

**Board of Selectmen
20 October 2008
Minutes**

6:00 p.m. - Chairman Don Guarino called the meeting to order. Present were Chairman Don Guarino, Selectmen Rachel Hatch and Betty Ann Abbott, Town Administrator Tim Warren and Clerk Lois Dionne.

After attendance, everyone stood for the Pledge of Allegiance.

6:05 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(a)

Selectman Abbott 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 Hatch seconded. Motion passed 3-0.

The Selectmen discussed a recycling center personnel issue.

7:15 p.m. – Out of Non-Public Session

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

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

Public Input

Catch Basin – Lakeshore Drive – Dick deSeve informed the Selectmen that there is a catch basin on Lakeshore Drive opposite Beach 3 where the school bus turns around and that area is sinking. He said the Shellcamp Association would be willing to share the expense to have the catch basin repaired and reinforced. Chairman Guarino asked Tim to have the road agent look into the matter of the catch basin.

School Bus – Speeding on Lakeshore Drive – Dick deSeve had, at a prior meeting, informed the Selectmen of a school bus that was speeding on Lakeshore Drive in the afternoons. Selectman Hatch told Dick that she had spoken with First Student Bus

Company, and had made them aware of it. She asked if the problem had been solved. Dick replied that it hadn't been. Rachel said she would call the bus company again.

Class VI Road Policy Update – The Class VI Road Committee had presented the Selectmen with a draft for a Class VI Road Policy to review. Tonight Class VI Road Committee Chair Ella Jo Regan was here to review the policy with the Selectmen. Also present were Sue and Dick deSeve, Class VI Road Committee members, Kimberly and Joe Mazzitelli, Mary Ann Morrill and her daughter and another couple who own land on Class VI roads and two realtors, Bob Williams and Zannah Richards.

Chairman Guarino explained that the previous Board of Selectmen had decided, since there had been so many questions about the Town's position on Class VI roads, to have a Class VI Road committee do a survey of all the Class VI Roads in town, then have the committee make recommendations to the Selectmen in order to establish a Class VI Road Policy. Don added that the Class VI Road Committee had drafted a policy and that is what was to be discussed tonight.

In response to a question as to what the current Class VI Road Policy is, Chairman Guarino explained that currently, the policy states you need to have at least 200 feet of frontage on a Class V road, so in order to build on a Class VI road, you would need to bring up at least 200 feet of the Class VI road to Class V Road standards, which includes paving the road. If you live more than 200 feet from a Class V road, you would additionally need to bring the road up to Class V standards from the end of the Class V portion of the road. The question was asked if people were currently living on the road, would the road still have to be brought up to a Class V standard? Tim Warren replied that it would still need to be brought to standard.

Class VI Road Committee Chairman Ella Jo Regan apologized that she had been out of the country for two weeks so hadn't been able to notify all of the Class VI Road Committee members of the meeting tonight. She felt they would all like to meet with the Selectmen, because the draft policy represents many compromises and differences in philosophies among the members. Selectman Abbott asked if the policy is a compromise. Ella Jo replied that it is; some members like the policy as it is; some members feel no Class VI road should be developed, while others feel that people should be allowed to do what they wish with their property.

Ella Jo read the introduction of the policy which states that under RSA 674:41 the Selectmen have the discretion to authorize the issuance of a building permit on Class VI roads, after review and comment by the Planning Board. The purpose of 674:41 is:

1. To prevent scattered and premature development in the community that may endanger the safety and well being of its residents.
2. To protect the Town from absorbing burdensome costs of upgrading substandard Class VI roads to service scattered and premature development.
3. To preserve the character of Class VI roads.
4. To protect the health, safety and welfare of the community.

Ella Jo gave a brief review of the policy. Under number seven in the Procedures section, the wording is that a Class VI road be improved to “appropriate” standards. Selectman Hatch asked how you could define appropriate standards. Ella Jo felt that was a problem, and felt it was one reason the committee wanted the policy to come to the Selectmen. She said when she was a Selectman, one of the things she had felt was lacking was that the policy wasn’t something you could hand to someone and have it clear to the person what would have to be done. She felt this wording leaves it open because boards of selectmen change, so the meaning could vary from year to year. Ella Jo stated that the Selectmen would make their own decision as to whether they want a firmer definition. Ella Jo was asked by Selectman Abbott to explain the Standards set forth in the policy. They are:

1. It conforms with the Town’s Master Plan, Ordinances and Regulations.

Selectman Abbott said she was confused, because she thought we already had ordinances and regulations concerning Class VI roads. Ella Jo replied that they would have to conform to any that exist at any time, and nobody could upgrade something unless it did conform to the standards and ordinances. Don cited as an example, that there is an ordinance that roads cannot exceed a 10% grade in a subdivision, so if a Class VI road were very steep, it would not meet the regulations for steepness of roads, so you could proceed no further.

2. It provides adequate access for the proposed use and for emergency vehicles.

Ella Jo said this is the same as for a private road; there must be adequate access for emergency vehicles.

3. It will not result in scattered and premature development.

Ella Jo said this is one in which the Town had a lawsuit regarding scattered and premature development. She said the Town won the lawsuit with this wording. Selectman Abbott asked for explanation of that. Ella Jo stated that on Parsonage Hill Road an individual had wanted to come in from Meeting House Road and go in 3,000 feet to presumably build one house, but wanted permission to be able to build others later to recoup their expense for the upgrade of the road. Selectman Abbott said she didn’t understand the term “premature” development. Ella Jo said she thought the concept was that where development already exists, i.e. on Middle Route development already exists, there are empty pieces of land, but she didn’t feel, because of the development already there that any further development could be considered premature. She added that when you go out a mile in on the back side of Parsonage Hill Road where there is empty and pristine land that is very heavily used by wildlife, and would have to have a huge dead end, the court had decided that would be scattered and premature because nothing else is out there.

Dick deSeve said that in regard to premature development, the court has said that it is developing areas where some development has already occurred, and leaving the outlying areas for later, if at all, because they are farther out, and it is tough to get services out

there, and increases costs to the Town and its citizens, so it makes more sense to develop the closer areas first.

4. It will not unreasonably impact highest ranked wildlife habitats as mapped by the NH Fish & Game Department for Wildlife Action Plan, and will not unreasonably impact conservation focus areas as shown on the same plan.

Ella Jo said this was a major concern of a number of people on the committee. Selectman Hatch said it sounded like there was good representation from different boards and committees. Ella Jo said they had a very diverse committee, which she felt was a benefit. There was a very brief discussion on a comment from a member of the public that felt there were too many members of the Conservation Commission on the Committee to make it a diverse group. Chairman Guarino stated that the Class VI Road Committee had been open to anyone who wished to participate, and they weren't here to discuss that.

5. It will not unreasonably impact ground and surface water resources.

Ella Jo felt the concern there was primarily that water resources are the major upcoming issues in all the communities. Selectman Hatch asked who defines unreasonable. Selectman Abbott noted that many of the standards that say unreasonably affect something. Ella Jo said there was a lawyer on the committee, and he had chosen the word because he said there was actually some legal precedent for the word or definition of the word. Don said there could be instances years from now when shortage of water would be a concern, and the Board of Selectmen could have a groundwater specialist come in and tell them a road upgraded through a particular area could affect the ground water. Dick deSeve stated that it is a judgment call, and in the final analysis it belongs to the Board of Selectmen.

6. It will not unreasonably interfere with established recreational trails and unfragmented wildlife habitat.

Ella Jo said the unfragmented areas are established on the maps, and this had been of concern because of snowmobile trails and the degree of use for walking and horseback riding.

7. It will not result in unreasonable expense to the town nor place an unreasonable burden on existing town services.

Ella Jo said the concern is that every new house adds one more place that the fire and police have to protect, so adds a burden to existing town services.

8. It promotes the health, safety and general welfare of the entire community.

Ella Jo said any development should promote the health, safety and general welfare of the whole community.

There was a great deal of discussion on the policy and the recommendations the Class VI Road Committee had come up with on all the Class VI roads. The necessity of paving the road in order to bring it up to Class V standards was a major concern of the residents in attendance. Some felt a good gravel road was better than having a paved road to maintain the rural atmosphere of the community, which was one of the goals of the committee. It was stated that for maintenance purposes, paving the roads was less expensive in the long run. Zannah Richards pointed out that living a long way out also created problems when people try to get loans or want to insure their homes. Some wording on the policy, which was considered to be a little confusing, was also discussed. It was asked if a Class VI road were to be brought up to a Class V road, would the Town then take over the maintenance of the road? It was explained that the road would have to be accepted at Town Meeting by a vote of the residents before the Town could maintain the road.

Ella Jo felt that all the Class VI Road Committee members would like to be able to meet with the Selectmen to discuss the policy. She asked that the Selectmen review the policy, make suggestions and/or revisions and forward them to the committee, and then meet with the Class VI road committee.

Mazzitelli – Possible Upgrade of Canaan Road – Joe and Kimberly Mazzitelli were present to request permission from the Selectmen to upgrade a Class VI section of Canaan Road. The Mazzitellis had been present during discussion of the Class VI Road draft policy, so were therefore aware of the moratorium on building on Class VI roads until a policy has been established, and the current standards to bring a Class VI road up to a Class V standard.

The Mazzitellis explained that their property abuts the Belmont town line, and they access their property through Belmont, so they would only need to upgrade about 200 feet of Canaan Road. Mr. Mazzitelli stated that they had already put down asphalt chips on the road, and asked if this would be an acceptable finish for the road, or if it would need to be poured pavement. The Mazzitellis pointed out their property on the tax map, and showed pictures of the road in front of their house taken today. Tim Warren pointed out that they had upgraded the road, and should not have done anything at all to the road, as they had never received permission to improve the road. They were told not to do any more upgrade of the road.

Mr. Mazzitellis said they had spoken with the Town of Belmont about using Maple Street in Belmont to access their property, so they wouldn't have to upgrade Canaan Road from the end of the Class V portion of the road in Gilmanton, which would require upgrading a great distance of the road and replacing a bridge which would incur a great expense.

Chairman Guarino stated that when he had seen the agenda and saw that the Mazzitellis were to meet with the Selectmen tonight, and had been briefed on their request, he had spoken with the Town of Belmont about the road accessing their property from Belmont. He said the Town of Belmont had concerns about their accessing their property from Belmont, and they would like to be involved in any decision regarding the road.

After further discussion including the question of who would respond if there were an emergency since the house would be in Gilmanton, but the access would be from Belmont, the Mazzitellis were asked to speak with Belmont to find out their requirements, and once they had found out Belmont's requirements, if the Mazzitellis wished to pursue it further, the Board of Selectmen would hold a joint meeting with the Belmont Board of Selectmen.

FYI's & Other Business

McDonough Property – Shirley McDonough owner of property on Flintlock Circle had wanted to give a gift of the land to the Town, but the Town can't accept gifts of land, so the Conservation commission was asked if they wished to accept it as conservation land. The Commission checked the land and decided they would accept the property.

Tim had a copy of a deed, signed by Mrs. McDonough, turning the land over to the Town. He said the Selectmen had to make a motion to accept the property, sign the deed and then the Conservation Commission would sign the deed.

MOTION – Selectman Hatch moved to accept Shirley McDonough's gift of land, to the Town of Gilmanton, located at Flintlock Circle. Selectman Abbott seconded. Motion passed 3-0.

The Selectmen signed the deed.

NRRA Meeting – Tim informed the Selectmen that NRRA (Northeast Resource Recovery Assoc.) would be holding their annual meeting and luncheon on Wednesday November 12

Draft Audit – Tim had a copy of the draft audit for the town. He had a paper that needed Chairman Guarino's signature to show that we had received it. Chairman Guarino signed the receipt. Tim said we had also received our audit report for the town report.

Concord Co-op Meeting – Tim informed the Selectmen that Concord Co-Op in Penacook would be holding their annual meeting on Thursday, November 20th at 7:00 p.m.

Personnel Policy – The Selectmen reviewed the draft of the changes made to the personnel policy. One minor change was suggested, which will be made and presented to the Selectmen at their last meeting.

Crystal Lake Farms – Tim reminded the Selectmen that Kurt Rague of Crystal Lake Farms had been required to put \$5,000 into an engineering account to pay Hoyle Tanner for their engineering work overseeing the building of the road for Crystal Lake Farms off Crystal Lake Road. Tim said the money has been overspent, and Mr. Rague needs to deposit more money into the account. He had a letter for the Selectmen's signature

requesting Mr. Rague to deposit an additional \$5,000 into the account. The Selectmen signed the letter.

Brown Property – Tim said he had received a call from Hammond Brown saying “he bumps over his lawn” every time he mows (This was from ruts made by a lift when the contractor was working on the Old Town Hall). Tim said he had informed Mr. Brown that the Town withheld \$1,000 from the contractor, and both Tim and Chief O’Brien had spoken with the contractor, and asked him to contact Mr. Brown. Tim said he had told Mr. Brown that he would write a letter to the contractor informing him that he needed to contact Mr. Brown before we would release the \$1,000.

Adam Gilbert – ZBA Attendance – Tim said the ZBA Chair Betty Hackett had informed him, through Lynne Brunelle, that ZBA Alternate Adam Gilbert had not attended the last five or six ZBA meetings. Tim said he had written a letter to Mr. Gilbert asking him if he were still interested in being an alternate, if so he needed to start attending meetings; if not to notify Betty Hackett or the Selectmen.

Poker Tour – Tim said that Cliff Berry had contacted Lynne Brunelle, Planning Board. He said the gentleman wanted to establish a NH poker tour. Tim said they go around to different towns throughout the state, have a dinner at somebody’s house, people pay a fee for the dinner, and then they play poker and earn points, which they accumulate throughout the state and win prizes.

Tim said Lynne said the only thing she could see it would be covered under would be home occupation because they aren’t selling anything. Tim said Mr. Gilbert’s concern was whether there would be any kind of business license he would have to obtain.

There was a brief discussion during which no ordinances could be found to prohibit the tour, and the Selectmen didn’t feel it could be considered gambling because they weren’t playing for money. Don felt this would be considered a home occupation that might increase traffic, so would have to go before the ZBA. He asked to have Lynne to look into whether the increase in traffic section of the ordinance would apply. Selectman Abbott asked Tim to check with Police Chief O’Brien.

Cupola Repair -Tim said they had received information from Camp Bellsville Industries out of Kentucky who make cupolas. He said they have done cupolas worldwide, and make them out of composite materials, plastic, metal, etc. Tim had a brochure of cupolas that the company has done. He said if we took pictures of the cupola we removed, took some measurements and sent them to the company, they would supply us with a “very reasonable” quote to remanufacture and put it back up; the quote would be well under the quote we have to put columns under it. The Selectmen asked Tim to get a quote.

September Tonnage - Tim informed the Selectmen that the tonnage sent to Penacook in September was 118 tons, down from 122 tons last September.

Parking Spaces – Iron Works Market – Tim said the owner of the Iron Works Market, Sonny Patel, was in last week asking when we were going to stripe the parking lot. Don said he hadn't gotten the quote yet. It was reiterated that Mr. Patel would have to pay the amount over what the Town would pay for regular striping for the handicap parking space. Don said he would get the quote.

Elm Trees – Selectman Abbott asked Chairman Guarino if he had found out when it would be a good time to plant the elm trees. Don said it could be done any time now. The Selectmen will decide on a time to plant them at the next meeting.

Memo – Town Clerk – Tim gave the Selectmen a copy of a memo from Town Clerk Deb Cornett listing things she felt the Selectmen need to be aware of for Election Day. Selectman Abbott felt it didn't address specific duties the Selectmen have. Tim said they could go to NH Votes on line to get that information.

The Selectmen agreed that they would not meet the night before the election, Monday, November 3rd. They said they would go upstairs that night to help set up for the election. All employees and election workers are to park over at the old salt shed property on Election Day to allow room for residents to park to vote.

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

MOTION – Selectman Abbott moved to accept the minutes of October 132, 2008 as amended. Selectman Hatch seconded. Motion passed 3-0.

9:43 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(e)

Selectman Hatch 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 Abbott seconded. Motion passed 3-0.

The Selectmen discussed a pending lawsuit.

9:47 p.m. – Out of Non-Public Session

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

Budget – Tim informed the Selectmen that the requests had gone out to the department heads for their next year's budget requests. He asked what percentage the Selectmen the Selectmen wished for them to stay within.

During discussion, it was decided, because of the financial situation and revenues being down, to ask the department heads to retain level funding.

**10:00 p.m. – MOTION – Selectman Hatch moved to adjourn the meeting.
Selectman Abbott seconded. Motion passed 3-0.**

Respectfully submitted,

Lois Dionne
Recording Clerk