

**Board of Selectmen
10-01-07
Minutes**

6:12 p.m. – Selectman Don Guarino called the meeting to order. Present were Selectmen Don Guarino and Dave Clairmont, Administrative Assistant Tim Warren and Clerk Lois Dionne. Chairman Forst was not in attendance.

Review of Minutes - The Selectmen reviewed the minutes of last week's meeting.

Handicap Parking at Iron Works Post Office – While reviewing the minutes, Selectman Guarino noted that Brenda McBride had asked about having a handicap sign posted in the handicap parking area at the Iron Works Post Office because the marks on the street become difficult to see. Don stated that the Selectmen had not really addressed it.

There was a brief discussion on where the handicap parking space is located, and where it should be located. It was decided to discuss the matter later, and the Selectmen continued to review the minutes at this time.

MOTION – Selectman Clairmont moved to accept the minutes of September 24, 2007 as amended. Selectman Guarino seconded. Motion passed 2-0.

6:30 p.m. – Kurt Rague – Crystal Lake Farms – Tim informed the Board that Kurt Rague was on the agenda for 6:30, but had called to say he would be late.

FYIs & Other Business

Meeting – Emergency Response Plan – Tim reminded Dave that the informational meeting regarding establishing an emergency response plan is to be held at the school tomorrow morning at 9:00 a.m.

Meeting – Successful Town Meeting – Tim informed the Selectmen of a workshop that LGC will be holding on October 27th on preparing for a successful town meeting. He said Deb Cornett is planning to attend, and Tim was unsure if he is going to attend.

Perambulation – Tim had a letter from Dave Nagel thanking the Selectmen for allowing the Scouts the garden space at the Recycling Center. Mr. Nagel plans to consult with a gardener regarding plantings, and plans to have the garden finished in the spring.

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Mr. Nagel also stated that they would be happy to do the perambulation of the Gilmanton, Belmont, Canterbury and Loudon line. He felt the best time to do this would be after the leaves have fallen, but before we have snow. Mr. Nagel said he would contact the Selectmen in the various towns to get their permission to proceed with the perambulation.

Anonymous Letter – Tim informed the Selectmen that we had received an anonymous letter regarding the fireworks issue in town. Selectman Guarino stated that it was the policy of the Board not to accept anonymous complaints. Tim stated that the letter is not a complaint, but asks that the town consider developing an ordinance regarding fireworks. The letter stated that Belmont is looking at developing an ordinance.

Selectmen Guarino and Clairmont felt that it is still an anonymous letter; the Board of Selectmen had taken a position not to accept an anonymous letter. The Selectmen did not discuss the issue.

Signs for Cemeteries – Tim said the Cemetery Trustees had spoken with Police Chief O'Brien in regards to what legal rights they have for any damage done in any of the cemeteries in town. He said one of the suggestions had been to make signs for each site. Tim had a draft of the sign the trustees would like to erect at each site.

Basically, the sign would state no admittance from dusk to dawn. No vehicles permitted, no defacing or removal of any structure or delineator, no gravestone rubbing, no disturbing or any tomb or grave, no pets unless leashed, no explosives, hunting, removal of trees, disorderly conduct, disposal of trash or alcoholic beverages. Per NH RSA 289:7, 635:6-8.

The Selectmen reviewed the draft. Tim said LGC had reviewed the wording.

There was a brief discussion, which included who would pay for the signs and the size the sign should be. Tim said the trustees would pay for the signs. The Selectmen were in agreement that if the trustees feel they need the signs and they are going to pay for them, they should get them.

Mary Butler Lane Historic Site – Tim had a letter from the Trustees of Cemeteries that stated that Virginia Stanley had offered to give the Town a protective easement around the Mary Butler Monument that abuts her property.

Tim said he had sent a copy of the wording of the easement to Town Counsel to review. He said we would have to hold a public hearing after we got Walter Mitchell's input on it.

Handicap Parking Space – Iron Works Post Office – Selectman Clairmont stated that Eric Stockwell, Maintenance for Every Season, has just purchased a striping machine and

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decals, and is getting into the business of doing that. Selectman Clairmont felt it would be a good idea to get a quote from Eric for striping the handicap parking space at the Iron Works post office. Dave said we should also get an idea from Paul Perkins about the purchasing and placement of a sign. Dave felt that because it is part of the road, it might fall under the Highway Department's purview. Don stated it would depend on whether the decision was to have parking in front of, or to the right of the structure. Dave said research would have to be done on that because he thought there had to be a hard surface. Don said we hadn't done anything with the striping because we were hoping for some help from DOT with solving the problems with the intersection of Elm Street and Route 140.

There was discussion of the parking situation, and where a handicap-parking place should be. Dave asked Tim to contact Peter Casey to see if he had a problem with creating a parking space in the gravel area by the building. Don suggested that each Selectman go individually to view the area, and then discuss it at a later meeting.

Criteria Sheet – Class VI Road Inventory File – Selectman Clairmont had a new draft of the criteria sheet for the Class VI road inventory file. He said his former draft and Nanci Mitchell's draft had been integrated to come up with the new draft. Dave felt that question #13 on the sheet had been addressed in item three, so he feels it is unnecessary. He said Nanci said she would get the opinion of her committee. Dave said he also felt the recommendation part should be left out, as it could bias opinions of persons reading this form. He asked Don to review the draft and email any changes or suggestions to Nanci Mitchell, as they would like to have the final draft for the next Class VI Road Committee meeting.

Kurt Rague – Crystal Lake Farms – Kurt Rague of Crystal Lake Farms arrived for his meeting. It was decided that the first issue he had for discussion should be discussed in a non-public session.

7:02 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 2-0.

The Selectman discussed a code enforcement issue with Mr. Rague.

7:12 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 3-0.

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Crystal Lake Farms

Bond Requirement - Mr. Rague stated that after the last meeting when they had presented an open-space subdivision plan, the Town had given them a list of things that had to be done as they move forward with their plan. He said one thing he is questioning is the estimate given by the road engineer Tom Varney. Kurt said Tom Varney had put together an estimate for construction of the road; the road is about 720' in length. He said Tom had based the estimate on an on-line calculation site for this type of work, and had based it on work from start to finish, as though no trees had been already cut or any excavation having been done. Selectman Clairmont wanted it clarified that this is the road for the first phase of the subdivision. Kurt replied that it was. Kurt said he had spoken with Tom today, and told him that he (Kurt) had gone through the estimate, and explained that a lot of the things listed on the estimate had already been accomplished. Mr. Rague said the clearing, grubbing, stripping topsoil and excavation had been done; there is a silt fence, and they have fill and hay bales. He said the road has already been cut in, and is to the width. He said there is about a 30-foot section that has to be cut down to grade before the slope starts, so there would be a cost associated with that and storm drainage still needs to be done. Regarding the roadway construction, Kurt said the binder coarse and wearing coarse doesn't need to be done for this phase. He said they already have a lot of loam that was taken from the field, and that has been prepped. Kurt said there is also a HDPE pipe listed that he already has. He said there are a number of things that have been done that are listed on the estimate, so he had subtracted the amount of those items from the estimate.

Kurt said he doesn't have a problem because it is a cash equity line of credit, but the bank charges him 3% to have the letter of credit. He felt he is spending money for his own money. Kurt said he had estimated based on the site work being covered and line items 10, 14 and 16 being covered, he had whittled it down to about \$50,000 being needed to finish this phase of the project. He said the estimate is based on standard rates for somebody coming in and doing the work. Kurt said his company owns the equipment, and they would be doing the work. Selectman Clairmont acknowledged that Kurt owns his own equipment and is capable of doing the work, but the bond is in case they default. He (Dave) agreed that some of the items have been done, but he wasn't receptive to a bond that is 50% of the estimate. Dave said we might not necessarily need the entire amount, but needed more than 50% of it because the Town isn't afforded the luxury of being able to jump on a piece of equipment and do the work if it isn't completed. We have to hire someone.

There was a discussion of a fair amount of bond, and Selectman agreed with Kurt that he didn't need to have the asphalt because Phase I is an open-space subdivision; an open space-subdivision doesn't require paved roads. It was agreed to lower Mr. Rague's bond requirement to an amount of \$75,000. Tim Warren asked if more money would be required when Mr. Rague gets beyond the open space subdivision. Kurt said the cost

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association would have to be readdressed at this time. Dave stated the intent of everyone involved is to see Phase I through completion before addressing Phase II.

Engineer to Oversee Road Construction – Mr. Rague addressed the check the Town had requested to pay Hoyle Tanner to oversee the construction of the road. He said he hadn't understood why they had to have someone oversee the construction because they have a road engineer, we have a Town road agent, and they have a site engineer, and felt as they do the different phases of the project, they are checked off and reported to the Town. He said the Town had said they (the Town) needed an independent engineer to oversee it.

Selectman Clairmont stated that it isn't a Town road; it is Kurt's road until it is accepted as a Town road, and so it is Kurt's responsibility to provide engineering, and we can't do it with Town employees. He said that is why Hoyle Tanner would be doing all the inspections, and reporting to the Selectmen. Dave said the road agent would not be involved until it becomes a Town road.

Kurt said that had been explained to him, and he had asked that we get three different estimates for a engineer to oversee the project, but the Town didn't get three estimates, and had settled for Hoyle Tanner. Kurt said he had done some research, and found Hoyle Tanner's prices to be extremely high (About 1/3rd higher) than a number of other firms. He said Hoyle Tanner had quoted the job without going to the site, and seeing that everything was cleared, and there was a road there. He felt their price was extremely excessive.

Selectman Clairmont asked if Mr. Rague had gotten other estimates. Kurt said he hadn't because it had been a Town initiative that he had no control over. It was explained that the Town had used Hoyle Tanner before for projects, and had been happy with them.

There was considerable discussion about the cost of the project, the method of paying the invoices, and that the statements that come with the invoices being broken down and have a clear explanation of what was done. Getting other estimates for the job, (the cost to be absorbed by Mr. Rague), or if Mr. Rague got the estimates that he made sure what was included in the estimates, and that the firm knows they would be working for the Town. It was stated that we need to protect people in the community, and that the Town needs to know that the road was built to Town specifications.

Tim was asked to contact Hoyle Tanner to explain that the road was for approximately 720', not the 1300' first discussed, and see if they needed to reexamine the project. Kurt asked that they (Hoyle Tanner) visit the site before re quoting. Dave asked that Tim get clarification as to whether the site has ever been visited.

Conservation Easement - Conservation Chairman Nanci Mitchell, Paula Hatem and Lisa Robison, Conservation Committee members, and Nancy Christie were in attendance.

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Nanci Mitchell informed the Selectmen that Nancy Christie owns land in the Corners on Route 140 that she would like to protect. Nanci pointed out the parcel of land to the Selectmen on the town map. Ms. Christie would like to give the land to the Town but have a conservation easement on the land. Nanci said that Ms. Christie had talked with the Five Rivers Conservation Trust, and an easement, with restrictions, had been drafted. She said Ms. Christie had wanted to know if the Town would still be willing to hold the conservation easement if the restrictions were in the easement. Tim had distributed a list of the restrictions Ms. Christie wanted included in the easement.

The Restrictions were:

1. Hunting and fishing would be allowed, but no trapping.
2. Low impact public access – No motorized activity on the land (snowmobiles, ATV's, etc.).
3. No agricultural and forestry activities, except as necessary to maintain the existing field and construct and maintain a nature trail. The Conservation or Town would pay to have the field mowed annually.
4. No dumping of biological material on the property – leaves, branches, compost, etc.
5. No ball fields or recreational development, except small parking area, kiosk, etc. No picnic tables, restrooms, etc.

Nanci Mitchell felt there was money in the Conservation Commission budget that would take care of the mowing. The Selectmen felt the easement was acceptable. Ms. Christie explained that the easement would not be completed this year.

Other Business & FYI's

Bond – Places Mill Road - Selectman Clairmont asked about the status of the bond on Places Mill Road, and the deposit of the funds from Daniel Webster Council. Tim said he had talked with the insurance company that the Potters are using last week. He said they had worked on getting the certificate of insurance squared away. Tim said the bond had come in on Thursday afternoon, but had only named the Town of Gilmanton; one of the stipulations of the contract with the Scouts, was that they were also to be named on the bond, so it was sent back, and it was expected in late Friday or today.

Tim said he had spoken with Bob Flanders today about the deposit of funds by the Daniel Webster Council, and it is his (Bob) understanding that once the contract is signed, and back from the Daniel Webster Council is when they would deposit the funds. Tim said \$60,000 has been deposited, but nothing has been spent yet.

Brian Forst has a copy of the contract to review, and Tim gave Dave a copy so he could review it tomorrow.

Tim said he had spoken with Jocelyn Hegler at DES about the head walls on the culverts on Places Mill Road, and she had said that DES requires that all head walls be cemented

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down. He said the Potters had been informed of this. There was a brief discussion if the head walls could be cemented the way they are now, or if they would have to be dismantled and redone. Tim said Jocelyn had said DES wouldn't inspect the culverts until they are finished. Tim said the Potters have to be notified that this should be done before other work is done on the road.

Brush Cutting – Governor's Road – Tim reported that we had notified the abutters regarding the cutting that George Roberts wanted to do on Governors Road. He said we have not received any feedback from the abutters.

There was a brief discussion about cutting on both sides of the road, and Selectman Guarino felt he and Dave were at odds regarding the cutting, so he would like to make the decision as a full board. The issue was tabled, and will be discussed at the next Selectmen's meeting.

Jahnle Property – Last week the Selectmen found out that the former Jahnle property was for sale, and they discussed seeing if they would be willing to sell a small piece of the property abutting the Town hall as a possibility of expanding the police department parking lot. Tonight Dave asked Tim to call the realtor to see if they would be interested in selling a portion of the property. He said we would need this information soon, so it could be presented at Town Meeting. Tim will contact the realtor.

Berry Ave – Deed Changes – Tim said he had not had the opportunity to contact Attorney Philpot regarding the deed changes on Berry Ave.

8:12 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 2-0.

The Selectmen discussed a contractual issue.

8:53 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 3-0.

MOTION – Selectman Clairmont moved to seal the minutes of the previous non-public session. Selectman Guarino seconded. Motion passed 2-0.

8:55 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

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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 2-0.

The Selectmen discussed a recycling center personnel issue.

9:12 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

9:13 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(e)

Selectman Clairmont moved to Enter into Non-Public Session as per RSA 91-A:3, II(e) - Discussion of pending or threatened (in writing) litigation against the Town or Town Officials, Board Members or Employees. Selectman Guarino seconded. Motion passed 2-0.

The Selectmen discussed a legal issue.

9:17 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

9:18 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 2-0.

The Selectmen discussed a Planning Board issue.

10:10 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10: 11 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 2-0.

The Selectmen discussed a personnel issue.

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10:15 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10:16 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 2-0.

The Selectmen discussed a contractual issue.

10:18 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10:19 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 2-0.

The Selectmen discussed a code enforcement issue.

10:22 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10:23 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(d) - 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 2-0.

The Selectmen discussed a building department issue.

10:28 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

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10:29 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 2-0.

The Selectmen discussed a personnel issue.

10: 32 p.m. –Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10:33 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 2-0.

The Selectmen discussed a code enforcement issue.

10:36 p.m. – Out of Non-Public Session

Selectman Clairmont moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 2-0.

10:37 p.m. – MOTION – Selectman Clairmont moved to adjourn the meeting. Selectman Guarino seconded. Motion passed 2-0.

Respectfully submitted,

Lois Dionne
Recording Clerk

