

Town of Hanson
542 Liberty Street, Hanson, MA 02341

Selectmen Minutes 7-22-14

Town of Hanson - Board of Selectmen
Meeting Minutes – Hanson Town Hall
July 22, 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 Adam Costa

I~ 7:30 p.m. Chairman Soper called the meeting to order, led the Pledge Allegiance. Chairman Soper read the announcements, and upcoming meeting schedule. Chairman Soper requested a Moment of Silence former Library Trustee Thomas Moore

Mr. Young indicated that the Indian Head Maquan School Priority Repair committee will be meeting on Wednesday, July 23 in the Selectmen's meeting room.

Chairman Soper read a letter received on July 15, 2014 from John Seamans thanking everyone for their work on the Hanson Community Garden.

To the Board of Selectmen, "The Town of Hanson" July 2014.

This letter is to express my gratitude to all those involved in the restoration project of "The Hanson Organic Community Garden." A particular thank you to Eagle Scout Jason Nicol for his efforts to raise money, manpower, and enthusiasm to get this project done. I must also thank my daughter Danielle and Marianne Dimasio-Donahue of "Green Hanson" who's inspiration and encouragement helped to bring the Garden into its initial existence. Again my thanks and many healthy years to all.

Sincerely John G. Seamans, Founder, the Hanson Organic Community Garden.

II TOWN ADMINISTRATOR'S REPORT

Mr. San Angelo reported that the Town Hall voicemail system is down and is beyond repair. The IT Department is looking at new systems. The Finance Committee has been notified that a request for a Reserve Fund Transfer will be needed. The estimate for a new system is \$15,000.

MOTION by Howard, second by Young to accept a lowest bid and request a reserve fund transfer from the Finance Committee.
Voted 5 - 0

Annual Update of Town Administrator

Mr. San Angelo thanked the Board for the last year and gave an update of the activities over the past year. He noted the accomplishments were part of a team effort. He briefly reviewed some of the highlight.

Plymouth County Hospital grant for technical assistance from Old Colony Planning Council for reuse of the hospital. Mr. San Angelo will get an update from Old Colony Planning.

Pay As You Throw has been implemented. There is a contract with Waste Zero. The Transfer Station attendant reports that recycling has doubled and the trash disposal has been reduced.

The Small Business summit was very successful for the first time event.

Brockton Area Transit will be paying \$1,500 per year for maintenance of the senior van. Additionally they will provide the town with a new van in the future.

Goals and Objectives for the Town were adopted by the Board.

A balanced budget which was adopted by Town Meeting.

Educational Forum was held for residents of the Town regarding the School project.

Records of Town Hall were purged and the area was made for additional records.

Hanson Day was a successful event. He thanked the Selectmen for their participation and feels it will be an annual event.

Mr. San Angelo completed the procurement training and is a certified Procurement Agent for the Town.

He noted that two new contracts for solid waste removal were executed. ABC Disposal will be the hauler for the trash and recycling. New Bedford Waste Services contract was written for \$55.00 per ton for the disposal of trash. The contract guarantees that if another community gets a lower rate, Hanson will receive the same rate.

Facilities Report of all Town buildings was completed. Mr. San Angelo will be meeting on August 11th to review the report and insure that the projects are incorporated into the Capital Improvement Plan.

Painting and Repairs to Town Hall – The project was bid and Fox Painting was the low bidder. Mr. San Angelo reported that the bid was lower than the \$60,000 appropriated for the project.

Delinquent Taxes – Mr. San Angelo indicated that through the efforts of several departments working together enforcing the by-law with respect to permitting over \$400,000 in delinquent taxes were collected.

He briefly updated the Board on personnel changes.

Mr. San Angelo reported that he conducted 12 public access shows. He produced the shows to give the residents an opportunity to hear what the departments are doing. He feels it is important for the residents of the Town.

III NEW BUSINESS

Discuss and vote plan for the Town Forest – Mr. San Angelo explained that the Town Forest Committee wanted to set boundaries of the property. The project had been approved by Town Meeting. Mr. San Angelo provided the Board members with a copy of the plan which had been approved by the Planning Board. Mr. San Angelo pointed out that the septic system for the Indian Head School remains in portion of the property to be designated as the Town Forest which may at a future date be designated as Conservation land. Mr. San Angelo feels that the line should be redrawn so that the septic system is located outside the Town Forest area in the event of future repairs or expansion.

Planning Board Chairman Don Ellis indicated that the Planning Board approved the plan, but he did not want to sign it until the Board of Selectman accepted the plan.

Mr. San Angelo suggested tabling the matter in order to wait for new lines to be drawn. Chairman Soper asked if all the parties, parks and fields, Highway, Hanson Baseball and the Town Forest agree to the lines. Chairman Soper cited a concern that the Highway Department may need room for expansion. Mr. San Angelo indicated that it is his understanding that all the parties have agreed to the current plan. Mr. San Angelo will check with all the parties to confirm same.

Mr. Young was inquired about locating a cell tower to the Town Forest and was concerned about the potential fall zone. . Mr. San Angelo indicated that, while some residents have suggested the move, there are no plans to move the cell tower from the Fire Station location.

Town Planning/Conservation Agent Laurie Muncy informed the Board that the Planning Board approval is not required and if no action is taken within 21 days the Plan is constructively approved.

Town Counsel Adam Costa indicated that the application should have been a joint application with the Town Forest and Board of Selectmen. He suggested requesting an extension in order to provide sufficient time for the plan to be revised.

MOTION by Young, second by McGahan to hold the plan and ask the Town Planner notify the Town Forest Committee to submit a joint request with the Board of Selectmen for an extension of the plan. **Voted 5 – 0**

8:00 p.m. Hearing – 62 Ocean Avenue – Determination of Attractive Nuisance per M.G.L. C. 139, S.1

Chairman Soper read the notice of hearing dated July 11, 2014 to Mr. Dean Anderson,

*Dean Anderson;
Dean Anderson, Trustee of the
Crystal Realty Trust
62 Ocean Avenue
Halifax, MA 02338*

Re: 62 Ocean Avenue – Nuisance Structure

Mr. Anderson:

Pursuant to G.L. c. 139, §1, formal notice is hereby provided that the Hanson Board of Selectmen will hold a public hearing at 8:00 p.m. on July 22, 2014 at the Selectmen's Meeting Room at the Hanson Town Hall located at 542 Liberty Street in Hanson, Massachusetts. The purpose of the hearing will be to determine whether the building on the property that you own at 62 Ocean Avenue is dilapidated or dangerous and, if so, whether it constitutes a nuisance to the neighborhood and/or presents a danger to you, the public or emergency personnel. In the event that such a determination is warranted, the Board of Selectmen may issue an order requiring the disposition of such building. Such an Order may include, but not be limited to, an order that the building be secured or demolished within a defined time period. You are invited and encouraged to attend and offer your commentary at the hearing.

Sincerely,

*Ron San Angelo,
Town Administrator*

Chairman Soper informed the meeting that the hearing will be conducted similar to a court proceeding, in which evidence and testimony will be provided by the Town Administrator, Town Counsel Adam Costa, Fire Lt. Gary Smith, Building Commissioner Robert Curran and Police Officer Calogero, which will be presented by Chief Miksch and the property owner Dean Anderson.

Mr. San Angelo informed the Board that the hearing is a result of a recent meeting with various departments and ongoing issues at 62 Ocean Avenue. Mr. San Angelo requested that the Town Officials provide the Board with documentation as to why the Board should deem the property an attractive nuisance and possible demolition of the building.

Town Counsel Mr. Costa indicated that the proceedings are in accordance with MGL 139 which provides the Selectmen the authority to identify what appears to be a dilapidated or dangerous building. The Board will make a decision based on the evidence and testimony through the hearing process. Some of its options include requiring the property be secured or demolished. The decision must be in writing and submitted to the property owner.

Robert Curran provided the Board with a letter dated July 21, 2014

Honorable Board of Selectmen,

This correspondence is to serve as a history of the property located at 62 Ocean Ave. in Hanson including an overview of the problems with the buildings at its currently stands as well as violation of court orders that increase the dangers associated with the property as used and occupied by the owner.

A Building Permit was issued for the construction of a single family home on January 26, 2006.

Construction slowed in 2009, the owner was using the building to repair vehicles and to store personal items inside the

building without a Certificate of Occupancy as required by the State Building Code.

Over the next four years the Building Department brought forward law suits to prohibit the storage of unregistered vehicles, junk, debris, and car parts at the exterior, personal items inside of the building, power cords running across the roadway, car repairs on the property and inside of the building, as well as occupancy of the motor home and the structure.

The Town prevailed in court and there is now a Permanent Injunction prohibiting the owner from all illegal activity yet the owner continues to do whatever he pleases.

The Owner has been numerous found in Contempt of Court, was incarcerated on one occasion, fined \$150. per day for continued contempt; the Town continued to seek the Courts help without resolve. I have spent hundreds of hours in court; the Town has spent thousands of dollars to enforce the provisions of Zoning, Health, and Building Code regulations.

The owner was ordered to secure the building, yet the building remains open and dangerous.

On July 1, 2014 an inspection of the property revealed that the building contained a motor vehicle with the hood up in violation of previous orders.

On July 17, 2014 the owner was seen inside the building and a generator was running to supply electricity.

It is my opinion that the building is not safe, is not secure, is an immediate threat to public safety, and is especially dangerous in the event of a fire. The structure is a shell and will likely burn at a rapid rate spreading out of control posing a threat to adjacent properties and homes as well as residents and public safety personnel. At times that wind conditions off the pond can be severe and the narrow gravel roadway will make it difficult for fire apparatus to access this building.

The Building Permit was revoked on April 8, 2014.

Given the proximity to other homes on Ocean Avenue as well as the condition of the building, it is my recommendation that the Board of Selectmen declare this building an Attractive Nuisance and order the building removed.

*Sincerely,
Robert P. Curran
Building Commission
Zoning Enforcement Officer*

Mr. Curran, as way of demonstration, showed the Board a copy of a folder for 306 Pleasant Street which was an example of most files in the Building Department. Mr. Curran displayed two four inch accordion folders representing the volume material regarding Mr. Anderson's property. Mr. Curran explained that he has spent hundreds of hours in court dealing with the enforcement. The owner has been continued to be in violation. The owner has been in contempt of court on numerous occasions. Mr. Curran explained that nothing should be stored in the building. He provided several oversized photographs of the building exhibiting a state of disrepair and vehicles inside the buildings. Mr. Curran noted that all the sheathing is molded, the windows are not secure and are broken or missing. The building is not secure. The owner had been order by the court in 2012 to secure the building. However, the building remains open. The owner continues to occupy the building. On July 17, 2014 Mr. Curran's inspection revealed a generator was running on the property.

Mr. Curran noted that the building has no building permit as it had been revoked and is also expired. There is no reason for the owner to be in the building. There is no sheetrock, water or smoke detectors. Mr. Curran has witnessed the owner and another person inside the building on July 17th.

On July 1st Mr. Curran took a photo through an open door of a vehicle inside the building being worked on. Mr. Curran noted that there is a specific court order prohibiting the owner from working on vehicles inside the building. The owner continues to disobey the order.

Mr. Curran provided a photograph showing a retaining wall which according to Mr. Curran is seven feet into the roadway causing the roadway to be narrowed. Mr. Curran indicated that an ambulance could get by but questions whether fire apparatus could. Mr. Curran noted that the matter had been presented to Housing Court, but was informed such a matter should be addressed in Land Court.

Mr. Curran noted that even after four years of enforcement, court appearances, court orders and contempt, the property owner continues to do as he pleases on the property and is using the building now more than ever.

Mr. Curran is concerned that in the event of a fire the building will burn before the fire department arrives. He is also concerned it

will spread to adjacent properties. It poses a threat to other properties.

Mr. Curran's recommendation is that the Board order the building be taken down.

Mr. Young asked if an occupancy permit has ever been issued or whether the area is zoned for business. Mr. Curran indicated no occupancy permit was ever issued and the area is not in a business zone.

Mr. Curran indicated that the Town has permanent injunctions and has been awarded attorneys fees due to contempt charges. Mr. Curran gave a brief history of the various court orders and final actions of the Housing Court which recommended the Town proceed criminally in District Court because the Housing Court Judge has done everything from fining the property owner and putting him in jail.

Chairman Soper noted that he has spent numerous hours on this matter ranging from phone calls with constituents to speaking with town officials and the property owner. The matter has taking a lot of the Town's resources.

Mr. McGahan indicated that he took a ride by the property in order to be fair and agrees with Mr. Curran's assessment and the pictures presented are an accurate depiction of the property.

Mr. Curran indicated that the neighbors have called and are concerned about their own safety. Mr. Curran has never encountered a situation like this.

Mr. McGahan asked who is responsible for the cost of demolition. Mr. Curran noted that the property is in Tax Title. Mr. Curran would request funds to finance the removal of the building. Mr. San Angelo indicated that property owner would be responsible to remove the building. If the owner does not remove the building, the Town would remove the building.

Town Counsel Adam Costa informed that the Board that if it decides to order the building be razed, the property owner would be ordered to raze the building on his own within a reasonable time. Then the Town could go to court to get injunctive relief in the form of a Court Order to allow the Town to take the building down. The costs would be assessed to the property owner as a lien.

Mr. San Angelo noted that the property has back taxes in the amount of \$50,000 and is in tax title. If the owner is ordered to remove the building it is unlikely he will pay to have it removed.

Mr. McGahan asked would happen if the Board decided to just secure the property. The Court could order the property owner to secure the property. He would have to address the issues raised by the Town.

Lt. Gary Smith – Hanson Fire Department. Provided the Board with a letter dated July 21, 2014

Re: 62 Ocean Avenue – Nuisance Structure

Dear Board Members:

Per the Town's request the Fire Department has been requested to provide its opinion on the dangers of the structure located at 62 Ocean Avenue in the event of fire or unauthorized entry.

The structure is a residential building that has been under construction for the past eight plus years. There appears to be no progress towards the completion of the building and the building permit has been revoked for non-payment of taxes.

As to the dangers to the building in the event of fire, all buildings under construction pose an increased risk of fire and fire spread. Leading causes of fires in buildings under construction include incendiary or suspicious (39.5%) and open flame, embers or torches (20.8%). Fires in building under construction come with a unique set of circumstances. These buildings, depending on their level of completion, are missing many of the construction and fire protection features that help control or limit the spread of fire. One of these important features is the installation of drywall. Drywall protects the wood framing of the building and helps limit the spread of fire. To our knowledge this building does not have any drywall installed essentially making the building an unprotected lumber yard. In the event of a fire, without drywall in place, the fire would spread rapidly throughout the building. Unprotected assemblies of the building such as floor and ceiling and joists and roof assemblies would fail rapidly causing a collapse of part or all of the structure. The storage of additional construction materials, furniture and personal items inside the building would also contribute to the fire load.

Another area of concern is the building's location. The building is in close proximity to other houses on the streets with a pond located across the street. Due to the building's size and lack of fire protection features a fire in the structure, as stated, would spread rapidly and could be well or fully involved prior to the arrival of the Fire Department. The radiant heat and embers from the fire could cause other houses in the area to suffer damage or become involved in fire as a result. Winds coming off the pond could increase the spread of the fire and embers in the area. We can look at recent events in the town of Beverly

where a residential building under construction was destroyed by fire and the radiant heat and embers from this fire destroyed a second building under construction severely damaged a third and damaged six others. Access to the building would make fighting a fire difficult as the building is located on a narrow street that will only allow for the passage of one piece of apparatus. There is limited water supply to the area and due to the building's close proximity to the street if there were a collapse of the building during a fire the possibility exists of the road becoming blocked from falling debris blocking access to the residents beyond the obstruction.

There is no occupancy permit issued for this building. We have been informed by the town and through resident complaints that the owner is using the garage to repair motor vehicles. If this is the case it is unknown what types of repair equipment or flammable and combustible liquids, gases or solids may be stored inside. These items could cause or contribute to the spread of fire. Equipment such as cutting torches or welding machine, if being used, could also cause the start of a fire. There is no ventilation system in the building and carbon monoxide levels could rise to dangerous levels if vehicles are being run inside. The building has no power but the owner has used an electrical extension cord that has been run across the street to another house for power or, it has been reported that a generator has been used for owner. Both methods present possible electrical hazards that could contribute to the cause or spread of fire.

Other concerns are that there are reports that the building is being occupied by the owner and that he and possibly others have been staying in it overnight even though the building does not have an occupancy permit. The building does not have any working smoke or carbon monoxide detectors. Anyone staying in the house would not be alerted in the event of a fire or carbon monoxide incident. The building in its current condition lacks fall protection in several areas, incomplete egress systems and has not been secured from possible entry by vagrants or children. Due to these conditions anyone entering the building could be injured. These conditions also place fire department personnel at risk in the event of a fire. Without the building being properly secured from entry fire department personnel would have to assume there could be a person (s) inside the building and would have to enter the building to conduct a search if survivable conditions exist. With the lack of fall protection, open walls, possible openings in the floor and other unknown conditions firefighters conducting a search or attempting to extinguish a fire could fall, become trapped or disoriented in the buildings.

Due to the possible dangers listed above it is the Fire Department's opinion that this building should be made safe by securing it from entry, the owner completing its construction or its removal. If you have any questions regarding this letter you can contact Chief Jerome Thompson or me at 781-293-9571

*Respectfully
Gary A. Smith
Lieutenant, Hanson Fire*

Officer Calogero submitted the following letter to the Board of Selectmen dated July 18, 2014:

Chief Miksch reported that Office Calogero has been assigned to this case but was unable to attend the meeting. Chief Miksch is familiar with the property and its past history. He noted that most of the issues the police have had with the property have been violation of Hanson General By-laws 3 – 11 junk and unregistered motor vehicles. The Police have tried to work with Mr. Anderson and is now pursuing the violations in court. The Police Chief feels the building is an attractive nuisance and the building needs to be finished, boarded or taken down. The building cannot be secured properly.

Mr. Scott noted, that as a former member of the Board of Health he knows the history with Mr. Anderson is concerned that Mr. Anderson will not abide an order to board and stay out of the building. Chief Miksch agreed with the assessment.

Mr. McGahan indicated that a review of the list provided by Officer Calogero dates back to 1994. Chief Miksch indicated that the list provided includes calls to the location which included by-law violations prior to the issuance of the building permit.

Mr. Anderson was given an opportunity to speak. He indicated that he is just getting this information right now and is not in a position to properly defend himself. Mr. Anderson asked who gave the Officer Calogero, Lt. Smith and Mr. Curran permission to enter his property. He has been in court multiple times and no one has the right to enter his property. He has told that to previous board members and Town Administrators.

Mr. San Angelo informed the Board that Town Counsel prepared a draft order with respect to demolition. He noted that Town Counsel provided the letter in a format that the Board may chose to accept. The letter can be changed based on the Board decision whether it decides to board up the property or demolish the building. The letter outlines how to deem the property an attractive nuisance. Once a decision is made a letter would be sent to the property owner.

Chairman Soper asked for a consensus of the Board members based on the facts presented. Mr. Howard feels that the Board should order that the building be demolished.

Mr. McGahan offered his sympathy to Mr. Anderson and feels a man's home is sacred. But the findings are overwhelming.

Mr. Young feels the same, that a man's home is his castle. This matter has taken up a lot of time for everyone, but the evidence is overwhelming. He has no alternative to but support the demolition of the building.

Mr. Scott feels bad, but received no cooperation from Mr. Anderson when he worked with him in the Board of Health. He noted it is a shame, but needs to follow Town Counsel's recommendation.

Chairman Soper feels the same as the other members. Mr. Anderson has been uncooperative, pointing to Mr. Anderson's actions at Town Meeting boasting that he has cost the Town money in legal fees. Mr. Anderson leaves that Board no choice but to demolish the building.

Town Counsel Adam Costa wanted to clarify on the record, Mr. Anderson's statement that he is just hearing about this now. Attorney Costa asked the Board to confirm that, in fact, Mr. Anderson had been notified. The Board confirmed that Mr. Anderson had been duly notified of the hearing by mail and hand delivered a copy of the notice by a police officer on July 11, 2014. He also wanted on the record that the Board's decision will be based not only on the testimony at tonight's hearing, but also on the letters received by the Board from the various Town officials, mentioned earlier.

Attorney Costa noted that reference was made by a few Board members that they were following the recommendation of Town Counsel. He wished to make it clear that there was no predetermination of the outcome of the hearing. Counsel had prepared a draft of findings and order based on the context and information in the letters received by the Board from the Building Commissioner, Police and Fire Departments. Town Counsel is not making a recommendation. The letter is presented for the Board's consideration and discretion based on the evidence and testimony presented at the hearing.

Chairman Soper read the order, that the Board voted unanimously to **Order that you demolish the building** on the Property.

Within thirty (30) days from the date of the service of this Order, you must file a proper application for a demolition permit and diligently pursue such demolition so that the building is properly demolished on or before November 1, 2014. You may appeal this Order in accordance with G.L. c. 139, §2. A copy of the letter will be sent to Mr. Anderson at his home and delivered first and certified mail and constable. The Board acknowledges the decision is based on the testimony and letters presented and agrees to the findings as follows:

FINDINGS:

- *A house has been partially constructed on the Property. However, the Building Permit was revoked for non-payment of taxes.*
- *The house on the Property is open to the weather and has not received proper inspections. It does not appear that proper fire safety and fire suppression measures have been taken to ensure that a fire can be contained or fought. Building code inspections have not been conducted so as to ensure the structural integrity of the Property. The Property is at heightened risk for damage by fire or other casualty.*
- *The Property is not secure from entry by trespassers, including children. The Property is an attractive nuisance to children, who are at substantial risk if they enter into the Property.*
- *In the event of a fire, there is a substantial risk of injury or death to inhabitants, trespassers or emergency personnel who may be in the Property.*
- *The Town has undertaken several legal actions against you to forbid occupancy and other uses at the Property; and to bring the Property into compliance. You have failed to comply with the Orders and have been determined to be in contempt of two separate judgments.*
- *The Board finds that the Property is dangerous and poses an attractive nuisance.*
- *The Board finds that, in its present state, the Property is a general nuisance and eyesore.*
- *The Board finds that an Order to simply secure the Property and bring it into code-compliance is insufficient in that you have failed to comply with each and every order that has previously been given.*

MOTION of Soper seconded by McGahan, the Board voted unanimously to **Order that you demolish the building** on the Property. Within thirty (30) days from the date of the service of this Order, you must file a proper application for a demolition permit and diligently pursue such demolition so that the building is properly demolished on or before November 1, 2014. You may appeal this Order in accordance with G.L. c. 139, §2 and Authorize Town Administrator Ron San Angelo to send a copy of the letter via by first class, constable and certified mail. For discussion

Mr. Scott noted a few area communities have removed buildings which lead to legal action against the Town. Attorney Costa noted that is why he recommended getting a court order prior to the Town razing the building.

Moved to the vote - **Voted 5 – 0**

8:51 p.m. – Brief Recess

9:03 p.m. – Reconvened

Vote Bid Award ~ Town Hall Repair and Painting Project – Fox Painting

Painting of Town Hall – Mr. San Angelo noted in his Town Administrator’s report, three bids were received for the repair and painting of Town Hall. The low bid was submitted by Fox Painting in the amount of \$43,600.00 which is below the \$60,000 appropriated for the project. Mr. San Angelo corrected a typographical error in the paperwork noting that Dimitrios Contracting bid was \$53,477.00. He requested the Board authorize him to sign a contract which was prepared by Town Counsel with Fox Painting. Mr. San Angelo noted that Building Commissioner Bob Curran will be the point person for the project.

MOTION by Howard, second by Young to authorize Town Administrator Ron San Angelo to sign a contract with Fox Painting as established and approved by Town Counsel. **Voted 5 - 0**

Mr. Young asked about the remaining funds of the \$60,000. Mr. San Angelo indicated the remainder of the funds can be used for other repairs at Town Hall.

Appointments:

Deputy Emergency Management Director – Chief Michael Miksch- Exp 6/30/15

Chairman Soper noted that Fire Chief Thompson is the Emergency Management Director. Chief Miksch will serve in Chief Thompson’s absence.

MOTION by Howard, second by Scott to appointed Chief Miksch as the Deputy Emergency Management Director. **Voted 5 - 0**

Junk Dealer License Renewals

The Kings Ransom - 156 Liberty Street
DMV Industries LLC – 1282 Main Street

MOTION by Young, second by Howard to approve the renewal of the Junk Dealers licenses for The Kings Ransom and DMV Industries as presented.

Chairman Soper indicated that he had asked for clarification regarding DMV Industries and its proximity to the water aquifer. The Water Department reports it will not have an affect on the water aquifer. **Voted 5 – 0**

IV OLD BUSINESS

Discuss Pay-As-You Throw Grant process –

Mr. San Angelo provided to the Board a packet of information regarding the grant process. Mr. San Angelo noted in a memo to the Board dated July 15, 2014, that he surveyed area Town Administrators to determine how grants are handled in other communities.

All the other Town Administrators indicated that they apply, accept and sign all grants and they do not go through the Board of Selectmen. Mr. San Angelo read and provided the Board with copy of an e-mail he sent to Town Counsel dated July 16th and Town Counsel’s reply:

~

Jay

I just want to check in with you to verify that I have been following the correct procedure when it comes to filing for grants and signing all grant documents.

~

A number of Selectmen have asked about the issue of grants and how the Town of Hanson applies for and accepts grants.

~

The Town Administrators Act under Section 4 sub (c) gives the following responsibility to the Town Administrator.

~

(c) Seek out, prepare, coordinate, and file applications for state and federal grants.

~

Of course, I want to make sure I do things correctly, so I checked with other Town Administrators in the South Shore Area and they also sign all grant documents.

~

The grant in question is attached. Can you tell me if I have the authority to sign this grant and under what authority? I believe it to be the Town Administrators Act, but I want to be absolutely sure.

~

I have copied our Chairman of the Board of Selectmen, so that he is informed about this issue as well

~

Thanks,

~

Ron

Response from Jay Talerman dated July 16th 12:38 p.m.

Ron: As you know, the Special Act in question was intended to vest the Administrator with clear duties, responsibilities and powers in a manner that expands upon the powers of a Town Administrator under general statutes.~ Among those expanded powers is the power to take certain actions with respect to grants.~ To that end, in my opinion, the clear language of Section 4(c) must be read for the proposition that you have the authority to take all actions and execute all documents necessary to process and accept grants.~

While you certainly do not have the power to seek out grants that are contrary to the directives of the Town, in this instance, the Town and the Board of Selectmen (as well as the Board of Health) have already taken actions to accept and approve the Pay as you Throw program.~ As such, your actions in the processing of the grant in question was, in my opinion, clearly within your powers under the Special Act.

I hope this helps.

Jays

Mr. San Angelo provided a brief history of the Pay As You Throw grant. The process started prior to his arrival. Town Administrator Rene Read had requested the Town Planner and Health Agent work on the grant application. Mr. San Angelo continued on with the application process even before the Town implemented Pay As You Throw. DEP provided an implementation plan for the grant as a way to promote recycling.

As part of the grant, DEP requires that regulations be adopted by Board of Health to require haulers provide curbside pick up for both trash and recycling for one bundled price. DEP prohibits haulers from having recyclable in the trash and the haulers can be fined.

Mr. San Angelo acknowledges that some residents would use curbside and also will continue to recycle at the Transfer Station. DEP believes that these people are not the majority.

Mr. San Angelo reports that recycling has doubled at the Transfer Station and trash has been reduced considerably from a full container per day to one to two containers per week. The PAYT program has been a success as it encourages recycling. Residents who use curbside have no incentive to recycle.

Mr. San Angelo indicated that there are twelve to thirteen haulers operating in Town. The controversy started when one of the haulers offered a lower price for trash removal only in spite of the Board of Health regulation. Mr. San Angelo feels it is a marketing plan for one hauler. The Town does not dictate the price for the haulers. The residents have a choice between haulers.

Mr. San Angelo reported that approximately three thousand people have received new stickers. If Board of Health decides to rescind the regulations then the 3000 people will lose the benefit of the \$18,000 grant.

Board of Selectmen has the right to reject the grant, but it is the Board of Health's decision to rescind the regulation. He recommended that if the Board of Selectmen decides to return the grant, then the Board of Health should first vote to rescind the regulation

Chairman Soper asked how many households represent the 3000 stickers. Mr. San Angelo believes approximately 2000 households have stickers. Mr. San Angelo doesn't know how many residents have gone to curbside pick up, but estimated more than 500 residents have contracted with private haulers.

Mr. McGahan has reviewed several documents and agrees that the Board of Health has the right to rescind the regulations. Mr. McGahan feels it would not be logical for the Selectmen to reject the grant if the Board of Health does not rescind the regulation.

Mr. McGahan asked why the regulations require a list of customers of the haulers noting that some residents may also have stickers and use the Transfer Station. Mr. McGahan feels that the PAYT program should have gone to a vote of Town Meeting as people want option. He complimented the new layout of the Transfer Station.

Mr. McGahan feels the Town is punishing people who don't recycle. Mr. McGahan feels the requirement of collecting customers' information puts additional work on the trash haulers. Mr. San Angelo indicated that the State does not require the customer information from the haulers and the Board of Health can remove that from regulation.

Mr. McGahan asked if the Town can be fined if it doesn't properly recycle. Mr. San Angelo indicated that the Town can be fined as well.

Mr. San Angelo explained that DEP required new stickers to determine how many residents are using the Transfer Station. DEP was concerned that former residents were still using the Transfer Station after having moved from Town, so new stickers were issued.

Mr. McGahan inquired about the secure-a-lot camera system that takes pictures of the plate numbers of vehicles when they use the transfer station. If a vehicle is from out of town then a letter is sent to them. Mr. San Angelo indicated that after additional review of the secure-a-lot system, the Board of Health staff has reconsidered using the system.

Mr. McGahan reiterated that he did not like the way the Town went about implementing the grant. Mr. San Angelo pointed out that Selectmen have the power and authority to make the decision even though it was a controversial decision.

Mr. McGahan asked how much of the taxes pay for the transfer station. Mr. San Angelo indicated that total budget for the Transfer Station is \$350,000 of which \$150,000 is paid through taxation to pay the fixed costs and salaries. The other \$200,000 is guaranteed revenue from bag sales which pays for the hauling costs.

Mr. McGahan inquired about the Waste Zero provision in the contract which allows for the Town to get out of the contract with 90 days notice. Mr. San Angelo noted that he had that provision added to the contract for the Town's protection. Mr. San Angelo pointed out that if the Town got out of the contract, it would have to cover the cost of trash removal.

Mr. Young pointed out that the grant induced regulation was forced on the Town back in March 29, 2013. Mr. Young did not learn of the grant until he became a Selectman on May 17, 2014. Mr. Young reviewed the grant pages and requirements which states the private trash hauler must be required through permit conditions to provide integrated solid waste and recycling services to resident customers for one bundled price. The purpose of the requirement is to level the playing field and minimize the number of households opting out of municipal PAYT program. The requirement is waived by using an opt out component where residents can get rid of one bag a week for free.

Mr. Young reviewed the implementation plan and check list which was sent to Mr. Egan in October 2013. When the final grant was returned, Mr. San Angelo signed the grant on May 22nd. Mr. Young and Mr. Scott didn't know anything about the grant or the grant requirements at the time the grant was signed. Mr. Young read sections of the grant and noted that the Board of Selectmen did not vote to approve the grant. Noting that the responsibilities of the grantee, section 1 authority the signatory of the grant agreement is authorized by the governing body of the grantee (Board of Selectmen) to enter into the grant agreement on behalf of the grantee and accept and utilize the grant. Mr. Young indicated that if the Board of Selectmen never voted to authorize the Town Administrator to sign the grant, then the grant does not exist.

Mr. San Angelo indicated that the Town Administrator Act gives him the authority to sign grants. Mr. San Angelo provided the Board with a list of other grants that have been signed by the Town Administrators in the past and have not been approved by the Board of Selectmen. Mr. San Angelo noted that only reason this grant is an issue is that there are strings attached.

Mr. Young disagrees, noting that this particular grant requires the authorization of the Board of Selectmen.

Mr. San Angelo noted that he had received a legal opinion from Town Counsel and he could get a formal opinion from Town Counsel. Mr. San Angelo questioned which prevails the Town Administrator Act or the grant language.

Attorney Costa noted that Attorney Jay Talermin handled the discussion and had not read the document. He would be happy to review all the information with Attorney Talermin.

Mr. Amado, Board of Health Chairman noted that the Board of Health has always received grants from the DEP for years totaling over \$40,000 which includes the \$18,000 PAYT grant. Mr. Amado indicated that the regulation is already part of the State 310 CMR 1907. The Town has to enforce the regulation. The hauler has to comply with state regulations. The Board of Health ensures that all haulers are in compliance and on a level playing field. Mr. Amado does not feel turning the grant money back is a good idea as the money will go to the initial start up costs of the Pay As You Throw.

Mr. Young explained that the regulation is grant induced requiring the haulers to provide bundled services and is different than State regulation 310CMR1907.

Lengthy discussion as the Board accepted questions and comments from the audience. Mike Murray indicated that he reviewed the minutes of meetings of the Board of Health, the Board of Health did not officially open the hearing. Mr. Murray wants all the residents to get one free bags.

Mr. Lundell asked if the price of the bags will be reduced next year if the Town brings in more money than expected. Mr. San Angelo indicated that WasteZero created formula which calculates the cost of the bags based on the estimated amount of trash which will be generated. Mr. San Angelo explained that if the bag sales generated more revenue, residents, at Town Meeting during the budget process, can decide to continue to pay for the Transfer Station through taxation or through the Enterprise fund. Mr. San Angelo noted it will take year to determine the actual revenues and costs.

Mr. Armstrong indicated that a previous Board of Selectmen voted an energy policy. The committee made a commitment to reduce energy of the town by twenty percent. The Town needs to reduce future costs of the town. The process needs to work.

Jean Keane – she has a problem with the grant induced regulation. She wants to go to the transfer station with her recycling. She does not want to be forced to pay for recycling with a hauler.

Mr. McGahan asked Mr. Amado asked if the Board of Selectmen voted to return the grant, would the Board of Health rescind the regulation. Mr. McGahan noted that it would not make any sense returning the grant if the Board of Health does not rescind the regulation. Mr. Amado said no the Board would not rescind the grant. Mr. McGahan feels that that the regulation has been designed for the grant and keeping the grant will be hurtful to residents. Mr. Amado noted that all hauler recycle except for one. Mr. Young noted that without the grant, the Board of Health wouldn't have the regulation.

Mr. McGahan as Mr. Amado to reconsider the regulation.

Marianne DiMascio noted that there is a value in the grant because it encourages recycling. Ms. DiMascio asked if the Town returns the grant will it be ineligible of future grants. The Town Accountant indicated it would only effect sustainable grants. The haulers require the customers to recycling. She also noted that Board of Health voted this evening not reconsider the regulation.

Mr. McGahan noted that the regulation serves one purpose which is the grant. He pointed out that Mr. Amado says that CMR requires the bundling. If the State requires it, why is the town adopting a regulation.

Mrs. Dahlberg thinks that residents should have a say at Town Meeting. She doesn't have a problem with PAYT. She feels recycling is wonder and has been doing it for 25 – 30 years.

Mr. Armstrong pointed out that the State CMR requires that haulers to separate the trash and recyclables before it is brought to the

landfill.

Arlene Dias, Briggs Street has switched to a hauler to get a better price. She has the option to recycle and still goes to the Transfer Station. She is willing to negotiate with the hauler.

Mr. Amado indicated that DEP has hired inspectors to inspect trash at disposal stations and will assess penalties to the hauler and the community. Mr. Amado feels it is a mistake to rescind the grant.

Mr. McGahan indicated that he could not find the requirement in the State regulations that haulers must submit the customer names and addresses to the Towns. Administrative Assistant Theresa Cocio informed the Board that trash haulers have been sending the list of customers to the Board of Health prior to the implementation of Pay As You Throw. She feels that other communities may require it and the haulers automatically send the information to Hanson.

Mr. McGahan feels it if the Board of Health is not going to rescind the regulation it would not be foolish to withdraw the grant. Mr. McGahan feels the regulation is only to obtain the grant.

Mr. McGahan indicated that he is trying to right a wrong. He feels that PAYT should have been brought to the residents for a vote.

MOTION by McGahan, second by Young to withdraw the grant and believe the regulation is in place because for the grant and recommends that the Board of the Health reconsider the regulation for discussion.

Mrs. Morway asked why is the \$18,000 is so important and what is the money being use for. She has not seen anything significant at the Transfer Station. The Town Accountant indicated that the grant has not been fully spent. To date \$6,500 has been spent for lines and signage. Mr. San Angelo indicated that the mailer was sent out, signage and line painting. The cost would be for staffing for the implementation of the PAYT program. The \$18,000 would benefit the citizens of Hanson because the cost does not come from taxation.

Mr. Young read the following statement:

Reasons I am voting to rescind the DEP Grant:

Should we really approve an \$18,000 grant that is conditional on the Board of Health adopting a regulation that puts the town transfer station in active competition with private haulers and their customers in hopes that more homeowners will come with their orange bags to the transfer station and in addition a regulation that puts a record keeping burden on the private haulers and mandates that they provide the names and addresses of their customers to the Board of Health.

The effect of the grant regulation is to charge Hanson taxpayers twice if they opt for curbside trash pickup, once through taxation and then again through their bundled charge from their curbside haulers.

Any decision for approval of a grant application that changes long established policies of the town and how a department is operated should be debated, decided and approved by the elected boards and not any one person whether the town administrator, town planner or other such individual.

Voted 3 – 2 (Soper & Howard)

Mr. San Angelo said that a letter will need to be authorized by the Board to notify DEP not to accept the grant. Brief discussion as to how to handle the \$6,500 already spent in anticipation of the grant. An article will be on the October warrant to pay for the costs. Mr. McLeod feels the Town Administrator act should be amended to require grants be brought before the Selectmen. Mr. San Angelo noted that revisions to the Town Administrator Act would require legislative approval. Mr. McLeod feels Mr. San Angelo was working in good faith.

Mr. McGahan indicated that the letter to DEP could be sent from the Town Administrator.

Hanson Library Foundation – Thurs, July 31st 6:00 p.m. to 10:00 p.m. – Trivia Night
Mallory Bongiorno, Groveland, Fri., Aug 1st 6:00 p.m. to 11:00 p.m. – Wedding
Jennifer Jardin, East Bridgewater, Sat., Aug. 2nd 5:00 p.m. to 10:00 p.m. – Wedding
Alison Lonergan, Hanson, Sun., Aug. 3rd, 12:00 p.m. to 4:00 p.m. – Shower
Megan Barry, Cambridge, Sat., Aug. 9th, 4:00 p.m to 10:00 p.m. – Wedding
Michael Cuscianna, Weymouth, Sun., Aug. 10th 4:00 p.m. to 9:00 p.m. – Wedding
Laura Kemmett, Hanson, Tues., Aug. 12th 5:00 p.m. to 10:00 p.m. – Fundraiser
Taryn Trapp, Hanover, Fri., Aug. 15th 5:00 p.m. to 9:00 p.m. – Wedding Rehearsal
Taryn Trapp, Hanover, Sat., Aug. 16th 5:30 p.m. to 10:30 p.m. – Wedding
Haley Dargin, Hingham, Fri, Aug. 22nd 5:00 p.m. to 10:00 p.m. – Wedding
Sarah Duggan, Spencer, Sat., Aug. 24th 5:00 p.m. to 11:00 p.m. – Wedding
Amelia McInnis, Hanson, Sat., Aug. 23rd 3:30 p.m. to 9:30 p.m. – Wedding
Evelyn Shaw, Stoughton, Fri., Aug., 29th 5:30 p.m. to 10:30 p.m. – Wedding
Lisa Benube, Somerville, Sat., Aug., 30th 4:00 p.m. to 10:00 p.m. – Wedding
Diane LaTaille, Melrose, Sun., Aug. 31th 4:00 p.m. to 9:00 p.m. – Wedding

MOTION by Howard, second Young to approve the one day liquor licenses as presented.

Voted 5 – 0

VI APPROVE MINUTES

July 8, 2014

MOTION by Howard, second McGahan to approve the minutes of July 8, 2014.

Chairman Soper requested amendments to the minutes, under agents for Liquor Licenses, paragraph after initial motion, fourth line
“Chief Miksch explained that the **appoints**” should be appointments.

Chairman Soper also requested that his comment be added to the same paragraph. “Chairman Soper cautioned the Chief of Police about broadening powers and the Chief reiterated that they are not looking to broaden the powers but to keep things as they are”.

Chief Miksch noted that he was only requesting the officers be agents for the liquor licenses and he had reviewed the language with the ABCC. Mrs. Marini indicated that review of the minutes of July 8th the Board actually voted the police officers as agents of the Local Licensing Authority not just the Local Liquor Licensing Authority. The Chief’s reviewed of the by-laws, and the officers are not doing anything over and above their authority and they he was comfortable with the title of agents for the Local Licensing Authority.

MOTION by Howard, second by Young to approve the amendments the minutes of July 8, 2014.

Voted 5 – 0

MOTION by Howard, second by Young to approve minutes as amended. **Voted 5 – 0**

VII EXECUTIVE SESSION

Chairman Soper announced that the Board would be going into Executive Session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares –Administrative Professionals Union. The Board will return to open session only to adjourn.

So Moved by Howard, second by Soper. **Roll Call Howard aye, McGahan aye, Soper Aye, Young Aye and Scott Aye. Voted 5 – 0**

11:02 p.m. Brief Recess

11:18 p.m. Returned to open session

VIII ADJOURNMENT

MOTION by Howard, second by Scott to adjourn. ***Voted 5 - 0***

11:19 p.m. Meeting Adjourn.

Respectfully submitted,

Meredith Marini,
Executive Assistant