

**Board of Selectmen
16 July 2007
Minutes**

6:00 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.

Reclamation Section – Middle Route

Road Agent Paul Perkins was in to review a draft of the RFP for the Middle Route Reclamation Project that Selectman Clairmont had drawn up.

The RFP was reviewed with minor changes being made. There was considerable discussion of the project during which it was decided that the project would be sent out with an invitation to bid to several area contractors – Busby Construction, Nutter Construction, Pike Industries, Lyman Construction, Piscopo and Edmunds –that there would be a mandatory pre-bid site walk with bidders and the road agent on July 30th, and bids are to be received at the Selectmen’s Office by 4:30 p.m. on August 6, 2007.

Selectman Clairmont asked if Paul Perkins had an anticipated cost to resurface Middle Route. Paul thought it would be about \$86,000 to do from the Belmont Town Line to Leavitt Road, but felt the money we receive from FEMA for the damage done by the April flooding should cover the cost.

RFP – Places Mill Road

Paul Perkins asked what was going on with Hidden Valley regarding Middle Route. Chairman Forst stated that they have an RFP that the Selectmen have to review. Tim said they need to set a date for a mandatory pre-bid site walk and they also need a proposed due date.

FYI’s & Other Business

Old Salt/Sand Shed Site – Tim said he had spoken with Justin Caldon about the materials left at the salt/sand shed site on Currier Hill Road, and Justin would take care of removing them.

Arlington Development Bond – Tim reported that we had received a letter from Town Counsel in regards to Arlington Development’s request to have their money refunded

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from their cash bond, and have the bond replaced with a letter of credit. He said Town Counsel had no problem with our doing that, or with the Town increasing the value amount of the letter of credit.

Plourdes Way – Last week Linda Hamilton had requested that the Selectmen change the name of her road from Plourdes Way to Stony Point Road. Ms. Hamilton was told the Selectmen would discuss the matter, and get back to her. The Selectmen briefly discussed the issue tonight, and felt that if they changed the road name for her it would likely result in other people requesting to change the name of their road. They felt that as the name had been in place since the E911 road name changes, and since Ms. Hamilton had been given the opportunity to change the name at that time, that the name should remain as it is. Tim will notify Ms. Hamilton.

MOTION – Selectman Guarino moved to keep the name of Plourdes Way as Plourdes Way. Selectman Guarino seconded. Motion passed 3-0.

Speed Bumps- Lakeshore Drive – Tim stated that last year the Road Agent had put speed bumps on Lakeshore Drive due to residents complaining about the speed of the cars on the road through the Shellcamp area. He said we had mostly positive response from the residents. Tim said he had received calls asking when the speed bumps would be put out this year; Paul had put them out today.

Doug Isleib – Pine Circle Maintenance Fees – Doug Isleib had previously requested the Town, because we own land on Pine Circle, pay a yearly fee to help pay for the road maintenance the same as all the other landowners on Pine Circle pay. The Town had denied Mr. Isleib's request because the Selectmen said the Town doesn't pay for maintenance of a private road, and the land we own had been taken by tax deed and we didn't need access to the property.

Tim stated that he had received information from one of the attorneys at the LGC (Local Government Center) that the Town is not obligated to pay any maintenance fees for maintenance of private roads even though they own property on a private road because they are not required to give access to that piece of property 24 hours a day, seven days a week.

Doug stated that he doesn't understand that because on map/lot 32-78 there is over 250' of frontage that is maintained by residents of Pine Circle that goes through the center of the town property. He said in the letter we had sent him, the reason was the Town wasn't going to pay taxes on property that was taken by tax lien. He said nobody even knew the Town owned that particular piece of property until he (Doug) had brought the paperwork to the Town, and that Mr. Smith had been paying the taxes on it for about thirty years thinking it was his property. Doug said when he was going to buy ten acres and had it surveyed, he found out that the Town owned over two acres. He said the Town decided they didn't want to sell the land, and that bothers him because, if they are going to keep

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the land, he feels they should be responsible like anybody else who owns land in the development. Doug stated that Chip Bacon had paid the fee for lots 32-44 and 32-45, but everything was up in the air with lot 32-43 because half the lot was left to the Town, and Chip's father owns the other half. Doug said he didn't know if the land had been transferred to the Town, but it had been mentioned that the Conservation Commission is taking on that property, and taking responsibility for the fees when they take on the property, which he felt sounded fair.

Doug said there was also the question of an association for Pine Circle. He said he would like to see an association, but it has always been a volunteer deal; he took it over in 2005, but now it is pretty well organized and the roads are getting upgraded little by little. Doug said there had been a meeting a week ago Saturday, and he brought all the information in for an association, but had been turned down. They don't want an association.

Doug said his question is if the Town accepts the other half of the Bacon property, who is going to pay half of the price, or will they get stuck for that too?

Brian said the Selectmen haven't discussed that with the Conservation Commission. Tim said, at this point, the Society for the Protection of New Hampshire Forests owns that half of the property; it has not been sold to the Town. He said there are discussions to that effect, but it hasn't been transferred to the Town yet. Brian felt it would be premature to discuss what might happen. Doug said the reason he is here is that if it is going to transfer to the Town that there would be discussion in advance so they would know his feelings on the matter. Doug said if anybody else buys the land, they have to pay the road fee, although it is voluntary, so there are a few people who don't pay.

There was considerable discussion during which it was pointed out that the Town doesn't pay fees to maintain any other private road in Town, and the Selectmen are responsible to the taxpayers who supply them with the funds to be dispersed, and they need to watch out for taxpayer's dollars. It was stated if the Conservation Commission gets ownership of the property that they should pay the fee for the half of the lot they would own. Brian said the Selectmen would mention it to the Conservation Commission, and would support their decision in the matter.

Barry Way – Doug said he understood that the Selectmen were changing the name of Barry Way to Bacon Way, and asked if the signs had been ordered. Tim said the signs have already gone up.

7:00 p.m. – Public Input

Timely Solutions - Cindy Houghton stated that she had listened last week when the Morrills had been in with their attorney. Cindy said she hoped the town isn't going to lose sight of the human factor in all of this; the situation has been going on for a long

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time, and watching it she could see the frustration and animosity in all of it, and it was concerning. Cindy said she didn't know all the details, and it was probably complex, but she would hate to see someone driven over the edge. She said there just doesn't seem to be a sense of urgency on many things, and to many people these things are important.

Inventory Control – Israel Willard asked why the camera wasn't running and stated that the Selectmen's meeting had not been taped last week because we had no tapes. Tim said we still haven't purchased tapes. Mr. Willard felt that was "asinine", and if he were in charge of the tapes, and saw he was getting low, he would order more. He felt someone needs to be put in charge of inventory control. Tim will order tapes.

Non-Public Session – Brenda Currier requested to meet with the Selectmen in a non-public session. As no one had any more public input, the Selectmen agreed to Brenda's request.

7:07 p.m. - Enter into non-public session as per RSA 91-A:3, II(a)

Selectman Dave 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 personnel issues.

7:17 p.m. – Out of non-public session

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

MOTION – Selectman Guarino moved to seal the minutes of the non-public session with Brenda Currier. Selectman Clairmont seconded. Motion passed 3-0.

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

MOTION – Selectman Clairmont moved to accept the minutes of July 9, 2007 as amended. Motion passed 3-0.

Betty Hackett – ZBA Issues – At last week's meeting ZBA Chair Betty Hackett had addressed some issues with the Selectmen. The Selectmen listened to Betty's concerns, but Selectman Chair Brian Forst didn't feel they had time for a constructive discussion, and asked Betty to come back tonight.

Selectman Forst thanked Betty for agreeing to come back tonight, so they could have a dialogue to address and be done with the issues. Brian recapped what the issues were that had been brought forth last week.

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Appointments -The first issue had been that the Board of Selectmen had made appointments to the ZBA without notifying Betty of the appointment, and that had caused an embarrassing situation for the board and the appointee. Through discussion it was agreed that when an appointment is made to any board that the chairman of that board should be notified through the clerk of that board, since every board has a clerk who works in the Selectmen's office.

ZBA Decisions– Brian stated that the issue is, and it is understood, that the ZBA is a quasi-judicial board that the Selectmen have basically no business with. He said where the difficulty comes for the Selectmen is when people are unhappy with the ZBA decision, they come to the Selectmen to see what they can “muster”. Brian said the Selectmen pay the legal costs of an appeal process, so they are seeing the dollar and cents signs, and maybe not the whole story. He stated that the Selectmen can't have dialogue because the ZBA is a board with authority over which they (the Selectmen) have no authority, and the only position they have is when they appoint members or not reappoint members to the board. Brian said when they are interviewing applicants; they try to see if they think they would be a good fit for the board, but he also felt they need diversity on the boards. He said he felt one of the things that were important was to fill the boards, and that being the priority, they might have been hastier than they should have been and not discussing it with the Board.

Betty stated that the issue is not necessarily discussing it with the Board because it is ultimately the Selectmen's decision. She said the applicants don't need to know the law, but they are, however, looking for specific things like whether they know what an RSA is, and what a zoning ordinance is. She said giving the applicant the book of the zoning ordinances, as the Selectmen do, is good, but if they don't comprehend it, they are more of a detriment to the Board than a help. Betty said this way she has a better idea of what training the appointee will need, and what seminars they should attend. Betty said people should know that it is not a popularity contest, and they want people who can't be swayed or intimidated.

Selectman Clairmont felt the Selectmen have been very consistent with their line of questioning of applicants to all the boards. He said they ask about their background, and what they feel they could bring to the board. He said they try to look at the qualifications of the applicants, and have people that could give constructive suggestions to the board.

The Selectmen thought all the boards were complete with regular and alternate members, but Betty stated that the ZBA could have two more alternates. There was a brief discussion and Tim said he would advertise for two alternates.

Israel Willard stated that no one on the ZBA was upset with the appointments the Selectmen had made; they were upset with the procedures. The Selectmen assured them that they would do it differently in the future.

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Legal Cases – Betty Hackett stated the Selectmen had brought up the attorney costs, and said they should realize that any case, at any time, could be taken to court. She said the applicant can come back in and ask for a rehearing, but you have to have substantial information or a point of law the ZBA has missed in order to hear the case again. Betty said you can't just say you disagree with their decision and not because the applicant has spent a lot of money; that is not a hardship issue. She said a lot of people feel because they have put a lot of money into the land, they want to use it; they should have come to the town to find out the rules and regulations first. Betty reiterated that is not a hardship issue; in their rules money is not a hardship. She said The Board of Selectmen could ask to have a case reheard, but they, the same as an abutter or an applicant, need substantial information that they (ZBA) didn't have, or the Selectmen see a point of law that the ZBA had missed; that is the only criteria they do in order to rehear a case. Selectman Clairmont felt that added more significance to having a more well rounded board, which he felt meant there would be less chance of missing things, and for the Selectmen having to answer to the taxpayers about the legal expenses. Dave said the Selectmen have a responsibility to the taxpayers to keep an eye on what is going on. Betty stated that if the Selectmen want to rehear a case, and you have information on it, you are prolonging the case, and with the added information an applicant or an abutter could also decide they want a rehearing which would prolong the case even more.

Dave stated that the intent of the Board of Selectmen is not to question every ZBA decision. Israel felt they were very fortunate to have a resident lawyer on the board who has been able to advise them on a number of cases. Betty stated she never calls an attorney without first having spoken with Tim Warren, who in turn talks with the Selectmen. She also agreed with the statement that you always need someone coming on the board with a different way of thinking. Betty said that their pervue is the use of the land, and the total intent is what is the use of the property in this specific issue.

Term Limits – Selectman Clairmont stated that he realizes that the ZBA members have a three-year term limit. He felt Betty had misunderstood his intention when he had mentioned term limits. Dave said he had asked if they could have a four or five term, term limit so no one person would serve on the board for more than four or five terms. He said the reason behind that is the rotation of new people, and new ideas. Dave felt otherwise it could be discouraging to alternates to remain on the board. Betty felt that didn't happen, because any time a regular member was absent, or might have to recuse them from a case, an alternate would be a voting member in those cases. Dave said that most boards have more than one alternate, so an alternate could conceivably sit on a board as an alternate for ten years, and he felt that is discouraging. He said he is suggesting that a voting member not remain a voting member after a number or years, but stay on the board as an alternate to be able to retain their knowledge and expertise on the board. Israel said he could somewhat agree with what Dave was saying, but didn't totally agree with it. He said the alternates attend every meeting, and get to voice their concerns and opinions, even though they don't vote; they gain a great deal of knowledge. Dave agreed that a person should serve as an alternate for a couple of years before they become

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a voting member of the board in order to gain the knowledge to be able to give constructive input. He felt someone ill prepared shouldn't be put on as a voting member, but felt six or seven terms (18 to 21 years) are too long. There was discussion about how long a person should be allowed on the board, and that the Selectmen could control this by not reappointing a member to the board if they feel someone is not doing a good job. Dave wanted it known that this is his personal opinion, not the opinion of the Board of Selectmen, and it isn't an attempt to change policy.

Brian stated that there had been applicants who, if they couldn't go on a board as a voting member, didn't want to serve on the board. He said this tells him that the individual wanted to get on the board to vote on a certain issue, and that was a reason for not having a set term limit, so people wouldn't be able to use the knowledge that a member was reaching the end of his term limit to be able to apply to get on the board for their own advantage.

Israel Willard referred to the statement that says "if it ain't broke, don't fix it" and stated that 20% of the people cause 80% of the problems, and they should focus on the 20% of the problems, and didn't feel the ZBA is part of the 20%. Betty stated that, as a board and as a municipality, we have a very good rate in not having legal cases.

Chairman Forst said he hoped the discussion tonight had helped clear the air. Betty said it had, and thanked the Selectmen for their consideration. She felt the message that had come across on the video on TV was that the Selectmen totally disagreed with the ZBA. She felt that wasn't a good message to be out there. Betty asked that if the Selectmen disagree with them on something, that they talk with them one on one or with the entire board.

Badges – Town Employees – Betty asked what the Board could tell them about the badges that are supposed to be made for Town employees. Tim said that Wendy is in charge of the badges, and he had spoken with her. He said they have to be sent out to be made up, and thinks they might have already been sent out.

Class VI Road Issue – Israel Willard told the Selectmen that he thought they had done an excellent job on the road description, and hoped they stuck to their guns. Brian stated that sometimes it is very difficult to abstract the personal part because they have been members of the community for so many years, and want to make people happy. He said Cindy made a comment that the Selectmen need to try to make it personable, but it is very difficult to keep it personable, and no matter how the situation goes, it will be painful. Betty felt that all Class VI road issues are a hard call. She said the ZBA can only work with what is given them, and they can only do so much, and the Selectmen could only do so much. Brian said this is a different issue because there is already a residence on the property. Dave felt that once the Class VI road policy has been established, it would be easier for everyone. There was a brief discussion of Class VI road issues.

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Court Cases – Betty reminded the Selectmen that they need to be careful if they discuss a pending court case that they don't discuss it in open session. There was also a brief discussion about the ZBA decisions during which Betty agreed with a statement Selectman Clairmont had made that the reason for their decision wasn't clear. She said she has asked members of the ZBA that when they make their motion they are clear as to why they have voted as they had.

FYI's & Other Business

Gale Road – Dave asked if we had received any input on the Gale/Donovan Road case. Tim stated that legal counsel had approved the specifications before the Selectmen had given them to the Morrills. He said legal counsel felt it was a good compromise.

There was a brief discussion during which the selectmen felt they had tried to be reasonable considering the Morrills financial obligation and reasonable with their obligations to the Town of Gilmanton. Dave felt the project could be done for less than the estimates the Morrills had received.

Website – Dave asked if Cindy Houghton had met with Deb Cornett concerning the website repairs. Tim said Cindy had contacted Deb.

Apology to Planning Board – Selectman Clairmont said that he, personally, publicly apologizes to the Planning Board for the statement he made last week that indicated the Planning Board may have, in part, been responsible for the decision changing the lot size in the Wilkins request. He said this was a ZBA decision, not a Planning Board decision.

Recycling Issues – Dave asked if, in regards to Brenda McBride's letter last week, it might be helpful to contact Roy Sanborn to see if a meeting with him and Doug Kapplain might be of some help with suggestions concerning management of the recycling facility. There was a brief discussion that Roy had been appointed to the recycling committee and the fact that Stan Bean of the Recycling Committee also talks to Doug each week when he goes to the center. It was felt it might be very helpful to Doug to talk with Mr. Sanborn. Tim will send a letter to Roy.

Canaan Road – Selectman Clairmont said he had spoken with Paul Perkins regarding Canaan Road. He said Paul recalled the suggestions of the Planning Board that Dave had referred to at last week's meeting, and Paul intends to pursue the work some time this summer.

Safety Building - Selectman Clairmont asked if the other Selectmen had given any thought to what he had mentioned last week about the fire and police department facilities.

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The Selectmen discussed the buildings and whether it could be feasible to make use of the buildings we already have, rather than build a new safety facility. It was stated that the fire department is saying different things than had previously been said about the possibility of utilizing the Corners Station with some alterations, and the possibility of renovating the police station by putting a full foundation under the current building. It was felt the safety building committee needs to be revamped and that they should pursue all possibilities.

Vault Project – Selectmen Clairmont asked if we had a report on the vault project. Tim reported that the railings and stairs had been worked on today, and they hope to be here on Wednesday with the excavator and dump truck to remove some of the dirt pile and get a final grade, and hoped to be done this week. He said they had offered to hydro seed the area. Dave asked if the contractors were responsible for the river stone, fascia board, etc. Tim said they were.

Davis Property – Selectman Clairmont asked about the Davis property in Shellcamp. Tim reported that the trailer was supposed to have been moved out of their last week; he doesn't know if it has been done because Bob Flanders is out of town this week. Dave said he would check on it.

9:00 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 a Planning Board issue.

9:22 p.m. – Out of non-public session

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

9:23 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.

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9:29 p.m. – Out of non-public session

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

9:30 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 police department issue.

9:31 p.m. – Out of non-public session

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

9:32 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 welfare issue.

9:33 p.m. – Out of non-public session

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

9:34 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 police department 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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**9:30 p.m. – MOTION – Selectman Clairmont moved to adjourn the meeting.
Selectman Guarino seconded. Motion passed 3-0.**

Respectfully submitted,

Lois Dionne
Recording Clerk

