

Board of Selectmen
4 June 2007
Minutes

6:07 p.m. - Chairman Brian Forst called the meeting to order. Present were Chairman Forst, Selectmen Don Guarino and Dave Clairmont, Administrative Assistant Tim Warren and Clerk Lois Dionne.

Aquilano – Property on Plum & Berry Aves. – Tim explained that the last time the Selectmen discussed this issue, the Town was going to swap lots with Mr. Harding. The lot Mr. Harding's cottage is on is actually the Town's lot, and a vacant lot further down the street is Mr. Harding's, and by swapping the lots, the Town would own the lot directly behind Mr. Acquilano's, so we could sell that land to abutters at public auction by a sealed bid. Tim said Town Counsel's office was to prepare the deeds, but when Walter Mitchell was reviewing the deeds, he questioned whether the Town had the authority to just do a land swap. Tim said Walter had determined that the Town doesn't have the authority to swap land. He said we have the authority to sell the lot where Mr. Harding's cottage sits, because it is a town-owned piece of property, and we could sell it by a sealed bid to abutters because of a town meeting vote in 1989. Tim said the problem comes when Mr. Harding has to deed the other lot to the Town, because we have no authority to accept land as a gift.

There was a brief discussion about whether anything had been voted on at town meeting that would allow the town to accept the land as a gift. Tim said there hadn't been. Tim said there would have to be an article put on the warrant in March allowing the Town to swap the property with Mr. Harding. Tim said there is another town-owned lot on the street, and Mr. Boudreau's house is partially on that lot. He said that lot could be sold to abutters by a sealed bid, which would allow Mr. Boudreau to bid on the property.

Tim said he has spoken with Mr. Acquilano, and would notify Mr. Harding and Mr. Boudreau of the issues that have come up, and that the Town has done all it can do until town meeting.

Class VI Road Waivers – Selectman Clairmont informed the Board that he had attended a Selectmen's seminar on June 2nd and Class VI Roads had been discussed. He said that the person giving the seminar had stressed that if Towns allow persons to build on a Class VI Road, they should insist on having the individuals sign a road waiver, like people who build on private roads sign.

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Road Name Confusion – Tim stated that there is a Berry Ave. in the Sawyer Lake District, and a Barry Way off Pine Circle in the Iron Works. He stated that due to the similarity in names, when spoken Berry and Barry can be misunderstood, and cause confusion. He stated that the fire department had received a rescue call a couple of weeks ago, and responded to Berry Ave., when the incident was on Barry Way. He said it was a 911 call, and there were no cross roads given as references. Tim thought the 911 call had reported it as Berry Ave. Tim stated that this problem needs to be solved. He said that Barry Way had previously been Bacon Way and in 1999 had been changed to Barry Way when 911 was adopted. Chief Robbins entered the meeting, and he stated that when the call had come in, he was at this end of Town and had responded to Berry Ave., but his partner was on the other side of town, so responded to Barry Way.

Tim said the Selectmen have the authority to change a road name anytime, without a hearing, according to RSA 231-1 33, when in it's judgment there is occasion for so doing. He said the governing body could change the name when the change is necessary to conform to the requirements of the enhanced 911 telecommunications system.

After a brief discussion, it was agreed that Barry Way should be changed back to Bacon Way.

MOTION - Selectmen Clairmont moved to change the name of Barry Way off Pine Circle to Bacon Way, and restore it back to its original name. Selectman Guarino seconded. Chairman Forst asked to amend the motion to add “for the purposes of clarifying the 911 system” to the end of Dave’s motion. Don Guarino seconded the motion with the added amendment. Motion passed 3-0.

6:38 p.m. - Enter into non-public session as per RSA 91-A:3, II(a)

Selectman Clairmont moved to Enter into non-public session as per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Guarino seconded. Motion passed 3-0.

The Selectmen discussed fire department issues with Chief Tim Robbins.

7:25 p.m. – Out of non-public session

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

7:30 p.m. – Public Input – Members of the public were present, and since the Non-Public session took up the public input slot, Brian asked if anyone had anything to discuss. All of the members of the public present had come for the session scheduled for 7:30 regarding Cat Alley.

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Allison Lake -Cat Alley – Water Problems – Members of the public present included Becky and Robert Rondstadt, Lucille Cook, Heidi Herzberger and Debby and Mike Smith.

Chairman Forst asked for input as to why the members of the public were present. Robert Rondstadt stated they were here because they were concerned about what was going to be done to the road (Cat Alley). He said they have no problem with the proposed solution to Allison Lake's problem, but the issue with them is what is going to happen with the road.

Brian stated that at this point the Selectmen are trying to rectify the water problem, and he said the Selectmen haven't discussed any other issue with the road. Tim stated that Allison had been unable to make tonight's meeting.

Mr. Smith stated that the road agent had been to Cat Alley to look over at the catch basin between his house and Allison's house, so he had gone out, and Becky and Bob Rondstadt had come out to find out what was going on. He said they all discussed what was going on with the road agent, and had found the junction across Cat Alley. He added that they had also discussed, a little bit, about what the solution to the water problem might be. Mr. Smith said they all agreed that the solution sounds sensible. Dave Clairmont said he had a proposal they want to get to Allison Lake, and showed it to Mr. Smith to review. Mr. Smith stated that the road agent had said that, while they were in there, they were going to put a skim coat on the road. He added that was not well received by the residents in the area; they think the road is fine the way it is, and that would be an unnecessary expense. He said they like the size of the road, and don't want it widened, and if they could solve the water problem, that should be the end of it.

Dave Clairmont stated that the only problem the road has now, is that the sides of the road are up, and the wheel ruts are down in, then the crown of the road is up; this causes the water to lay in the ruts, and with the road being as cracked as it is, it causes the water to seep into the road and destabilizes the soil, and accelerates the deterioration process. Dave felt Paul Perkins isn't considering an upgrade to the road, but wants to seal the surface to prevent water from lying in the wheel ruts. Brian said he didn't think there had ever been any intent of widening Cat Alley. Dave said there has been no discussion between the Road Agent and the Board of Selectmen about upgrading the road; just general maintenance. Becky asked if they were referring to the water from Allison Lake's property. She was told they were referring to rain water and such.

Becky stated that their concern is that if they shim and improve the road, they would create more traffic, which they don't want to see happen. She said they are all in favor of maintaining the rural atmosphere of the community. Becky felt shimming, (blacktop paving) goes against the rural feeling, and would also increase the amount of traffic, and it sends the wrong message in terms of what roads we want to become major

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thoroughfares. Becky felt this would also be a detriment to her personal property. Becky felt that this is a residential area, and in the plan for the whole town, the intent is to keep this a residential road, and upgrading the road goes against that plan, and makes it easier for more traffic and big trucks to use the road. She asked what the Selectmen's commitment was to maintain the rural character of the town; it is just a little road, and doesn't need to be paved, and the money would be better spent elsewhere.

Becky stated that she had spent a day at the Department of Transportation looking at records pertaining to these roads, and Cat Alley might not be a town road. She said it might be a town road "defacto", but it is not listed on the inventory of Gilmanton's roads with the Department of Transportation. She said even though it may have been used as a road for fifty-three years, it is not a road. Becky stated that in the 1930's, Cat Alley had been a driveway to a house, and had eventually become the cut between the two roads. She added that the Town might not have to be concerned about their level of responsibility. Chairman Forst replied that they do. He said the Town of Gilmanton has maintained that road for more than six consecutive years, so the Town is liable for the maintenance of the road, and it is now a town-maintained road.

Selectman Guarino stated that if they didn't do anything to the road now, five years from now, these same people would be complaining about the broken pavement and the mud.

There was concern expressed about the big trucks that are using Cat Alley after having made deliveries to the Corner Store and the amount of cars that use the road as a shortcut. The Selectmen agreed that if big trucks are using the Road; something should be done, because the road does not have a base that is suitable to handle that kind of traffic. It was stated that regarding traffic other than big trucks, it is a public road, so anyone can travel the road.

There was a great deal of discussion that the area residents don't want the road upgraded and paved. It was also stated that the Selectmen know of no plan to upgrade the road. Brian stated that this is the first the Board has heard of any plan to upgrade the road, even to shim it to prevent further erosion. It was stated that there is no way to widen the road, and their objective is to help Allison Lake solve her problem with getting the water from her property to drain under the road, and not have it running on to the road surface creating mud, and ice in the winter. It was stated that the Town has an obligation to maintain the roads, and maintenance doesn't mean widening or other improvements. It was further stated that the elected Road Agent, not the Selectmen, has the final decision as to what is to be done to the road. Brian stated that the Road Agent usually comes to them just before budget time with his plans for roads for the following year, and that he hadn't heard any mention of any plans to upgrade Cat Alley.

It was asked if Allison was to have a timetable associated with getting the water problem corrected. Brian said they have been making a great effort to get this rectified, and Dave, the building inspector and the road agent have all tried to work with Allison, and this is

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going to have to be settled soon. Dave said he had explained to Allison that we just want to get this fixed, we aren't trying to make things difficult for her, and that is why we have been trying to help her, and he had explained to Allison the plan he had shown the people here tonight. Mrs. Smith said that there are metal pipes sticking out of the ground, caution tape around the area and a stone that is askew. She said this is causing problems for them getting in and out of their driveway. Mr. Smith stated that Allison feels they (Smiths) and the Selectmen are the reason she is having problems, and that it is their (Smiths) complaining about the roadway that has caused the problems. He said he had tried to explain to Allison that he has spoken with the Selectmen and the Code Enforcement Officer because the problem needs to be rectified.

Selectman Clairmont stated that the Selectmen are working on the problem, and trying to do it in a way that will avoid hard feelings in the future.

The discussion with the residents regarding Cat Alley was closed.

The Selectmen had a very brief discussion of the situation on Cat Alley, and it was felt that a letter needs to be sent to Allison explaining what is expected from her.

FYI's & Other Business

Letter – Meetinghouse Rd. – Dave asked Tim if a copy of his letter regarding his conversation with Richard Foss regarding concerns Mr. Foss had about areas of Meetinghouse Rd. had been sent to Mr. Foss and Mr. Angevine. Tim said it hasn't been sent yet, but he would see that it got done.

Brown Engineering – Dave said he had spoken with Tim regarding getting information about the services of Brown Engineering, and asked if Tim had gotten that information. Dave felt it was important to develop a file of resources we could draw from when we need that type of service. Tim said he hasn't gotten the information yet.

James Darrell – Gale & Donovan Rd. – Mr. Darrell couldn't make public input, but asked to be allowed to speak to the Selectmen. Chairman Forst stated that if he had something brief, he would hear him.

Mr. Darrell stated that he lives on the corner of Gale and Donovan Road, and wanted to request permission, the same as Mr. Morrill had asked for, to maintain the road. He asked to dig dirt out of ditches that had been washed off the road and put it back on the road.

Selectman Clairmont stated that the Morrills had received their variance from the ZBA to build on Donovan Road, and the Selectmen had walked the road last Saturday and outlined a scope of work that the Morrills would have to do to both Gale and Donovan Roads to be able to get their building permit. Dave recommended that if Mr. Darrell

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were to do anything to the road that he keeps it minimal until after the public hearing, and the Morrills were presented with the list of conditions for the road. Mr. Darrell said he only wanted to put the dirt that had washed into the ditches back on to the road, and he would only use a shovel and wheelbarrow.

Chairman Brian Forst stated that if Mr. Darrell just wants to use a shovel and wheelbarrow to replace the dirt on the road, it would be okay. It was recommended that Mr. Darrell attend the public hearing on June 18th.

Approval of Minutes – The Selectmen reviewed the minutes of the last meeting.

MOTION – Selectman Clairmont moved to accept the minutes of May 21, 2007 as amended. Selectman Guarino seconded. Motion passed 3-0.

Prior Minutes – Selectman Clairmont wanted to clarify statements in the minutes from the last meeting. Ella Jo Regan had stated that the Class VI Road Committee had worked hard for the past year and a half. Dave stated that he had been on the Class VI Road Committee since its onset, and he is just approaching his one-year involvement with the Planning Board. Dave said the Class VI Road Committee was started a couple of months after his appointment to the Planning Board, so it hasn't even been a year since the Committee has been in existence. Dave said Ella Jo had indicated that there were only one or two roads left to do; there were four or five roads left to do at that point. He said Ella Jo also indicated that the Committee had been discussing policy. Dave said they have had very little discussion on the creating of a policy. He said the only discussion they have had concerning a policy on Class VI roads is the possible stripping of the rights of people that own property on those Class VI roads by prohibiting the development of Class VI roads. He said they have had some hypothetical conversations about landowner's rights to use their property concerning Class VI roads. Dave said they have had no discussion about actual policy, or suggestions to the Board of Selectmen for a policy.

Dave stated that he couldn't agree that the Selectmen acting on the issue of the Morrills would negate any work that the Class VI Road Committee has done. He added that the whole issue of the Class VI roads is a different issue than with the Morrills. Dave felt some of the statements made by Ella Jo made it sound like the committee had gotten significantly further along than it actually had, and the opinion of the Class VI road Committee may have been more influential to this decision (Morrills) than it factually is.

RFP – Middle Route - The Selectmen were presented with a draft of the RFP for Middle Route for their review. The Selectmen reviewed and amended the RFP.

Approval of Minutes of Site Walks – The Selectmen reviewed the minutes of the site walks on Saturday, May 26, 2007.

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MOTION – Selectman Guarino moved to accept the minutes of the site walks of May 26, 2007 as amended. Selectman Clairmont seconded. Motion passed 3-0.

Meetinghouse/Governor’s Road – There was a brief discussion of a section of the site walk minutes regarding the cutting of trees on Governor’s Road. Tim was asked to send a letter to the Bartletts informing them of the plans to cut the trees before they are cut, and the reason for their being cut (safety issue).

Hawker’s/Peddler’s Permit – Tim gave the Selectmen an application for a Hawker/Peddler license for their approval. The Selectmen signed the application. The question arose as to whether the Farmer’s Market should also be required to obtain a license to be allowed to sell their produce. There was a brief discussion on the issue, and the fees for the license; the general consensus was that the Farmer’s Market should be required to get a license. Tim said he would send a letter to the Farmer’s Market informing them of the town’s hawker/peddler policy.

E-Mail Donovan/Gale Road – Tim reported that he had an email from Carolyn Baldwin regarding the posting of the public hearing for Donovan and Gale Road. The email stated that the announcement was for the maintenance of Donovan and Gale Road. Carolyn stated that the issue, as she understands it, and what she felt the ZBA intended, is what improvements the Selectmen will require before a building permit may be issued to the Morrills. Unless the Class VI road is formally laid out as Class V, maintenance is the responsibility of the landowner. Carolyn added that the Selectmen might want to check this out with Town Counsel.

There was considerable discussion about the hearing and how the notice was worded. After discussion, it was stated that it is too late to change the notice in the papers, but we could change the wording on the hearing notices at the post offices and in the Academy Building. They will just add the word improvement to the notice. We will also put it in the Laconia Daily Sun, as that is the only paper we would be able to get it in to be able to meet the time frame needed for posting public hearings.

Letter of Interest – Tim informed the Selectmen that he had received a letter of interest from Wayne Grey to serve on either the Planning Board or Zoning Board. Tim said the only Board that has a vacancy for an alternate is the Zoning Board. He said he would make an appointment for Mr. Grey to meet with the Selectmen.

Selectman Guarino mentioned that he had spoken with an individual who would like to sit on the HDC. He said there is an alternate position available on that board. Don was informed that we had received two letters, one thought to be from the gentleman mentioned, and interviews for the HDC were scheduled for the June 18th meeting.

Stonewall – Crystal Lake Road and Heath Drive – Tim stated that there is a stonewall on the Corner of Crystal Lake Road and Heath Drive that is falling down. He

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said we had received a note from Brenda McBride stating how dangerous it is; Bob Flanders went out to look at it and told them it would have to be fixed. Tim had a copy of a letter from DOT (Department of Transportation) regarding right-of-way encroachment regarding that particular wall. The letter indicated, to the owner, that the fallen rocks should be picked up as soon as possible, but reconstruction of the wall could not be done until the site can be reviewed, and the necessary permits are in place. The letter added that the DOT would not be responsible for any damage to the wall due to routine maintenance, and the property owner might be liable for any damage or injury resulting from this encroachment, as it does represent a roadside hazard to the traveling public.

Survey Crew – Tim informed the Selectmen that there would be a DOT survey crew working on Rt 140 and Crystal Lake Road.

Salt/Sand Shed – Tim reported that the gentleman had finally returned his call regarding the hole in the fabric of the salt/sand shed. He said they would send out a patch kit tomorrow; it is easy to fix, and should be fine.

Dump Incident – Tim said Recycling Manager Doug Kapplain had reported an incident that had occurred at the recycling center a week ago. He said a gentleman from town had followed a truck from Laconia coming down 107, losing trash on the way, and pulled into the dump. Tim said Doug asked to see the man's sticker, because there wasn't one on the truck. He said the individual had a sticker, in hand, and Doug had recorded the sticker number and plate number; the man told him where he owned property in town, which is vacant land. Tim said they let the man dump last weekend. He said the man who had followed him pulled into the dump, (a Gilmanton resident) behind him and said he knew the stuff had come out of Laconia, and has been coming out of Laconia all along. Tim said the property owner went to see Doug after he had dumped his load, and gave Doug a difficult time. Tim said Doug told the man that if he has a vacant lot in town, he is only supposed to bring brush, not trash, into the dump. He said the man told Doug that Brett Currier is going to build a house for him on Allens Mill Road, so asked why he couldn't bring trash to the dump. Doug told him he couldn't because there is no house there at the present time. Tim said Doug told him that the same truck came back this week heaped up with garbage, and Doug wouldn't let him dump.

There was discussion about dump stickers being issued to non-residents, and whether that should be stopped. It was stated that we couldn't do that because there are many people who own residences, but only use them in the summer, and they have to be allowed to dump their trash. It was felt that we should come up with a way to identify, on the dump stickers, who owns land only to prevent trash being brought in from other towns.

Stone Facing on Vault – The contractor had brought three samples of stone we could choose from to face the outside of the vault. Tim had estimates for the stone, and brick to face the vault.

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After discussing the prices for the brick and stone, the Selectmen agreed that they would like to use large stone on the front of the vault facing Province Road, but because of the cost, they felt it should be brick on the side and back walls.

Dave said he had talked with Wayne about doing the brickwork, and Wayne is going to cut the brick so the face of the two walls would line up.

Milfoil Treatment - Selectman Guarino asked if we had to pay \$2,500 per year for milfoil treatment for Rocky Pond. Tim informed him that we had not budgeted anything for milfoil treatment for this year.

Dredge & Fill Permit – Brian stated that the sand has been spread on Crystal Lake Beach, and asked Tim to get started on the dredge and fill permit to pull out sand that had washed into the lake. He stressed that he would like to get it done this fall.

Relocation of Utility Poles – Brian stated that at the site walk on Places Mill Road, the Scouts had stated that it was the Town’s responsibility to request that the utility company move any poles that have to be moved when the road is being upgraded.

10:00 p.m. - Enter into non-public session as per RSA 91-A:3, II(c)

Selectman Clairmont 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 Guarino seconded. Motion passed 3-0.

The Selectmen discussed an ongoing code enforcement issue.

10:12 p.m. – Out of non-public session

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

10:13 p.m. – MOTION – Selectman Guarino moved to adjourn the meeting. Selectman Clairmont seconded. Motion passed 3-0.

Respectfully submitted,

Lois Dionne
Recording Clerk

