

Board of Selectmen
21 May 2007
Minutes

6:02 p.m. - Chairman Brian Forst called the meeting to order. Present were Chairman Forst, Selectman Dave Clairmont, Administrative Assistant Tim Warren and Clerk Lois Dionne. Selectman Guarino arrived at 8:10 p.m.

1st Congregational Society (Smith Meetinghouse) – At a previous meeting, George Roberts and Frank Bosiak had requested permission from the Selectmen to cut brush on the Town's right-of-way on Governors Road to widen the access at the entrance to the meetinghouse to a width of 22 feet to enable two cars to be able to pass. This would have entailed cutting brush in the right-of-way abutting the Bartlett's property. The Selectmen asked to have George and Frank come back tonight along with the Bartlett's to discuss the cutting. Mr. Roberts and Mr. Bosiak were present tonight, but Tim Warren said he had been unsuccessful in contacting the Bartletts. Mr. Roberts said he had not seen them either.

George had a map of the area, and pointed out, as he had at the last meeting, where they wanted to cut brush and widen the access. There was discussion during which Dave stated that he usually donates to the Smith Meetinghouse Fund, but would be willing to donate a few hours with his machine to help with the work. Tim Warren stated that they would have to stake out where they plan to widen the road on the Bartlett's side, so the Bartletts could see what is planned. Dave indicated that he is supposed to walk Governor's Road with the Class VI road committee tomorrow night, and would help George stake out the road if it is still light when he gets finished with the walk; if he couldn't do it tomorrow, he would try to do it the following night. He said they would still have to contact the Bartletts.

Chairman Brian Forst stated that if everyone is in agreement with the work that is being requested to be done, then he sees no problem with their going ahead.

Pine Circle Association? – The Town had received a request from Doug Isleib to contribute to the road maintenance on Pine Circle because we own a parcel of property on Pine Circle. It had been conveyed to Mr. Isleib that the Town does not contribute to an association for the maintenance of a private way.

Tim said it had been mentioned to him that Doug Isleib had made a statement at either a ZBA or Planning Board meeting that there no Pine Circle Association, and it is just Doug trying to recoup his cost for maintaining the road. Dave didn't feel it was so much to

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recoup Doug's cost, as it is to try to obtain an organized effort, so everyone within that community can share the cost of maintaining the road. He said it isn't a legal entity as an association, but probably just a membership. He said it had been said at a meeting that it was an association, and felt Doug's comment was to clarify that it was not an association. Brian Forst said he had been under the impression that when the request had been made, that it had been made by somebody officiating for some kind of organization. Brian added that he felt it would be rash for the Town to give money to an individual for maintenance of a private way.

Dave felt that perhaps they should recommend that people on Pine Circle should form some sort of membership or something, so they would have something official. He said he would talk with Doug.

Discussion Vault Finishing & Landscaping – At last week's meeting members of the HDC, the Town Clerk, the Code Enforcement Officer, and Doreen Desmarais of Desmarais Construction met to discuss what was perceived as shoddy workmanship and non-compliance with what had been applied for when the Town went before the HDC with an application to build the vault. Doreen agreed that much of the work did not meet standards, and she was also unhappy with the job.

Tonight Doreen and Town Clerk Deb Cornett and members of the HDC were again present to discuss the situation. Doreen had plans on how to rectify the problems. She started to explain the plans. After a brief explanation and discussion, Chairman Forst felt it would be easier to move the meeting outside, so everyone could get a better idea of what was being proposed.

6:30 p.m. – The meeting was moved outside.

It was stated that the stairs would be removed so the walkway and railing could be moved out to the edge of the roof of the vault, and a fascia board would be made to match the board currently on the rest of the building. (New railings will be made). The stairs would then go down to the parking lot. Detailed minutes of much of the conversations could not be gotten because people broke off into two or three groups and there was also the noise of a lawnmower from the Towle property to try to speak over.

Brian Forst asked about using vinyl for the fascia board because it wouldn't rot and have to be replaced every couple of years like wood. He said it would be difficult to tell the difference.

George Roberts wanted to use the same stone as the foundation of the building as a fascia to cover the side of the vault facing Province Road.

Perry Onion stated that the architect they had met with had said the grade should be 8" below the window. Tim Warren stated that the grade had never been that low.

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Doreen stated that they could only go down so far because there is a drainage pipe there. Brian Forst stated that if they go too low, the pipe might freeze in the winter. There was discussion of the rubber membrane on the roof, and it was felt that river stone would be the best thing to put on top of the membrane. There was considerable discussion about what could be done to prevent the stone from washing off the roof. It was felt the fascia board could go about an inch above the roof and be shimmed out about ½ an inch so the water could drain out, yet keep the stones in place.

There was also a discussion about the brick wall. The current wall will be removed and replaced, and will be wrapped around the side of the vault onto the side facing Doug Towle's property. Part of this wall will be under ground. The piles of dirt will be removed and the lawn will be sloped down toward the parking lot.

7:05 p.m. – The meeting moved back inside.

Chairman Forst stated that correcting the inferior workmanship would be the contractor's responsibility, but asked Doreen if she had any idea of what the additions, whichever way it is decided to go, would amount to. He also asked Tim if there was any money left in the budget for the vault. Tim said he would have to get a copy of the expenditure report. Doreen said it would cost between three and four dollars per brick, which includes the cost of the brick and paying a mason to lay the brick. Tim reported that there was about \$8,400 left in the account. Doreen didn't have any idea on the cost of the stone. Brian asked Doreen to get an estimate on the additional work and supplies which includes stone facing Province Road, the brick wall down to the parking lot facing Doug Towle's and the difference for putting stone on the roof of the vault instead of loaming and seeding it.

Dave Clairmont stated that with all the changes, it was unlikely that the job could be done by the 4th of July, as had been hoped last week. He added that it was more important to get the project done correctly than to get it done quickly.

Doreen said they could get the gravel cleaned up and make it look nicer while doing the work. Doreen said they would put the air conditioner in on Wednesday and will put down a prefab concrete drip pan, so there would be no issue with icicles coming down onto the rubber membrane.

Perry Onion stated that vinyl is against HDC regulations, but they would make an exception and allow the use of a vinyl fascia board because they have no other choice.

7:02 p.m. – Public Input

Vault -Maurice Munsey, who had entered the meeting at the end of the discussion of the vault, asked what the problems were. Chairman Forst explained that there had been some concern, on the part of the HDC as to how the project was going; they didn't like the way it was being done. He said they had spent a couple of weeks trying to come to an

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agreement as to how it would be finished off. Dave said there was some concern that the construction work and masonry work are not to our satisfaction, so it has to be corrected. Brian said the contractor would have to pretty much take the external part of the project apart, and redo it. Mr. Munsey asked why it wasn't done right in the first place. Brian didn't have a definite answer, but said the contractor had the subcontractors all lined, but we were held up when we went to the HDC, and the subcontractors had gone on to other work.

Donovan/Gale Road – Ella Jo Regan, on behalf of the Class VI Roads Committee, stated that she understood the Donovan/Gale Road issue had been put back into the lap of the Selectmen. Ella Jo stated that the Class VI Committee has worked very hard for the past year and a half walking and documenting the Class VI roads in town. She said they have just three roads left to do, and they are scheduled to walk them this week, and next week they would start the process of talking and trying to come up with suggestions for the Board of Selectmen as to possible roads or areas where it might make sense to allow some kind of development of roads and the method by which it might happen. Ella Jo stated that she hoped the Board would not act on that issue until they have heard from the Class VI Road Committee. She felt if they were to act prior to that, it would negate the kind of work the team of people have done.

Brian asked if the Donovan/Gale Road issue was brought forth prior to the moratorium on Class VI Roads. Ella Jo wasn't sure. She said the date the Morrills had first requested a building permit had been in 2004. Ella Jo said she would have to go back to the Planning Board; that is where the initial request for a moratorium came from to the Selectmen. Brian thought the moratorium had been voted on at town meeting, but was told that it hadn't been; the moratorium voted on at town meeting had been a building moratorium. Ella Jo said the Class VI Road issue was a decision between the Planning Board and the Board of Selectmen to hold off building on a Class VI road until there had been an assessment done of all the Class VI roads, and that has now been done. Ella Jo said that Gale Road had been reclassified as a Class VI road about 1951, and Donovan Road (then Perkins Rd.) had been done about 1978. She felt it was about 1978 that the two houses had been built, and it was since about 1993 the Donovans moved into theirs, and the Morrills had been used as a camp.

Ella Jo stated that she did not see the moratorium as being critical to whether or not the request came before or after the moratorium, in the sense that it is a standard town policy that to build on any Class VI road, the road had to be brought up to a Class V standard. She said that has happened several times, including people having to pave the portion of the road that abutted their land, not the other section.

Ella Jo stated that, as a taxpayer, her concern is that it is going to be extremely dangerous if we start subsidizing owners of property on Class VI roads, because it will come on the taxpayer's head to maintain and upgrade the roads. Ella Jo added that we have required this upgrade as a regular basis, and RSA 647-41 clearly says the road needs to be brought

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up to a Class VI standard. Another concern was the increased amount of services that would be required. Ella Jo stated that everybody has the right to access their property, but she also felt there could be many legal issues if this exception were to be made.

HDC Applications – George Roberts inquired as to whether there had been any more application to the HDC. He was told we have one applicant who had been unable to make the meeting when interviews were held for positions on the various boards. Tim said we have one more application, and we would try to schedule them both for interviews on the same day.

Review of Minutes

The Selectmen reviewed the minutes of May 17th. This meeting was to open and award the bids for the replacement of the Culvert on Shellcamp Beach.

MOTION – selectman Clairmont moved to accept the minutes of May 17th. Brian Forst seconded. Motion passed 2-0.

The Selectmen chose to wait to approve the minutes of last week's minutes until after the arrival of Selectmen Guarino.

Plum/Berry Ave. – Property Line Discussion

There has been some controversy on property lines on properties on Plum and Berry Avenues that came to light when the Town-owned properties were to be auctioned off. There was a question as to the actual property lines, so one lot had to be pulled from the last auction. The issues were discussed with property owners, and a survey of the area has been done. Robert Harding is the owner of the property that was the major concern. Mr. Harding was present tonight to discuss the issue.

Tim Warren informed Mr. Harding that several things had happened since the last time he had been here. Tim said we had made sure all the lots are on Berry Ave. that are supposed to be there, and are accounted for. He said the Town lot had been surveyed, and the Town had been remapped. Tim said there had been an aerial fly-over, and the company doing the mapping had taken all the deeds, records and plans we have to make sure everybody's lot is where it is supposed to be. Tim stated that in doing that they had found lot 166, a lot that had previously been in question. He said the lot is where Mr. Harding's cabin sits. Mr. Harding stated that is what his deed says. Tim said Mr. Harding had actually purchased lots 164 and 165. Mr. Harding said his deed says he purchased lots 165 and 166. Tim asked who owns lot 164. Mr. Harding stated that is the Town's lot.

Tim had a plan that showed lot 166 had been tax deeded to the town in 1973. He said we also have a quick-claim deed from Kevin Morrissette, the grandson of the gentleman who developed the area, and he has power of attorney to clear up the land dispute, and has since deeded it to the town. Tim said his understanding is that Mr. Harding owns lots

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164 and 165. Mr. Harding stated that he had been called about ten years ago, and asked if he would change the number on his deed, and he had said no. He said he would have had to pay for a lawyer to do this. Tim had deeds from the estate of John Harvey to Robert Harding, Jr. for lot 164 and 165. Tim said what the Town is looking to do is swap so Mr. Harding would own lots 165 and 166 and the Town would get back lot 164. Tim said we would do a deed from the Town to Mr. Harding for lot 166, and a deed from Mr. Harding to the Town for lot 164, which would just be a swap. Tim said Town Counsel suggested that Mr. Acquilano buy lot 164, and a boundary line adjustment be done to divide the lot between Mr. Acquilano, Mr. Harding and Mr. Boudreau. This would give Mr. Acquilano the access he needs to his property.

Dave explained that the Town couldn't do the property line adjustment; they have to sell the lot, and then the owner goes to the Planning Board for a property line adjustment. Mr. Harding felt this would be a good solution to the problem. Tim said he still needs to speak with Mr. Boudreau.

FYI's & Other Business

Road Maintenance – Selectman Clairmont presented a letter to the Selectmen indicating that Richard Foss and Bill Angevine have concerns about the way a section of Meetinghouse Road is maintained in the areas adjacent to their properties. They are unhappy with the heavy concentration of stone and gravel from the road that is deposited on areas of their lawns. He said Mr. Foss feels there is a heavy concentration of gravel in ditches along Meetinghouse Road and it should be graded into the material on the road, mixed and re-distributed onto the surface of the road. Selectman Clairmont added that it could easily be done, but he had told Mr. Foss it might be too soon for the Highway Department to do that because the roads and ditches are still quite soft.

Selectman Clairmont said Mr. Foss felt there is an earth berm that has been created on the left edge of the road going from the former Little Bill Swain Farm to the wooded area of Meetinghouse Road toward 107. He said Mr. Foss would like to have that berm removed, to allow water to drain off the road along the field instead of running down the berm, concentrating in one spot creating erosion problems.

Selectman Clairmont stated that Mr. Foss asked why, when cleaning an inlet to a culvert next to Mr. Roberts' property, they had piled the gravel onto a stonewall so it is spilling onto Mr. Roberts' property.

Mr. Foss was also concerned that there is an ice problem that occurs in front of the former home of Bob Daigneau at a catch basin at the inlet of a culvert that crosses Meetinghouse Road. He stated that both the catch basin and the culvert are plugged and need to be cleaned. Selectman Clairmont had pictures of the areas of concern brought forth tonight.

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Selectman Clairmont asked that a copy of this letter be sent to the Road Agent for his review, and a copy to Mr. Foss and Mr. Angevine. He stated it is important that both parties know he has discussed this with the Board and that we will try to promote a satisfactory end to the issue.

Crystal Farms/Hoyle Tanner – Dave said a response had been received from Hoyle Tanner regarding the work done for Kurt Rague. He asked to whom Kurt should send the check, the town or Hoyle Tanner. Tim said it should be sent to the Town so we could keep a paper trail. Dave said before Hoyle Tanner does any more work Kurt wants to be notified, so asked that the Town ask them to hold off until further notice. Dave asked Tim to send a memo to Nancy Girard.

Fire Truck Refurbishment - Selectman Clairmont asked if we had heard anything more on the refurbishment of the fire truck. Tim replied that we hadn't.

Shellcamp Culvert Project – Selectman Clairmont informed the Board that Justin Caldon would give him a chip so Dave will be able to make a photo documentation of the Shellcamp culvert project.

Chairman Forst stated that Ted Maltzie had concerns about the way the work was being done. Brian stated that he had looked at the work and felt that they had done a good job taking the sand out of the water. Selectman Guarino felt they had done a good job pulling the sand out, and establishing the shoreline back to its original condition. He added that the pipe had to be altered because of a big rock that couldn't be removed. There was also a discussion of the outlet hole on the catch basin, but felt it was fine. It was stated that Paul Perkins would inspect the work. There was discussion about a culvert that crosses Lakeshore Drive, and it was felt it would be suitable for several years. It was also stated that Shellcamp Association would put two loads of sand on the beach, at their expense. The job should be done by tomorrow noon.

Building Permit - Thomas Lizotte who owns property on Cedar Drive in Valley Shores stated that he has an unbuildable lot, and asked what he could do to make it a buildable lot.

The building files for the property were pulled. A building permit had been approved to allow the construction of a 32' X 32' 2-bedroom, single-family dwelling on April 17, 1989. The approval was never acted upon by the applicant, so according to zoning regulations, the approval expired one year from the date of issuance.

A request for a variance by Richard Fereshetian (previous property owner) to build a single-family dwelling had been denied on August 18, 2005. It was denied because it was felt due to the road condition, emergency vehicles could not access the lot, and there was no unnecessary hardship because the owner purchased the lot knowing that it was

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unbuildable. The denial also stated that additional information was requested of the applicant, but was not forthcoming.

On October 20, 2005 the Zoning Board denied a request by Mr. Lizotte to rehear the decision of August 18, 2005 because it was untimely and it does not state grounds for a rehearing in the letter of request from the applicant.

After much discussion, it was stated that Mr. Lizotte's only option was to apply to the Zoning Board again.

Donovan/Gale Road Issue – Selectman Clairmont stated that the Zoning Board decision on the Morrill case sent the issue back to the Selectmen. Dave stated that he wanted to reiterate some points.

The first point being that the Town has a limited amount of responsibility for maintaining Gale Road because of the Town forest. He said we need to make it passable during logging operations, and because of establishing a parking area for people who want to go into the forest; we have, to a certain extent, a responsibility for maintaining that.

Selectman Guarino stated that Gale Road, below the turnaround, is a Class VI road, and most Class VI roads are used for recreation purposes, but we don't maintain them.

Tim Warren said you have to be careful about maintaining Class VI roads, because if you maintain them for five years, they revert to Class V status. He said you could put some gravel down and grade it every few years, but not have yearly maintenance.

Selectman Clairmont stated that the Donovans had not signed a waiver of responsibility to live in their home on a Class VI road, and felt that would mean the Town would have to legally make an effort to try to access their property in case of an emergency. Selectman Guarino stated that home had been built prior to zoning, and didn't require a waiver at that time.

There was a discussion about the difference of a year round home, and a seasonal camp. Don stated that the State Supreme Court has stated that there is no difference between a year-round home and a seasonal one in terms of a residence. Selectman Clairmont felt that supports the Morrills situation where they have a camp that had been a seasonal residence. Dave stated that the Morrills have already had a structure on their property for 28 years, and a court case had clearly stated that there was no distinction between a year-round and a seasonal dwelling. He stated that it was very unambiguous; there was no gray area. Dave stated that the court had ruled that forcing the Morrills to upgrade to Class V subdivision regulations is not acceptable; it is too much of a hardship for one person to bear. Tim stated that he thought the court had specifically said Gale and Donovan Road. He said that is something that needs to be looked at. Tim said it is his

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understanding that the ZBA had told the Morrills that they can build; it is just a matter of getting the road squared away with the Selectmen.

Dave explained that there are two sets of road standards in the subdivision standards. One is if you are going to do a development and another is for open-space development standards. There was a brief discussion on road specifications, and how the Morrill case differed from others. It was stated that the Morrills are asking to build on property where they already have an existing dwelling, while others would be asking to build on a piece of property where no home exists. It felt this was the key to the Morrill case. There was a brief discussion on the maintenance of the road such as shared maintenance by the Donovans and the Morrills, or a betterment assessment were possibilities mentioned.

After considerable discussion of the issues, the Selectmen decided to do a site walk with the road agent on Saturday, May 26, 2007 at 7:00 a.m.

Chairman Forst felt it would not be premature to make a decision on this particular road issue before the Class VI road policy has been established. Selectman Guarino felt it is their responsibility to move forward on this particular road. Tim Warren felt it would be more responsible to make a decision, as a board, on this one case before the committee is done with their recommendation and a Class VI road policy is established, or he felt the issue would be back in court. Tim stated that there would have to be a public hearing when they decide this road issue. He said the earliest they could have a public hearing would be June 18th. A tentative date for the public hearing is June 18th at 7:30 p.m.

Tim was asked to contact the road agent to set up a site walk for Saturday.

Vault – Chairman Forst brought Selectman Guarino up to date on what was discussed about the finishing off of the outside of the vault, and the landscaping of the ground surrounding it.

Approval of Minutes – The Selectmen reviewed the minutes of last week's minutes.

MOTION – Selectman Clairmont moved to accept the minutes of May 14, 2007 as amended. Selectman Guarino seconded. Motion passed 3-0.

Junkyard Regulations - Tim informed the Board that LGC has a new book for local officials on how to regulate junk and junkyards. He said he is going to order a copy for the office.

Lakes Region Community Service Council - Tim informed the Board that they had been invited to the Lakes Region Community Service Council annual meeting at the Pheasant Ridge Country Club on June 6th at 5:00 p.m.

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Abatements – Tim reported that from the 2004 revaluation, there have been four appeals go to the State, three private property owners and one from NH Electric Co-op. He said a couple of weeks ago the first set of cases were to be heard, but two of the cases were postponed because the gentleman was in Florida and couldn't make it back for the hearing. Tim said the third case is on Province Road, and the BTL had given a reduction in the land value, so the property owner would be getting a refund. Tim stated that the BTL had gone and visited the property prior to giving the reduction. Tim said the Town could appeal the decision, but although George Hildum hadn't seen the decision yet, Tim didn't feel George would feel it worthwhile to appeal it.

Tim said we had a letter from George Sansoucy who is our expert regarding the Electric Co-op, and he is going to file a motion for conditional default, because we have asked the Co-op for information, but have never received it.

9:25 p.m. - Enter into non-public session as per RSA 91-A:3, II(c)

Selectman Guarino moved to Enter into non-public session as per RSA 91-A:3, II(c) - Matters which, if discussed in public, would likely affect adversely the reputation of any person unless such person requests an open meeting; however, this cannot be used to protect a person who is a member of your Board, Committee or Subcommittee. Selectman Clairmont seconded. Motion passed 3-0.

The Selectmen discussed a code enforcement issue.

9:36 p.m. - Out of non-public session

Selectman Guarino moved to come Out of non-public session. Selectman Clairmont seconded. Motion passed 3-0.

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The Selectmen discussed a code enforcement issue.

9:42 p.m. - Out of non-public session

Selectman Guarino moved to come Out of non-public session. Selectman Clairmont seconded. Motion passed 3-0.

Site Walk - Tim informed the Selectmen that the Scouts wanted to do a final site walk on Places Mill Road. A site walk will be held Thursday, May 31, 2007 at 7:00 a.m. The meeting place will be at the Alton end of Places Mill Road.

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**9:50 p.m. – MOTION – Selectman Clairmont moved to adjourn the meeting.
Selectman Guarino seconded. Motion passed 3-0.**

Respectfully Submitted,

Lois Dionne
Recording Clerk