

Town of Hanson
542 Liberty Street, Hanson, MA 02341

Selectmen Minutes 9-30-14

Town of Hanson - Board of Selectmen
Meeting Minutes – Hanson Town Hall
September 30, 2014

Members Present: Donald Howard, James McGahan William Scott, David Soper & Bruce Young
Members Absent:
Others Present: Town Administrator Ronald San Angelo
Executive Assistant Meredith Marini
Town Counsel Lisa Mead

7:00 p.m. Chairman Soper called the meeting to order, led the Pledge Allegiance. Chairman Soper read the announcements, and upcoming meeting schedule.

II TOWN ADMINISTRATOR'S REPORT

Mr. San Angelo reviewed the monthly financial reports for the general, water, Board of Health and Recreation expenditures. He notified the Board that all carried forward entries have been made. The Town Accountant has submitted the receipts to the DOR on September 16th. Free cash has been certified. Hanson is in the top 20% of Mass. Communities getting free cash certified. Mr. San Angelo noted that Mr. Hassett completed a number of reports and all records are up to date. Mr. San Angelo reported that Mr. Hassett has spoken to the auditors and they will be out to shortly to complete the Fiscal Year 2014 audit.

Mr. San Angelo noted the Mr. McGahan has had some questions as to the testing of Hanson water supplies and bodies of water. The Board of Health will have a discussion regarding water testing of ponds on October 14th. Mr. McGahan will attend the meeting. The Health Agent, Donna Tramontana informed Mr. San Angelo that the State will be out to test Wampatuck Pond. Mr. San Angelo noted that funding may be necessary for additional water testing, which can be addressed at the May 2015 Town Meeting.

Mr. San Angelo noted that most of his time has been dedicated to preparing for Town Meeting.

III NEW BUSINESS

Consideration of Police Promotions to rank of Sergeant

Peter R. Daley
Michael Bearce

Chief Miksch thanked the Board for allowing him to make the recommendations. He explained the process for the promotions, which were a result of two vacancies in the department. The Chief came to an agreement with the union as to the promotion process. The Town hired a company which administered an exam and conducted the assessment center. Chief Miksch indicated that four individuals passed the written exam and moved on to the assessment center phase of the process.

Chief Miksch recommended that Peter R. Daley and Michael Bearce be promoted to rank of Sergeant. Chief Miksch indicated the Officer Daley is a Hanson resident and a 13 year veteran of the Hanson police department. He received a Bachelors degree in Criminal Justice from Fitchburg State.

Officer Bearce has been on the Hanson Police force for six years, he was a fulltime public safety dispatcher and holds a bachelors degree Criminal Justice from Bridgewater State College.

MOTION by Young, second by Howard to promote Peter R. Daley and Michael Bearce to the rank of Sergeant. Mr. Scott suggested that the seniority would be based on the scores. Chief Miksch recommended that the appointments be made with

effective October 20, 2014 for Officer Daley and
October 21, 2014 for Officer Bearce . ***Voted 5 – 0***

Appointments/Resignations

Appointments:

Special Police Officer

Richard Nawazelski

Derek Harrington

Jeffrey McKinnon

Chief Miksch requested that the Board approve the appointments of the Richard Nawazelski, Derek Harrington and Jeffrey McKinnon. Chief Miksch indicated that Mr. Nawazelski retired recently from the Hanson Police force and would like perform details. Mr. Harrington and Mr. McKinnon have both independently attended the part-time police academy. Mr. Harrington is a part-time officer in Whitman. Mr. McKinnon is full-time dispatcher.

MOTION by Howard, second by McGahan to appoint Richard Nawazelski, Derek Harrington and Jeffrey McKinnon as Special Police Officers with a term to expire June 30, 2015. ***Voted 5 – 0***

Mosquito District Commissioners

Kimberly King – 87 Glenwood Place – Ms. King was present and requested the Board’s support for a recommendation to the Mosquito District Commissioners. Mr. San Angelo indicated that he has had discussion with Ms. King regarding the State’s involvement in aerial spraying for preventative maintenance. Ms. King feels more can be done at the local level. She recommends more round table discussions. Hanson can utilize services of the Plymouth County Mosquito control. Mr. McGahan noted that several recommendations were received on behalf of Ms. King.

MOTION by Howard, second by Scott to nominate Kimberly King for reappointment to the Mosquito District Commission.
Voted 5 – 0

Resignation:

Kevin Cameron from the Recreation Commission Effective August 14, 2014.

MOTION by Howard, second by McGahan to accept with regret the resignation of Kevin Cameron. ***Voted 5 – 0***

Requests

St. Joseph the Worker requesting permission to hold the annual Public Square Rosary on the Town Hall Green on Saturday, October 11th from 12:00 p.m. to 1:00 p.m.

MOTION by McGahan, second by Scott to approve the Public Square Rosary on October 11, 2014 at Town Hall Green. ***Voted 5 – 0***

IV OLD BUSINESS

Town Meeting Preview

Mr. San Angelo reviewed the Financial Recommendations for the use of Free Cash which was certified in the amount of \$1,446,879. Mr. San Angelo indicated that Free Cash is much higher this year due to the collection of over \$390,000 in unpaid taxes and \$116,000 in interest for one large parcel. He complimented the Assessor for the new process of collecting taxes as part of the supplement revenues, which resulted in \$86,000. There has been increase in the inspection fees. These factors added an additional \$600,000 in Free Cash.

With respect to the expenditure side, group insurance was \$65,000 less, one less students from Norfolk Aggie \$31,000 and a surplus in Legal services in the amount of \$27,000.

Mr. San Angelo reviewed the recommendations for spending the Free Cash, which included \$125,000 for use at the May 2015 Special Town Meeting; \$325,000 to offset the anticipated snow deficit for FY2015 and \$260,000 to fund Capital Projects at the May 2015 Annual Town Meeting.

The Board reviewed the Town Meeting Articles with each of the proponents moving their articles. The Moderator Sean Kealy, Town Counsel Lisa Mead and Town Clerk Elizabeth Sloan were present for the review. The proponents read their motions.

Article 6 – Amend Rec & Board of Health Budgets - Mr. San Angelo noted that this is a housekeeping article. He explained that the appropriations at the May 2014 Annual Town Meeting were made twice, once in the omnibus budget and in the enterprise budgets.

Article 10 – Easement to 4 William Way - Mr. San Angelo indicated that the areas of the easement is town owned land for a retention area which will then flow to the wetland area.

Article 13 – Library/Senior Center Roof Assessment – Mr. San Angelo noted the proponents may hold the article or reduce the amount of the article.

Article 17 – Patrol Rifles – Chief Miksch indicated that a minimum six rifles will be purchased

Article 18 - Fire Station Windows – Chief Thompson noted that approximately 22 windows will be replaced. He is working with Library/Senior Center to seek a bulk purchase.

Article 24 – Mr. San Angelo noted due to the increase in new growth the funding source for Articles 24 to 30 will be Raise and Appropriate.

8:00 p.m. Chairman Soper announced that the Board will reconvene the Gravel Removal hearing which was held on September 16th.

Brief Recess

Continuation of Gravel Removal Permit - Great Cedar Cattle Feeders Inc. – Bog 9 off Pierce Avenue and Robinson Street

Mr. Dimetrios Haseotes was present and recapped the reason for the hearing, which is for a Gravel Removal permit. Great Cedar Cattle Feeders is removing gravel from one farm to bringing it another farm in Halifax. They provided a copy of the NRC Farm plan which they are in the process of updating. He noted that there was a site visit with the Selectmen, Conservation member and neighbors. Mr. San Angelo read the letter dated September 25, 2014.

Dear Board Members:

This letter is prepared and submitted in support of our pending application before your honorable board. Moreover it was prepared to address those issues raised during the September 16th Town's meeting and the site inspection on September 24, 2014. The following proposed conditions are suggested as part of your approval relative to our application:

Relative to dust control: Applicant will make sure that during soil removal it will control dust by avoiding work during dry weather and making sure all of our hauling equipment be covered appropriately at all times during transportation, if necessary a water sprinkler truck will be used to suppress dust condition.

Pursuing to "flooding", any and all proposed work are within our property side and sloped toward our side hence no additional flow is generated toward any neighbors.

Relative to our farm plan and farm operation, please find attached the copy of our farm plan and for future operation please be advised that we will be operating during normal business hours but the cranberry crops do require routine visits. The farm plan will be revised and updated.

Pursuing to the soil removed, it is being used as common fill and was transport to our main farm located on Walnut Street, Halifax Ma. We use this fill to grade low spots and dirt roads.

The limit of excavation and removal will be restricted to the tree lines and the slopes will be maintained at 3 to 1 slopes

covered by loam and seeded.

The board of selectmen will be receiving a status report periodically.

Please accept this letter as our response to the various questions and remarks posed during the town meeting.

Regards

George P. Haseotes

Great Cedar Cattle Feeders, LLC.

Chairman Soper opened the meeting to comments from the abutters.

Mr. Alan Spera of 159 Pierce Avenue noted the property in question abuts his property on two sides. He noted that during the site visit there was plenty of room for the vehicles to turn around on the parcel. He also noted that some gravel on site had been excavated from the embankment. Mr. Spera questioned why this is an accessory use to the cranberry bog and the farming use of the property. Mr. Spera does not feel it is an accessory use of the property. He feels that 100 feet around the bog is sufficient to conduct bog business. He would like an explanation as to why this is an accessory use.

Mr. Spera is looking for a plan. There does not appear to be a limitation to the work area. There is no plan indicating how close they will be to the abutters. Mr. Spera reiterated that this is not an accessory use to the property. Mr. Spera questioned how they will be able to control the dust on the trucks and dust from the excavation.

Mr. John Kemmett 83 Bay State Circle – Chairman of the Conservation Commission – Mr. Kemmett walked the site and noted that it is not within Conservations jurisdiction. Mr. Kemmett noted that the top soil had been removed from the site which is in violation of the by-law.

Chairman Scott noted that he attended the site visit and found the meeting beneficial. Mr. Scott informed the Board and audience that he is a cranberry grower in Wareham. He has no relation with Mr. Haseotes. Mr. Scott referred to a letter dated September 30, 2014 submitted from the Cranberry Growers Association. He noted that the gravel removal is exempt from zoning. Mr. Scott suggested the Town add an agricultural component to the by-law.

MOTION by Scott to allow Mr. Haseotes to operate under the exemption, not require a permit and order him to work within the guidelines of the conditions listed by Haseotes provide the number of yards that will be removed.

Chairman Soper asked that Mr. Scott table his motion.

Mr. Haseotes indicated they were not going to remove the material to the tree line and that the removal will be between the hours of 9 and 3 to avoid buses.

Mr. Young asked when the Gravel Removal by-law kicks in if there is an agricultural exemption.

Attorney Mead indicated that State Zoning Act. 40A, section 3 provides an exemption. However, the General By-law does not offer an exemption. She pointed out that Mr. Scott was quoting the wetlands act and by-law. The Board is addressing a general by-law, which regulates the soil removal. The Board has a right to regulate the removal.

Mr. Spera asked the board, that if it is considering regulating the operation, that the Board apply a standard that makes sense. Mr. Spera would like a plan and limited work areas, time regulations. He would like to see a topographical plan. Mr. Spera wants documented guidelines of regulations with timeframes and deadlines.

Mr. McGahan asked how the Ridder's plan is incorporated into his plan. Mr. Haseotes said the plan runs with the land and he is working with the USDA to create a new plan under Great Cedar Cattle Feeders.

Mr. McGahan read a letter from Cranberry Growers dated September 30, 2014 received via e-mail to the Board of Selectmen:

Re: Agricultural Earth Removal for Great Cedar Cattle Feeders Company.

Dear Chairman Soper:

I have recently been made aware of a cease and desist notice for a cranberry operation operated by the Great Cedar Cattle Feeders Company, located off Pierce Avenue and Robinson Streets and a subsequent directive for an earth removal permit. My concern is for the requirement of an earth removal permit for normal agricultural activities, which is protected under state law. In particular, the protections afforded agriculture are found in Massachusetts General Laws c. 131, Section 40, the State Wetlands Protection Act. M.G.L. c 40A, Sec. 3, State Zoning Act and Article 97 of the Articles of Amendments of the Massachusetts Constitution. The Massachusetts Attorney General's office has been consistent in reminding towns that they must adhere to state law when considering agricultural activities, including permits and by-laws. This protection carries for General By-law as well as Zoning, as mentioned in the "Rayco Investment Corp. v. Board of Selectmen of Raynham, 269 Mass. 285,393 (1085)" case, whereas it was noted that Town cannot circumvent the protections giving under G.L. c. 40A, by adopting a general by-law. It is these basic protections that I ask your board to consider when looking at this particular project in front of you. It is my contention that a cranberry operation should not need to obtain a permit for conducting a normal agricultural maintenance project.

Now with that said, I recognize, that there needs to be a balance between agriculture and the community, especially concerning earth removal. If the earth removal activities result in trucks leaving the property, a town should have an understanding as to whether the use is still agricultural. A level of trust and openness should be maintained between the farmer and the community. In short, an agricultural exemption should not be abused by the grower or conversely, not respect by the town. With consistent communication and cooperation, a town and farmer can attain an effective and responsible agricultural earth removal project.

As it has been explained to me, the Great Cedar Cattle Feeders Company current earth removal project in question is moving material from one agricultural operation to another. This would be consistent with agricultural use as defined under Massachusetts law. The town has the right to be assured of this agricultural use. Should the project result in earth being use for something other than agriculture, the town has every right to, and should, require a permit. Absent a non-agricultural use, the project should be allowed to continue.

In order to not abuse an agricultural right, I have encouraged the Great Cedar Cattle Feeders Company to work with the town to strike a balance with this project that will enable them to conduct their farming business while minimizing impact to their neighbors. Regardless of the process that the town may choose, I am hopeful that through honest communications, respect and common sense, a mutually acceptable outcome can be attained.

*Sincerely
Brian A. Wick
Executive Director*

Mr. Haseotes feels that Mr. Spera is painting a false picture of the property. They are only removing between 2500 – 2800 yards of material.

Chairman Soper reviewed the Cranberry Growers Advisory notice dated 2003 noting the list of Normal Maintenance which included Management of bog edges up to 100' wide. Chairman Soper questioned whether the removal of material is for farming or it is really for filling pot holes at another location.

There have been no discussion of producing cranberries. The selectmen who conducted the site visit observed that there is enough room for the trucks to turn around. Chairman Soper doesn't believe it is a farming operation more like a strip mining. He feels there are too many mitigating factors including drainage.

Attorney Mead indicated the MGL 40A addresses over 5 acre. The Board can reasonably regulate them. The Hanson By-law allows regulations and latitude.

Mr. Howard would like to see the plan which the engineer had indicated he would provide.

Chaz Tyia of Great Cedar noted that they have taken over Ridder's Farm plan because they have taken over the Ridder's property. Status updates will be provided to the Board. They will do their best to eliminate the dust. They need area to move the trucks around and make the property safe for their workers. The sloped area will be reseeded when completed. They have no problem operating between the hours of 9 – 3 to avoid bus traffic.

Mr. McGahan is not comfortable that they don't have a specific plan for Great Cedar.

Mr. Soper would like to have egress, start and stop dates, 2,000 – 2,400 cubic yards. The Board has options to vote based on Mr. Scott's motion to move forward that no permit is necessary; approve and regulate the operation or deny.

Mr. Scott feels that it is a farming project and the permit doesn't apply.

Mr. Young feels the Board needs to set regulations for the farmer and neighbors.

Mr. McGahan would like to set regulations and requested copies of Mr. Spera requests for regulations.

Mr. Howard reiterated that he would like to see a plan, but is in favor of setting regulations.

Chairman Soper feels the operation is beyond the scope, but would like to put together a plan within 30 days, topical diagram with set back limitations. The Board will send a proposal to Great Cedar and get a dialogue and a reasonable agreement between the parties.

Mr. Tyai indicated an engineered plan could be very expensive for the entire lot. The Board requested a engineered plan for the area of excavation only. They will check relative to the Main Street egress.

Mr. San Angelo would like to get a list of conditions from all the parties

Mr. Scott noted a point of order that he has a motion on the table.

MOTION by Scott, second by Howard to allow Mr. Haseotes to operate under the exemption, not require a permit and order him to work within the guidelines of the conditions listed by Haseotes provide the number of yards that will be removed. **Voted 2 – 3 (McGahan, Soper & Young)**

Mr. Scott does not feel they need a permit.

Mr. Kemmett understands Mr. Scott's point and notes that the operation does not appear to be farm related and the activity should be regulated.

Mr. Spera noted that it is a 280 acre parcel. They acquired the land from Ridder and the Town does not know what they are going to do with the property in the future. He feels Great Cedar should provide a plan for the property in the future. Mr. Spera feels Great Cedar needs a permit with regulations and a plan.

Mr. Tyia indicated that he cannot make a ten year plan.

MOTION by Young, second by McGahan to continue the hearing to October 21st and the Town Administrator to work out an agreement with the parties **Voted 5 – 0**

9:13 p.m. – Brief Recess

9:24 p.m. – Returned to open session and to review of Town Meeting.

Article 25 – Increasing salary for Town Accountant. Mr. San Angelo indicated that he met with the Finance Committee which recommended working with the interim town accountant for an extended period. The Finance Committee would be willing to fund more hours if necessary. Mr. San Angelo noted that the interim town accountant has a limited amount of time and would not be able to attend finance committee meetings. Mr. San Angelo recommended passing over the article and extending the contract with the Interim Town Accountant until May 2015 at which time the Board can reconsider the salary.

MOTION by Young, second by McGahan to Passover. **Voted 5 - 0**

Article 31 – Emergency Repairs from School – Mrs. Marini noted the increase included the cost to replace the dishwasher at Indian Head.

Article 32 – Indian Head Cafeteria – The Board currently had a hold on the recommendation due to lack of amount. The School Department estimates the cost to be \$35,000.

MOTION by Howard, second by McGahan to recommend article 32 ***Voted 5 – 0***

Mr. McGahan questioned whether the definition of emergency has been established. Mr. San Angelo indicated that the groups are working on a definition.

Article 33 – Repair Indian Head Roof. Mr. San Angelo indicated that the repair committee recommended passing over the repair of the roof.

Mr. McGahan questioned whether residents could discuss the article. Moderator Kealy suggested taking the articles out of order and they pass over article 33.

MOTION by Howard, second by McGahan to pass over article 33 ***Voted 5 – 0***

Article 34 – Replace Indian Head Roof

Mr. San Angelo indicated that an additional \$40,000 of Free Cash will be added to the article which had been taken from the recommendations from Finance Committee for Article 36 – School Stabilization Fund.

Mr. San Angelo noted that if the Town approves a Capital Exclusion it will only require a majority vote. Capital Exclusion lists the actual amount in the ballot question as opposed to the debt exclusion which does not list the dollar amount.

Brief discussion about the amount of the impact on the Capital Exclusion. Mr. San Angelo indicated the estimated cost to the average taxpayer would be \$178.00 for the year.

Mr. Young had an estimate for the replacement of the roof in the amount of \$701,250 the roof.

Mrs. Arena noted that the replacement should be specific that the replacement is for the slate portion of the roof.

Mr. O’Sullivan asked if any MSBA funding is available. Mike Jones of the Indian Head and Maquan School Priority Repair Committee indicated that he had asked MSBA and none was available and if additional work is needed on the buildings then they would not qualify. The accelerated repair could take up to 24 months for funding.

MOTION by McGahan, second by Soper to recommend article 34. ***Voted 5 – 0***

Article 35 – Lintel replacement – estimated amount \$200,000

MOTION by McGahan, second by Howard to recommend Article 35. ***Voted 5 – 0***

Article 40 - Planning – Sidewalk plan upgrade – Mr. San Angelo asked where Mr. Ellis expects to get funding for a new sidewalk. Mr. Ellis indicated the funding would come from grants. He noted if the town has a shovel ready plan, the town would be in a better position to get a grant.

V **APPROVE MINUTES- TABLED until Oct. 6th.**
September 9th
September 16th

VI **COMMITTEE REPORTS**

Indian Head & Maquan School Priority Repair Committee – Mr. Young reported that the committee will be meeting on Wednesday and reviewing the estimate on the roof. He will review the motions with the school committee members.

Monponsett Pond committee – Mr. Howard informed the Board that the Central Plymouth County Water District now has control over the fish ladder. Brockton cannot use the water until it reaches 52 feet. The level is down by 18 inches.

Mr. McGahan noted that he attended the meeting of the Monponsett Pond Committee and thanked Mr. Howard for his work. He also thanked Mr. Young and Mr. Scott for their work on their projects.

VII ADJOURNMENT

MOTION by Howard, second by Young to adjourn. ***Voted 5 – 0***

10:30 p.m. Meeting adjourned.

Respectfully submitted,

Meredith Marini,
Executive Assistant

Approved and Voted 4 – 0

October 21, 2014