's concerns about the estimate for repairs to the clock. Mr. Pratt said that he does not have any problem with a group fundraising for the clock repair, but at the same time they need to be considering a 20-30' building to encompass the clock in order for it to be operational. Mr. Workman said that the vote by the Board of Selectmen was to authorize the Town Manager to sell the parts, but it was not a directive. Mr. Workman said that over ten years have passed since the building holding this clock burned and there hasn't been much interest in restoring the

clock. Mr. Pratt said that he would be in favor of putting a timeframe in place for the committee to make some progress towards the eventual goal. Mr. Sullivan suggested that the Board of Selectmen request a progress report by April 1, 2005.

Mr. Pratt MOTIONED that the committee report to the Board of Selectmen on their progress to restore the clock and have a building in which it can be displayed by April 1, 2005.

Mr. Workman SECONDED

VOTE: UNANIMOUS FOR

Exeter Road Railroad Bridge Grant – Schedule Public Hearing

Mr. Workman MOTIONED that the Board of Selectmen hold a public hearing on September 27th in order to take comments on the acceptance of a grant from the State of New Hampshire to cover the costs incurred with the Exeter Road Railroad Bridge.

Mr. Griffin SECONDED

VOTE: UNANIMOUS FOR

Town Marquis

Mrs. Bridle requested that the sign in front of the building reflect on both sides the Primary Election to be held tomorrow. Mr. Sullivan asked that a list be generated in advance so that the important events can be displayed.

Coalition Communities

Mr. Workman noted that a note received from the Coalition Communities shows that Hampton is the only donor community that had its donation increased with the recent legislative change. He said it is time this statewide property tax is ended.

V. NEW BUSINESS

Flag Pole at District Court

The Board of Selectmen reviewed a request from the American Legion to install a flag pole at the District Court. Mr. Sullivan said that he would like to put this discussion off for a week because there has been some discussion about moving the memorial at that location to the center of town. Mr. Workman said that the future use of that site is also a question. Mr. Barrington said that just before Mr. Swift came in with this request, he had been at the District Court and noticed a hole where a former flag pole has been removed and had asked the Recreation Director to place a bush in the hole to eliminate the liability from the hole that was left.

Tax Office

The Tax Collector's Office will be closed on both September 20 and 21st so that the tax collector and deputy can attend a conference.

Donation of Bench for Plaice Cove

The Board reviewed a request for a memorial bench to be placed at Plaice Cove by the family of Mr. Terrance Gordon. Mr. Pratt said that he did not have any trouble with the donation of the bench and noted that there is room for another bench.

Mr. Pratt MOTIONED that the Board of Selectmen accept the donation of a bench for Plaice Cove from the family of Terrance Gordon.

Mr. Griffin SECONDED

VOTE: UNANIMOUS FOR

Disposition of Mobile Home – Four Seasons Mobile Home Park

Mr. Barrington explained that there is a mobile home at Four Seasons Mobile Home Park that Mr. Bley has requested to move. He has a Writ of Possession due to non-payment. There are some tax liens on the property and the Manager explained that in the course of the discussion of moving the home there was the question whether the town might have a use for the trailer as a construction trailer. Inspector True looked at the condition and determined that it would not be in the best interest of the town to use it. The home was

moved before the park owner had permission and it was placed in a location that has been a problem for some of the residents of Four Seasons. The owner of the park intends to move it over to the Hemlock Haven Park and will ultimately dispose of the property.

Mr. Barrington said that he does not believe that the town wants to tax deed this property because it could be a liability to the Town.

Mr. Pratt MOTIONED that the Board of Selectmen authorize and permit the movement and demolition of the trailer and the abatement of the taxes.

Mr. Griffin SECONDED

Mr. Workman said that it bothers him to reward the bad behavior of a property owner by abating the taxes.

VOTE: 4 FOR

1 O P P O S E D (Workman)

Street naming Request – Cul-de-sac of Winnacunnet Road

The Board reviewed the request for the naming of a new street to be located off Winnacunnet Road. It was noted that both the Police and Fire Departments have approved the developers suggestions of Grace Drive or Morgan Way. Mr. Workman asked that this decision be delayed for two weeks in order to come up with a more historical name for the street. The Board recalled discussing the desire to use historical names and noted that a recent street was named Jane Appleton Way. It was suggested that Mr. Holman may have a list of suggestions for historical names.

Grant Writing Seminar

Mr. Workman noted that the Local Government Center is offering a free seminar in Concord on grant writing. He asked if the Town Manager could see if a representative from each department attend.

Seafood Festival

Mr. Pratt asked if there has been any reports on how the Seafood Festival did this year. Mr. Griffin said that the majority of people he encountered at the entrance paid and there were very few objections voiced. Mr. Sullivan noted that the fireworks were very well done. The Board agreed that it was a great event.

IV. MINUTES

The minutes of August 30, 2004 were accepted as corrected.

Page 4: The date was corrected to September 13, 2004.

V. CONSENT AGENDA

- 1. Mortgage Discharge – 7 I Street
- 2. Pool Table/Dance Hall Permits – Stacey Jane’s

Mr. Workman MOTIONED that the Board of Selectmen approve the consent agenda.

Mr. Pratt SECONDED

VOTE: UNANIMOUS FOR

VI. PUBLIC COMMENTS

Mr. Dean Ellis, stated that he was past Highway Safety Committee chairman in Derry, and is a past vice-chairman of the committee in Hampton. He explained that three years ago he assisted two high school seniors with a school project on Five Corners. The recommendation had been made for an adjustment in lighting which was done at that time. Mr. Ellis said that the parking in front of Dr. Wine’s office was also discussed a couple years ago and at that time he met with Dr. Wine about the parking on the sidewalk. Dr. Wine has a sign inside his office asking patients not to park diagonally. Mr. Ellis noted that the church should also be told not to park diagonally as they have been doing during services for years.

Mr. Nathan Page spoke about the street naming request and said that several years ago a list of historical names was generated for the Board of Selectmen to choose from. He believed it was done when Downer Drive was named.

Mr. Page told the Board that a couple years ago he submitted a photo of a similar clock to Hampton's that has been restored and is on display in Concord. He said something should be done to restore the clock and noted that if the clock had to sit in the basement for another year it would not be a huge problem for the town.

Mr. Page said that during the ZBA meeting there were only two elected officials and one alternate present for the actual vote and he thought there should be more than three members deciding on something that important and asked that the Board consider that in their appeal of the decision regarding the development on Drakeside Road.

Mr. Robert Weber told the Board that he has had a lot of people calling him recommending that the clock be restored and just a few calls from people telling him not to waste his time. Mr. Weber said that he was pleased to report that he has received a call from a resident of Intervale, NH who has offered to re-make the needed metal pieces at no cost. Mr. Weber said that the height concerns with the pendulum have been alleviated because there are now automatic winding machines that eliminate the need to have the clock as high as previously necessary. He asked permission to bring the parts to his shop in order to determine if the parts can be fixed at little to no cost.

Mr. Tom Schilling, 97 Hampton Meadows told the Board that he has been a resident for five months and he thanked Mr. Griffin for his efforts at the Zoning Board of Adjustment meeting. He said that Mr. Griffin was truly put on the hot seat. Mr. Schilling recommended that the Board of Selectmen consider a rehearing on the case. He said that he is not against development as long as it is within the codes.

Mr. Kreon Cyrus said that when the tape of the Zoning Board meeting is reviewed the Board will see that the option holder, not the owner spoke and he was not sure that the option holder had that authority. The criteria on several areas was inadequately addressed, in regard to a conservation commission letter and there was a misrepresentation made that Mr. Frank Richardson has confirmed. Mr. Cyrus suggested that those are the kinds of things that may have caused the board members to prejudge the case, without their realizing it. He said that he understands Mr. Pratt's concerns, but understands that the Board of Selectmen has the right to appeal the decision of the Zoning Board of Adjustment when they feel that an error has been made.

VI. ADJOURNMENT

Mr. Workman MOTIONED that the meeting be adjourned. (9:11 PM)

Mr. Pratt SECONDED

VOTE: UNANIMOUS FOR

Chairman

