

**SELECTMEN'S MEETING MINUTES
TUESDAY, MARCH 30, 2010**

PRESENT: Selectmen Maxfield, Ives, and Bowles. Also present are Police Chief/Code Enforcement Officer Bob Fiske, Fire Chief Jeff Burr, Road Agent David Rice, Planning Board Chair Tom Dow, Planning Board Vice Chair Stanley Prescott, and Zoning Board of Adjustment Chair David Powelson.

Chairman Maxfield called the meeting to order at 6:30 P.M.

- I. Selectman Ives moved to approve the Selectmen's Meeting Minutes of Tuesday, March 23, 2010 as presented. Second by Selectman Bowles. All in favor. Motion carried.
- II. Chairman Maxfield opened the Board of Permit meeting and explained the objective of the Board of Permit is to serve as an advisory board and assist applicants on the direction in which they should proceed. Chairman Maxfield recognized Planning Board Chairman Tom Dow. Mr. Dow referred to a letter he received from Fire Chief Jeff Burr in regards to the site plan approval for Huckleberry Heating Oils. Chief Burr stated in his letter his concerns for the approval given by the Planning Board for the Huckleberry Heating Oils Chichester Road storage facility. Chief Burr stated as Fire Chief of the Town of Loudon and the authority having jurisdiction, he does not approve the plans set forth and approved by the Planning Board. He went on to say the plans submitted do not meet the requirements for fire protection as set forth in the Fire Safety analysis submitted by Huckleberry Heating Oils or the National Fire Protection 58 Liquefied Petroleum Gas Code 2001 edition that has been adopted by the State of New Hampshire as fire code. Chairman Dow reviewed the process undertaken by Mr. Huckins in seeking approvals through both the Zoning Board of Adjustment and the Planning Board. Chairman Dow read from a summary of events beginning with the application for a special exception for two 30,000 gallon propane tanks which came before the Zoning Board of Adjustment on September 24, 2009. In October 2009, Mr. Huckins appeared before the Planning Board for an amended site plan for the removal of the gasoline tanks and installation of propane tanks. The application was continued to the November meeting, during which the plan was given conditional approval. The conditions required references to boundaries be removed or the plan had to be stamped by a licensed land surveyor and a letter of approval from the Fire Department needed to be submitted. On November 30, 2009, the Planning Office received a copy of the letter sent to Mr. Huckins by the Fire Department stating a 15,000 gallon cistern is required. On December 3, 2009 the Planning Office sent a memo to Chief Burr asking for an explanation on the cistern requirement. December 7, 2009 the Planning Office received a copy of a letter from Mr. Huckins asking Chief Burr for the same explanation on the cistern requirement. On December 10, 2009 Chief Burr replied with the explanation the requirement was based on the applicant's fire analysis and NFPA 58 2001 edition. On December 17, 2009 Firefighter John Reese appeared before the Planning Board at Chief Burr's request, for further discussion on the cistern requirement. December 24, 2009, Mr. Huckins

was notified the Planning Board wants engineered plans for the cistern to be approved by the Fire Department. On February 18, 2010, the applicant appeared before the Planning Board for lengthy discussion of cistern/piping and location. Fire Department would provide letter approving the plan if the draft pipes were 100 ft. from the tanks. Planning Board took Fire Department recommendation into consideration during approval process and approved the amended site plan as drawn with 80 ft. distance between pipes and tank in an effort to avoid going into paved driveway area/changing traffic pattern, etc. On March 3, 2010 Planning Board Office receives memo from Chief Burr stating the cistern should not be any closer than 100 ft. from tanks. Chief Burr asks the Board to reconsider their approval. March 16, 2010, Chief Burr sent letter from Chairman Dow stating the Planning Board granted final approval of the plans as submitted. On March 24, 2010 the above referenced letter received stating Chief Burr does not approve the plan. Chairman Dow said, with all due respect to those involved, he feels the applicant came in with due diligence to do what had to be done to get the approvals for the tanks and get his business running. Mr. Dow said there was ample opportunity for the Fire Department to express their concerns early on and it wasn't until the applicant was asked to obtain a letter from the Fire Department that the cistern even came up. He said unfortunately it now looks as if the Planning Board has approved an application that the Fire Department feels is not in the best interest of safety. Chairman Maxfield asked if ZBA Chairman David Powelson would like to comment. Mr. Powelson said he was not at the initial ZBA meeting when the applicant sought the special exception for the tanks. He said it is obvious that safety concerns are taken into account when going through the approval process. Chairman Maxfield stated the Department Heads are always encouraged to participate in the review of plans submitted. Chairman Maxfield asked Fire Chief Jeff Burr for his comments. Chief Burr said he has no objections to the tanks. He said under RSA 154:2-II, the fire chief shall have the authority to enforce any local or state laws or rules pertaining to the control of combustible or hazardous materials, or both, the design of exits, and any other fire safety measures including the state fire code enacted pursuant to RSA 153:5. Chief Burr said part of the state fire code is NFPA 58. He said not all of NFPA 58 is being adhered to. He said there are plans that have to be submitted to the authority having jurisdiction and there are a lot of things that need to be done, that are not being done, and they need to be before construction begins. Chief Burr read from NFPA 58, outlining the requirements for submission of plans for the installation of the containers and associated equipment. He said none of this has been submitted to the Fire Department at this time. Chief Burr said all he wants is for the applicant to adhere to NFPA 58, which is state law. Chairman Maxfield recognized Simon Leeming, who is representing David Huckins and Huckleberry Heating Oils. Attorney Leeming said his client does not want to get drawn into a jurisdictional issue. He said his client appreciates what the Zoning Board, the Planning Board, and the Fire Chief have done. Attorney Leeming said the Fire Safety Analysis has been submitted. He said his understanding is the main issue is the distance between the cistern and the tanks. He said he feels a short discussion could resolve these issues. Chief Burr said all he wants is for the applicant to present an engineered set of plans as required by NFPA 58 prior to beginning any construction. Chief Burr said it is the applicant's responsibility to ensure the project

meets all regulations. He said he would be glad to step out and meet with the applicant and his attorney to review the requirements and discuss a resolution. Discussion ensued regarding the participation from Department Heads in applications coming before the various boards. Chairman Maxfield said maybe the Selectmen need to reinforce the importance of this participation.

Chairman Maxfield moved to the next item on the agenda which is a letter from John and Lynn Cochran. Selectman Ives gave a brief overview of the ongoing situation regarding a property located on Route 129. Chairman Maxfield asked Chief Fiske about a noise ordinance for daytime activities. Chief Fiske said no there is not, however if it continues late into the night the Police will speak to those involved. Chief Fiske went on to discuss the other issues of parking, loud noise and interference with traffic flow. Selectman Ives said it appears the tenants of the property have been advertising activities at the property on a web site. He said under the Town of Loudon Zoning Ordinance club houses are only allowed by special exception. Selectman Ives said he feels it would be beneficial to have the tenants apply to the Zoning Board for a special exception, which would then allow for conditions to be applied and that would give code enforcement and/or the Police Department additional options for enforcement of town regulations. Chief Fiske said he does not feel requiring them to appear before the Zoning Board will deter the loud noise issue. Chairman Maxfield said the Selectmen could discuss advising the individuals they need to apply to the Zoning Board for a club house exception. Selectman Bowles said he would like to see Chief Fiske meet with the tenants and discuss the issues that have been brought forward. If changes are not put in place then require them to apply for a special exception. He said conditions have been put in place at other establishments. Roy Merrill suggested requiring police presence during events taking place at the owner or tenant's expense. Selectman Bowles said he would like to see these issues addressed before someone gets hurt.

Chairman Maxfield addressed Attorney Leeming on the Huckleberry Heating Oil's issue. Attorney Leeming said the results of the discussion with Chief Burr are that Chief Burr will go back to the state to determine the required distances and both Chief Burr and Mr. Huckins will continue to work together to be sure everyone is aware of the requirements that must be met to get the project completed.

Chairman Maxfield said he would now close the Board of Permit meeting and resume the regular Selectmen's meeting.

- III. The Board met with Road Agent David Rice.
 - a. Mr. Rice said all seems to be going well, no significant water problems as a result of all the rain.
 - b. Mr. Rice said they have reconstructed the old broom from the Case tractor to enable the crew to use it with a dump truck or the new tractor.
 - c. Mr. Rice said he is preparing a list of culverts that will need to be replaced so he can obtain prices. Selectman Ives asked if Mr. Rice has any thoughts on how to fix the water problem on Country Hill Road. Mr. Rice said he has received permission from the landowner to place a catch basin at the end of the town's culvert.
- IV. The Board met with Police Chief/Code Enforcement Officer Bob Fiske.

- a. Chief Fiske advised the Board he has received a letter of intent from NH Motor Speedway for a fan appreciation day scheduled for Saturday, April 3. He said the letter states no police details will be required for this event.
- b. Mr. Fiske discussed the Timberman Triathlon scheduled for August 22nd.
- c. Chief Fiske reminded the Board there was supposed to be a meeting of the Governor's task force to review security options for NH Motor Speedway Sprint Cup events the first part of March. He said the meeting has not happened. Selectman Bowles said it is getting down to crunch time and that Chief Fiske and Chief Burr need to schedule the needed manpower. He said he feels a letter needs to be sent to the track with a deadline to respond. Chief Burr said he does not feel the town should take the first step. Chairman Maxfield said he would telephone Mr. Gappens to get a status report. Selectman Bowles urged caution in verbal communication and advised Chairman Maxfield to put any questions or comments in writing. Chief Fiske said the town has been told the cap on expenditure for police and fire protection is \$75,000. If the town is to provide the required safety personnel, the cost will most likely be the same as the September race or approximately \$170,000.

V. The Board met with Fire Chief Jeff Burr.

- a. Chief Burr addressed the flooding issues. He said the state had opened the emergency operations center and the Soucook River is supposed to hit 12.2 feet above flood stage at approximately 2:00 P.M. Wednesday.
- b. Chief Fiske addressed the fireworks training that will be taking place on May 1. Chief Burr said that this training will not be open to the public, but a notice of the training is going to appear in the *Loudon Ledger* as well as being posted. Selectman Bowles said he would like to address the issue of communication of these training sessions with both the Select Board and Chief Fiske. Chief Burr said the training at the track last year was not sponsored by his department and he thought all parties had been notified. Chairman Maxfield said he had spoken with Chief Burr on another matter and had been advised of the training session March 9. He apologized for not including the other Selectmen in this information.
- c. Chairman Maxfield noted for the record four pistol permits were approved for signature.

VI. Chairman Maxfield asked the Board for their input regarding the request for abatement for repairs of damages from the water issue on Country Hill Road. Due to the size of the culvert on the homeowner's property, it is not the town's responsibility and therefore it is the Board's decision to deny this request.

VII. Selectmen Ives addressed the parking permits obtained through the Planning Board as this has been discussed during the recent Planning Board meeting. He said he did not realize the \$100 fee was a one-time only payment. He said he suggested this be changed to an annual fee. Additional comments regarding campers, porta johns, parking diagrams etc. ensued.

VIII. The Board began their review of weekly correspondence.

- a. The Board noted receipt of a letter from the Library Trustees regarding appointment of alternate Trustees. Selectman Ives moved to appoint Marilyn

Sylvester and Steven DelDeo as alternate Library Trustees with terms to expire March 31, 2011. Second by Selectman Bowles. All in favor. Motion carried.

- b. The Board acknowledged receipt of correspondence from the Loudon Center Freewill Baptist Church for \$17,563.00. This represents one half of the most recent invoice for the repairs at the Town Hall/Church and the remaining balance that will be due on completion of the painting this spring. Selectman Bowles will check with Mr. Fifield and if needed, the church will be refunded one half of the \$1,100 balance or \$550.00.
- c. Chairman Maxfield reviewed the letter of intent for NHMS fan appreciation day April 3rd.
- d. Selectman Bowles received a congratulatory letter from Sen. Judd Gregg for his re-election.
- e. The Board received the draft March Planning Board and Zoning Board minutes for review.
- f. The Board received the most recent price adjustments from Comcast for review.
- g. The Board received NHMA Legislative Bulletin #14 for review.

Selectman Bowles moved to adjourn at 7:51 PM. Second by Selectman Ives. All in favor. Motion carried.

LOUDON BOARD OF SELECTMEN

Roger A. Maxfield, *Chairman*

Steven R. Ives, *Selectman*

Dustin J. Bowles, *Selectman*