

APPROVED

**Board of Selectmen
9 November 2009
Minutes**

6:00 p.m. – Chairman Rachel Hatch called the meeting to order. Present were Chairman Hatch, Selectmen Betty Ann Abbott and Don Guarino, Town Administrator Tim Warren and Clerk Lois Dionne. Also in attendance was Road Agent Paul Perkins.

After attendance, everyone stood for the “Pledge of Allegiance”.

Highway Dept. Update

Loon Pond Rd. – Paul informed the Board that he is doing drainage on Loon Pond Road and has been putting in under drains. He said there have been delays on getting the box culvert; it is being made now. Paul said he had gotten the approval for the culvert from DES, but they need a plan showing how he intends to divert the water while installing the culvert. He said it is possible that, if the mild weather continues, he could get it done this fall.

Donovan Road – Chairman Hatch asked if Paul had been overseeing the work that is being done on Donovan Road. He replied that he has been out there about a half a dozen times, and sees no problem with what has been done so far, and he sees no problem with the size of the culvert they want to use.

Winter - Paul said he is basically getting ready for the winter, getting the sand in, etc.

Budget – Selectman Abbott asked how he is doing with his budget. Paul felt he is doing well, and he still has some betterment money left.

Edwards Rd – Chairman Hatch asked if anyone had gotten in touch with him regarding Edwards Rd. They (JAKs Development) want to have the Town adopt the road as a Class V road, and were told to get in touch with Paul to see what would have to be done before he felt it would be ready to be accepted. Paul said he had talked with them, and they did the drainage he asked them to do, and they are supposed to put a topcoat of paving this week. He felt they have done a good job.

Donovan Road – Tim informed Paul and the Selectmen that he had received paperwork today from Carl Sherblom, the engineer for the work on Donovan Road. The paperwork

was in response to a request from DES for more information. Paul stated that he goes down and inspects the road when he is in the area. Don felt the road is being done properly. Paul agreed that it looks good. Tim said the information he had from Mr. Sherblom includes a plan for the culvert and the dewatering when it is installed.

Chairman Hatch said she was sensitive to fact that when all the approvals were met, and the Town settled the matter with the plaintiffs; there was a plan in place, but things happen, and when you start digging up, you realize more or less work might be required than had been originally thought. She said it might appear that they are deviating from the agreement, but she felt they are trying to make it better, and more durable. The engineer felt that a 24" culvert 30' long was sufficient to handle the water. Paul agreed that a 30' culvert was plenty long. Tim said the letter he received indicated that the Morrills need a letter from the board giving them permission to work on the road.

6-Wheeler- Paul said he had just sent the 6-wheeler out for new springs.

Capital Reserve – Tim distributed copies of the proposed 2010 Capital Outlay, Capital Reserve and Non-Capital Reserve reports.

The Selectmen reviewed and discussed the report, going over each item. They agreed to include again next year the Capital Reserve items that had been voted down at last year's town meeting. This includes things such as a capital reserve for police cruisers, life/safety building, etc. also the establishment of a new capital reserve for maintenance of town buildings.

7:03 p.m. – Public Input

Fines & Penalties -John Wilkens asked if there had been any discussion as to fines or penalties for work that had been done on Joanne Wilkens' barn prior to the stop-work order being issued. Chairman Hatch answered that there has been no discussion between the building inspector and the Board of Selectmen. John asked if that was something that is left entirely up to the building inspector. Rachel stated that the property owner had been sent a letter explaining why a stop-work order had been issued, and were informed they needed to get a building permit. There has not been a building permit issued yet. Selectman Abbott said they (Joanne Wilkens) had been told there was the possibility of fines if work was continued without a building permit. John asked if the law was that if no work is continued after the stop-work order had been issued, no fines or penalties are assessed. Rachel said she felt that was the case.

John read a portion of a letter he had received from the building inspector when he had been issued a stop-work order. "The purpose of this letter is to inform you that the stop-work on your property has been resolved. A permit was issued and the penalty paid for replacing the boiler without a permit." John said he was assessed a fine for work done prior to a stop-work order being issued, and he thought Laurie Henderson was "in the

same boat”. He said if one person, or a group of people had been fined, not having done any work after the stop-work order had been issued, then it is inappropriate for someone else not to, and be fined only if they do work after the stop-work order is issued.

Selectman Abbott felt this is a different case because, in this case, the work had been done under the “good faith” understanding of the code enforcement officer that a building permit was not required. This was taken to the ZBA who overturned the code enforcement officer’s decision. John asked if this would be something to take to the courts to decide if it was a “good faith” thing, and not something else. Tim felt we should wait to see if a fine is issued before making a decision. John said this was why he had asked earlier if it is left entirely to the building inspector. sELECTMAN Abbott said that in John Wilkens’ situation, he had done work that needed a permit, he didn’t get one, but did the work, and a stop-work order was issued. The Joanne Wilkens’ case is that they were told they did not need a permit, and did the work with that understanding, and that decision was challenged, and the ZBA decided a permit was needed. She felt this was different than John’s case where he needed a permit from the very beginning.

John felt if a fine isn’t imposed in one case, it shouldn’t be in another. He said he questions why Joanne had been told she didn’t need a permit in the first place; there were no conflicting codes, so the building inspector had no reason for interpretation of the code. He felt there should be some penalty or fine; he doesn’t care who pays the fines, the building inspector, the contractor or the property owner, but there should be a fine or penalty.

Bob Henderson, who had just joined the meeting, asked if there had been a fine imposed. He said they (Hendersons) had a stop-work order issued on them, and they had to pay the fine; Bob Flanders decided how much the fine was. He said they had to go the next day, and asked what the delay was in this case. Chairman Hatch repeated what she had told John why she felt John’s case was different from Joanne’s case. Rachel felt the Henderson’s case was similar to John Wilkens. They should have gotten a building permit; they didn’t, but had done the work, and had to pay a fine.

Bob H. said they had contractors who had told them they didn’t need a permit. He said they started the work, had a stop-work order placed on them and had to go pay a fine. Laurie said they were replacing boards and sills on an extension of their home. She said they hadn’t gotten into any electrical or plumbing when it became winter, and the work stopped. She said there was still snow on the ground when the stop-work order was placed on their property, when they weren’t doing any work; the work had been done prior to the stop-work order. Laurie said the code enforcement officer had told her it was because someone had complained. She said she was willing to get a permit, but when she got to the office, Bob started in about an aboveground pool, a lean to, etc, and she ended up writing a check to the town for \$350. Laurie said she had received a nasty letter from Bob telling her she had a certain amount of time to comply. She said she wasn’t continuing with the work because she didn’t have the money, but Bob was harassing her

to get the fine paid and to get the permit. Laurie said she had told Bob she would pay the fine and get the permit as soon as she had the money.

There was a great deal of discussion of residents all being treated fairly, the signs that are around town, and what Laurie perceives as selective enforcement. Chairman Hatch said the board would discuss the issue of fines and a time limit to obtain a building permit with the code enforcement officer.

7:35 p.m. – Selectman Hatch closed public input.

FYI's & Other Business

Tonnage – Tim informed the Selectmen that the tonnage sent to Penacook in October was 115.34 tons. Year-to-date tonnage is 1,184.76, which is down from 2008 year-to-date of 1,272.35 tons.

Interim Planner – Tim asked the Selectmen to sign the contract with the interim planner. Town Counsel has reviewed the contract.

Tax Rate – Tim reported that the tax rate had been set for 2009. It is \$20.98, the same as last year.

Health Insurance - Tim said he had received a note from Tammy Croft, LGC Account Representative, regarding our health insurance. She said we have no one enrolled in the BC (Blue Choice) Three Tier Program, so the benefit should be removed from the offerings. Once that is done, we will no longer have the prescription drug benefit with the \$1 Mail in order available to the active employees, which means it can no longer be available to retirees. It has always been required that retirees benefits follow the active employee benefits. The retirees will have to go to the same prescription payment plan as active employees.

There was discussion of the prescription plan, and also whether we should keep the short-term disability insurance. It was felt that with the change in the personnel policy allowing employees to carry over sick pay, we really don't need the short-term disability insurance. By dropping this we would save approximately \$4,000 per year.

After a brief discussion the Selectmen agreed to cancel the short-term disability. We do need long-term disability.

Tim said Tammy would also look into other insurance plans, and get back to him.

Recycling Center Attendant – Tim informed the Board that Recycling Manager Justin Leavitt had reviewed the applications we received for the recycling attendant position. Tim has briefly reviewed them; and they have been narrowed down to six. He asked if

any of the Selectmen would be available on Friday to help conduct interviews. Selectman Abbott will be on the interview board with Justin and Tim.

Computer – Recycling Center – Tim said the cable would be installed Friday afternoon so Justin will be able to have a computer at the recycling center. He will be getting one of the old computers from the police department.

Free Room - Rachel said she had brought a computer table to the free room at the center this weekend, and was told she would have to pay to leave it there. Rachel said she took her table back home. Tim will discuss it with Justin. Don felt the reason for this is that it is a piece of furniture, and if no one takes it, the employees would have to disassemble it and get rid of it. Furniture is one of the things you have to pay to dispose of.

Holiday Closings – Tim informed the Selectmen that Deb Cornett would be closing the town clerk/tax collector's office at noon the day before Christmas, and at 2:00 the day before New Year's. He asked if the Selectmen's office could also close at noon the day before Christmas. After a brief discussion, it was agreed that they could close at noon the day before Christmas.

Waiver of Municipal Responsibility & Liability – Lois stated that the Gordons had to sign a Waiver of Municipal Responsibility & Liability; she had a copy of the standard Waiver of Municipal Responsibility that is sent to residents. So far all waivers have been to residents on private roads, and didn't cover the Gordon case. Lois had a copy of the waiver she had adapted to cover the Gordons' situation for the Selectmen to review. After review, and a couple of changes, the Selectmen approved the waiver, which will be sent to the Gordons, along with a letter outlining the conditions of their approval to use Mary Butler Lane to access their driveway.

Public Input – There was a brief discussion about the way public input is handled, and the way it has been done in the past. There was discussion about limiting the amount of time each resident had to speak, as has been done in the past. There was also discussion of the need to speak with the code enforcement officer.

Don read from the codebook regarding stop work orders.

Stop Work Order "Upon the notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent or the person doing the work, and shall state the conditions under which the work will be permitted to resume. **Unlawful Continuance** - Any person who shall continue work in and about the structure having been served with a stop work order, except such work as that person is directed to perform to remove the violation, shall be subject to penalties as prescribed by law."

Code Enforcement Officer – Chairman Hatch asked Tim to set up a time for Bob Flanders to be on the agenda to meet with the Selectmen to discuss the process for the issuance of stop-work orders, fines, signs and other issues.

Safety Building Construction Committee – Selectman Abbott stated that she felt the request for the site work for the life safety building should be put in the newspaper, rather than have a preferred list. After a brief discussion, it was decided this would be the best thing for this particular project. Tim informed the board that Brian Cottrell had expressed an interest to be on the construction committee.

Don informed the Board that he had spoken with Paul Darbyshire, who had drawn up the initial plans for the septic system. He said Paul said the septic design had never been submitted to the state. Don said Paul said it would cost more money to update the design, but Paul would be willing to meet with the committee. Don will ask Paul for the cost to update the plan.

There was a brief discussion on the buildings that are being considered for the life safety building. Selectman Abbott stated that she doesn't understand why the committee is against having volunteers do the site work. Chairman Hatch stated that if local contractors volunteer to do the work, they would already have liability insurance. Don stated that the time constraint is a big factor; the plans aren't ready, but when the plans are ready, they could immediately put the job out to bid, and get the work done. Selectman Abbott asked if both chiefs were okay with using the steel building. Don replied that KG is and he would check with Phil.

3rd Driveway – Recycling Center – Selectman Abbott stated that Tim had said we had been asked to submit a summary of what will be discussed at the next hearing for the driveway. She asked if that was being worked on. Tim replied that he, K.G. and Justin would have to sit down and work on it.

Appeals Board – Selectman Abbott asked if the Selectmen should set up an appeals board. Chairman Hatch was concerned because she said members of an appeals board would have to be trained, and she wasn't sure what training would be necessary. There was a brief discussion, and it was decided that a five-member board made up of two contractors, one engineer, one licensed plumber and one licensed electrician should be able to provide the experience and education required to answer technical questions. We might not need a board for years, but an appeals board needs to be in place, or if another case should come up, it would fall to the ZBA again. It was agreed to advertise for persons interested in being on a building code appeals board, and the Selectmen would appoint qualified persons.

Sawtooth Road – Selectman Abbott asked the status of the request to upgrade Sawtooth Road. Tim replied that we had written a letter to the Planning Board asking for their

input, and to schedule a site walk. He said Desiree is going to bring it up to the Planning Board at their meeting on Thursday.

Parsonage Hill Road – Selectman Abbott asked the status of the request to upgrade a section of Parsonage Hill Road for the purpose of logging. Tim said we had sent a letter to Mr. Haas informing him that he is to do nothing to the road, and after he has hired a logger, the logger should meet with the Selectman.

Donations – Libraries – Selectman Abbott asked if Tim had given the library trustees the information about donations to the library. Tim answered that he has not done it yet, but would.

Class VI Road Policy – Selectman Abbott stated that she had asked Tim for copies of Class VI Road policies from other towns, and she would speak with the other towns to see if their policies had ever been challenged. Selectman Abbott said she had not had the opportunity to speak with the Towns, but would have the information next week.

8:59 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(c)

Selectman Abbott 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 employment issue.

9:12 p.m. – Out of Non-Public Session

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

MOTION- Selectman Guarino moved to seal the minutes of the above-non-public session. Selectman Abbott seconded. Motion passed 3-0.

9:15 p.m. – MOTION – Selectman Abbott moved to adjourn the meeting. Selectman Guarino seconded. Motion passed 3-0.

Respectfully submitted,

Lois Dionne
Recording Clerk

