

**BUSINESS MEETING  
FINAL**

- A. CALL TO ORDER:** C. Brown called the meeting to order at 6:30 p.m.
- B. ROLL CALL:** C. Brown, Chairman; A. Franciosa, B. Mutrie, A. Tonry, S. Volpone, Members; M. Kasprzak, Selectmen's Representative; L. Ruest, Administrative Assistant; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector  
**Not Present:** R. Janvrin, Member; R. Sperry, Alternate Member

C. Brown congratulated B. Mutrie on re-election to the Board and welcomed S. Volpone as newly elected member.

The matter of "Peltons Way (public and private) Bonding" was taken out of order and discussed at this time. C. Brown explained that the developer of Peltons Way (both public and private) has replaced an expiring Letter of Credit with a performance bond, a form of security not allowed by regulation. She stated that the Road Committee has been working with the developer representative, Vincent Iacozzi, at the Committee level with the understanding that it is the decision of the full Planning Board as to whether a performance bond would be accepted. Past discussions at the Road Committee and Planning Board levels have concluded that performance bonds are not accepted in Hampton Falls by regulation or practice as performance bonds are difficult to manage should the need arise to call the bond.

A lengthy discussion of the history of this matter took place for the benefit of current and new Board members to include communications between the Town and developer, various products offered by banks and the change in personnel overseeing projects. Suggestion was made to restructure the wording of the town's security agreement to include a requirement of the Planning Board signing off before funds are released to a developer (in order to not allow security to be automatically called or expired). C. Brown referred the Board to a letter dated March 18, 2011, received from town counsel outlining the Board's authority to require posting of security to ensure the completion of site improvements. His guidance provided that irrevocable letters of credit are not to be construed as cash or a passbook. Board members expressed concern with not having a proper form of security in place as well as the amount of time that has lapsed without proper security in place.

Vincent Iacozzi arrived at 7: 04 p.m. and explained his position with regard to the issuance of a performance bond in place of an expired Letter of Credit. He explained that his bank, Peoples Bank, no longer offer this product without cash being available to offset it. In other words, the original terms of the expiring Letter of Credit no longer exist and now a secured letter of credit is available. V. Iacozzi explained that Peoples Bank is the developer's primary bank and that with current credit requirements, the developer is limited.

C. Brown explained that the issue is that performance bonds are not an approved form of security in accordance with Hampton Falls regulations. V. Iacozzi stated he made his position clear with the Town Administrator and Road Committee that his firm feels that a letter of credit is essentially cash and that the Legislature has prohibited towns from only accepting cash. He

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stated that by the time this matter is litigated as a matter of principal, the project will be complete. C. Brown noted that the state statute indicates that cash cannot be the only acceptable form of security. She added that a legal opinion has been obtained stating that letters of credit and cash are not one and the same and that the town has been advised that it is not wise to accept performance bonds. A. Tonry stated that the Planning Board does not have the power to change the regulations. V. Iacozzi requested the Board's direction on what to do. C. Brown stated that the developer could address obtaining a Letter of Credit from another institution. V. Iacozzi stated he would see what he could do noting the amount of time to get financial matters in place and the timing to complete the project.

Discussion took place with regard to the punch list items that remain to be completed, the opening of the asphalt plants and timing to get projects done. A. Franciosa stated that regulations are in place and that when a developer signs an application, it is bound by the regulations. A. Franciosa reminded V. Iacozzi that the Road Committee informed him that a performance bond was not an acceptable form of security and that he was to research letters of credit. He stated that hearing this meeting that the developer's bank does allow secured letters of credit is new information to him. V. Iacozzi responded stating that this project has been convoluted in that this project has changed from one Limited Liability Company to another and that Thibeault Construction had not fully acquired the project.

V. Iacozzi stated that he would be willing to present the Town with a CD or passbook as he feels this is simpler than a letter of credit. In the meantime, however, he requested that the Town return the single performance bond issued in exchange for two performance bonds he had in hand; one for the public portion of the road and one for the private portion of the project. C. Brown requested that the record reflect that the exchange of performance bonds is for the purpose of relieving the developer of holding three bonds but not for acceptance of a performance bond by the Board (only to relieve the \$60,000 single bond). An exchange of the documents took place at this time.

C. Brown asked that this matter be finalized as soon as possible. V. Iacozzi stated he felt this matter could be corrected by next Friday (April 1). C. Brown asked A. Franciosa (as new Chair of the Road Committee) to work with Town Administrator E. N. Small with regard to following through on this matter. She also asked that she be kept informed as to the status. A copy of town counsel's letter was provided to V. Iacozzi.

In response to B. Mutrie, V. Iacozzi reported on the amount of work yet to be done and the intentions of the developer to complete the punch list items identified by the Town Engineer. He stated that June 15 or 30 is the target date for completion.

**C. ORGANIZATIONAL MEETING**

**1. Nomination and Election of Chairman**

**MOTION:** To nominate and elect C. Brown as Chairman for 2011-2012.

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**MOTION: A. TONRY  
SECOND: S. VOLPONE**

Hearing no further nominations, the vote was called.

**VOTE: 5 IN FAVOR, 1 ABSTENTION, PASSES**

**2. Nomination and Election of Vice Chairman**

**MOTION:** To nominate and elect A. Franciosa as Vice Chairman for 2011-2012.

**MOTION: A. TONRY  
SECOND: S. VOLPONE**

**MOTION:** To nominate and elect A. Tonry as Vice Chairman for 2011-2012.

**MOTION: B. MUTRIE  
SECOND: NONE  
MOTION FAILS**

Hearing no further nominations, the vote was called.

**VOTE: 6 IN FAVOR, PASSES**

**3. Alternate Members**

C. Brown reported that she sent an email to Alternate Member R. Spoerry to see if he would be present for the March meeting. She received a response that he will not be returning home until April. In this email he also submitted his resignation as Alternate Member. It was suggested that the Chairman contact G. Parish, who ran for election to the position of Planning Board Member, to see if he would be interested in serving. C. Brown stated she would call him.

C. Brown also informed the Board that the Certified Return Receipt Requested letter sent to Planning Board Member R. Janvrin seeking his intention as to continuing to serve on the Board has been returned as undeliverable. A. Tonry stated that the Tax Collector may have information on him as receiving mail in another state. It was noted that if he is residing in another state, he is no longer qualified to serve as a Hampton Falls Planning Board member.

C. Brown requested approval of the Board to allow her to write a letter to the Board of Selectmen stating that the Board requests removal of R. Janvrin as Member of the Hampton Falls Planning Board in accordance with RSA 673:13 due to his not having been in attendance since April 2010.

**MOTION:** To authorize the Chairman to write a letter to the Board of Selectmen and ask that the matter be posted for public hearing to remove Roland Janvrin as soon as possible for cause.

**MOTION: A. TONRY  
SECOND: S. VOLPONE  
UNANIMOUS**

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**4. Committee Membership (CIP/Master Plan Committee, Road Committee, Ordinance and Regulations Review Committee)**

Committee assignments for 2011-2012 resulted as follows:

***CIP/Master Plan Committee***

M. Caruso, J. Ratigan, E. N. Small, P. Robart, C. Brown, M. Kasprzak (Building Inspector)

***Road Committee:***

A. Franciosa, L. Smith, E. N. Small, S. Hanson, Road Agent, (Greg Parish)

***Ordinance and Regulations Review Committee:***

B. Mutrie, A. Tonry, S. Volpone, A. Franciosa, C. Brown (Circuit Rider Planner, Building Inspector)

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES**

**MOTION:** To approve the minutes of the February 22 meeting as written.

**MOTION:** A. TONRY

**SECOND:** M. KASPRZAK

**4 IN FAVOR, 2 ABSTENTIONS, PASSES**

**E. OTHER BUSINESS**

1. Committee Reports: C. Brown acknowledged ZBA minutes of February 24, 2011 with regard to an application for Diamond Star Properties, LLC.
2. Peltons Way (public and private) Bonding: This matter was taken out of order and addressed first at this meeting.

**F. COMMUNICATIONS TO BOARD MEMBERS**

- Application Process Flow Spreadsheet identifying the responsibilities of the Administrative Assistant and Building Inspector relating to Planning Board and Zoning Board of Adjustment applications. C. Brown asked members to familiarize themselves with the process and application forms. This spreadsheet resulted from a meeting of the Board of Selectmen, Town Administrator, Planning and ZBA Chairs, Building Inspector and Administrative Assistant. C. Brown asked that members keep this spreadsheet in their notebooks for reference.
- Revised Planning Board Checklist that incorporates the changes and additions made to the Planning Board and Zoning Board of Adjustment application process. L. Ruest offered to review the application process with members should they choose.

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- Office of Energy and Planning Handbook, November 2010, Site Plan and Subdivision sections. C. Brown asked that members review this information as a refresher of responsibilities of the Planning Board.

**OTHER:**

**Blaisdell Property – Dumping along Brown Road:** Referring to discussion at the January Planning Board meeting, C. Brown asked Building Inspector K. Kelley for a status of the Blaisdell property on Brown Road; specifically, the Blaisdell parcel across the street from the main house where dumping of sawdust, leaves and other debris is taking place along the edge of Brown Road. She asked if this dumping or filling is part of the Department of Environmental Services restoration plan for this parcel and whether it is allowed.

K. Kelley provided a history of the action(s) taken to date and acknowledged that there is a restoration plan in place that has been prepared by Mark West of West Environmental Services. K. Kelley reported that he has a call in to M. West to meet but that he has not received an answer yet. K. Kelley offered to make copies of the restoration plan for the Board and asked why a code enforcement matter that started four years ago is being addressed at a Planning Board meeting. C. Brown referred the minutes of the January Planning Board meeting where it is indicated that K. Kelley would review and report back to the Board.

K. Kelley stated that he thought about the matter more from the discussion in January with regard to whether the Planning Board was notified of the original plan for restoration of the property and whether filling is part of the plan. He added he expressed concern at the last Selectmen's meeting with regard to there being more and more work and projects requested of him over and above day-to-day activities. He apologized for not having an answer for the Planning Board and stated that he would follow up on this. K. Kelley stated he would prefer not to deal with code enforcement actions at Planning Board or Zoning Board of Adjustment meetings, if possible.

**INVITATION FROM WORKFORCE HOUSING COALITION:** C. Brown informed the Board that the Coalition is celebrating its 10<sup>th</sup> anniversary and that Hampton Falls representatives have been invited to attend. She added that part of this celebration involves awards of which one is being awarded to Hampton Falls for its accomplishments with regard to its workforce housing ordinance and its involvement with the charette on workforce housing. Those members who participated (A. Tonry, C. Brown, R. McDermott, and B. Mutrie) are asked to attend this event. Town Administrator E. Small will be asked to attend as a courtesy as well as Marietta Garavaglia. All will check their schedules and let C. Brown know if they can attend.

- Rockingham Planning Commission Memo of March 18, 2011 declaring a regional impact from the Town of Seabrook with regard to the RMD, Inc. (Demoulas) project Southgate Plaza, 300 Lafayette Road, Seabrook.
- 2011 Local Officials Workshops schedule. This pamphlet will be emailed to members.

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- “The Source” winter 2011 edition. C. Brown asked that Board members review specifically the section on storm water and keep a copy in their binders for reference. A copy of “The Source” will be emailed to members.

**G. ADJOURNMENT**

**MOTION:** To adjourn the meeting at 8:11 p.m.

**MOTION:** **A. TONRY**

**SECOND:** **M. KASPRZAK**

**UNANIMOUS**