

Selectmen's Meeting Minutes

Tuesday, February 7, 2006

Present: Selectman Maxfield, Bowles, and Little.

Also present: Fire Chief Jeff Burr.

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

- I. Selectman Bowles moved to approve the Selectmen's Meeting Minutes of Wednesday, February 1, 2006 as presented. Second by Selectman Little. All in favor. Motion carried.
- II. Chairman Maxfield stated Road Agent David Rice was excused from tonight's meeting.
- III. The Board met with Fire Chief Jeff Burr.
 - a. Selectman Little asked about the status of the installation for Comcast Broadband service for the Fire Department. Chief Burr stated the installation was scheduled for Wednesday, February 8, 2006.
- IV. The Board met with George Page to discuss Clough Pond issues.
 - a. Mr. Page asked if the Board had come to any resolution regarding Ms. Maratea's development and asked what the Board proposed to do about the problems. Chairman Maxfield read RSA 236:13 relative to access to public highways and driveway safety. He stated Town Counsel has recently made the Board aware of this RSA and stated the Selectmen can require a property owner to rectify any issues created by the driveway even if the property owner has secured a permit. Chairman Maxfield stated the Board has drafted a letter to Ms. Maratea which states "Due to excessive water run off from the driveway serving your properties located on Tax Map 58, Lots 018 and 021, the Town of Loudon will require you to install a dropped inlet with frame and grate and 8" piping from your driveway to the next catch basin, located down the hill, on the northeast side of Berry Road". Mr. Page stated still does not address the safety issues. He stated there are laws in place to stop these problems and public safety concludes traffic and pedestrians on the road, it is part of Loudon Zoning Ordinances. Mr. Page discussed the driveway placement and its safety issues. Pauline Touzin asked if the drainage pipe would be above ground or below ground. Chairman Maxfield stated below ground. Brewster Bartlett stated he had been at Planning Board

meetings regarding Tony Merullo's subdivision on Berry Road and the Planning Board made strict requirements regarding the safety on the road. Mr. Merullo was advised that if he did not follow the requirements, he would not be getting his permits and approvals. Mr. Bartlett stated he did not understand why the Planning Board did not do anything for safety requirements for Ms. Maratea's development. Selectman Bowles stated those lots were subdivided long before he became ex-officio of the Planning Board. He stated the Planning Board could not go back and make changes to subdivisions that have already been approved. Selectman Bowles stated when these lots were approved he didn't think the Planning Board was even looking at access issues back then. Mr. Page stated in March of 1987 the Town voted in the Zoning Ordinance, which stated all non-conforming lots abutting each other by the same owner would be merged. He stated the Board has not enforced this law. There are now lots on top of the hill and lots on the bottom of the hill that Ms. Maratea is building on, but those lots should have been combined to form two lots and it has not been done. Mr. Page stated he feels his rights and the rights of town's people have been violated because the ordinance was voted in and not enforced. Mr. Page stated the Board is being presented with a petition from registered voters to address these issues. Ms. Touzin advised the Board the petition references the Zoning Ordinance. Mr. Page stated he is asking for a cease and desist or he will be filing with the Office of the Public Integrity Office, and if needed he will file for an injunction for a cease and desist with the courts. He went on to say that Ms. Maratea owns all of the lots and the Board should have made her combine those lots. Mr. Page stated he had been told the Board doesn't totally enforce that ordinance. Chairman Maxfield stated they don't totally enforce it. Mr. Page stated the Selectmen and Zoning Board are compelled to enforce the laws and they have not done it. Mr. Page discussed the names on the deeds for Ms. Maratea. Selectman Bowles stated when Ms. Maratea went for her building permit they had to be lots of record at the time because it was not a recent subdivision. Mr. Page reiterated that those lots should have been combined based on the Zoning Ordinance of March 10, 1987. Selectman Little stated based on the information that was received from Town Counsel, the Board does have some authority to see that the safety issues with the driveway are addressed. Mr. Page stated Ms. Maratea cannot put another house on top of the hill or on the bottom of the hill based on the Zoning Ordinance. Ms. Touzin stated Ms. Maratea can replace the cabin that she has on the existing footprint, however in the January 10, 2006 meeting it was stated that Ms. Maratea has septic system approval for shared septic system for two placed down by the water. Selectman Bowles stated those approvals were not given to Ms. Maratea by the Town; it was the State who gave those approvals. Ms. Touzin stated those lots are still

substandard and she cannot put two houses on it, she can only replace the existing one in the footprint. Chairman Maxfield stated he is not sure if the lots were in existence prior to 1987 or not. Selectman Little stated the records show Ms. Maratea did combine two lots, one that was next to the cellar hole and one to the south of that lot in order to get approval to build on that lot using the exact footprint of the old house. Discussion ensued regarding substandard lots. Chairman Maxfield stated the only two the Board recognized to take action on to combine were put into separate deeds before action was taken. Selectman Little stated he felt this should go to Town Counsel. Chairman Maxfield discussed the assessment issues and BTLA decision regarding an abatement. Chairman Maxfield stated he felt the Board could discuss this with Town Counsel. Ms. Touzin stated she felt there is an urgency because there is already a second foundation on the hill and they could place the house at any time. She stated as citizens, they are demanding a cease and desist order until the lot can be clarified and abided by. Chairman Maxfield stated there are two separate lots and they have building permits on both of them. Ms. Touzin read a portion of the petition referencing Zoning Ordinance 801:6 Revocation of Building Permits. She stated if the building goes up, it is going to have to come down and they are trying to deal with this before it goes any further. Selectman Little stated the Board will discuss this with Town Counsel. Ms. Touzin asked if the Board could take action and stop any further construction from taking place. Selectman Little stated this would be the first question asked. Chairman Maxfield asked for clarification on which Zoning Ordinance was being violated. Ms. Touzin stated 601:1, 802:1, 802:2, 801:6, and 205:5. She stated there are three issues, the drainage, safety, and contiguous lot. Mr. Page stated he feels the Board could put in a cease and desist order to be sure nothing further is done until the Board talks with Town Counsel. Ms. Touzin stated the Conservation Commission recommended that nothing be built in that location, and their recommendations were not taken, as well as DES also recommended nothing be built there. Chairman Maxfield stated the Conservation Commission is an advisory board. Selectman Little discussed the drainage issues and that the driveway permit had been issued prior to the Fire Department getting involved in this process. Discussion ensued regarding a timeframe for the answers from Town Counsel. Ms. Touzin stated they are not accusing anyone, mistakes can be made, and they are just trying to avoid a bigger problem. She asked if someone would contact her regarding the Board's discussion with Town Counsel. Chairman Maxfield stated he would contact her probably by Friday. Lynn LaBonte asked if the driveway was in place before anyone had approved it. Selectman Little stated the driveway permit was secured for these lots before the Fire Chief was involved in issuing driveway permits. Chief Burr stated the process now is that

he and Road Agent David Rice go out and review the site prior to the driveway permit being issues. He stated he did not know what the previous Road Agent used for criteria, but he and Dave Rice use the criteria E-911 recommends. Chief Burr stated the driveway permit was issued prior to him and Mr. Rice taking over. Mr. Page discussed the Zoning Ordinance relative to driveways. An audience member asked if the Town could fall back on to State Zoning or if Town Zoning was the only option. Chairman Maxfield stated it was just Town Zoning.

- V. Chairman Maxfield stated for the record, five pistol permits were submitted for signature and approval.
- VI. The Board met with Helen McNeil.
 - a. Ms. McNeil presented the Board with at petitioned Warrant Article for inclusion into the 2006 Town Warrant. She stated there are 63 verified registered voters who have signed the petition. The requirement is a minimum of 25.
- VII. Rodney Phillips was recognized from the audience.
 - a. Mr. Phillips submitted a letter regarding his status on the Fire Department. Mr. Phillips stated there are attached e-mails and a history for the Board's review.
- VIII. Sigrid Little was recognized from the audience.
 - a. Mrs. Little advised the Board there is a matching grant available to rewrite the emergency management manual as required by State regulation. Mrs. Little will contact Nancy St. Laurent to confirm what amount would be required from the Town.
- IX. The Board began their review of weekly correspondence.
 - a. The Board was presented with the cover design for the Annual Town Report. Selectman Little moved to accept the Town Report Cover as presented. Second by Selectman Bowles. All in favor. Motion carried.
 - b. The Board discussed the list of proposed warrant articles. Chairman Maxfield provided the presentation list to Selectman Bowles and Selectman Little, which was then reviewed.
 - c. Selectman Little advised the Board that he had discussed the proposed mosquito control program with Michael Harris as requested.
 - d. Selectman Little asked about the deadline to amend the emergency management appropriation in reference to the proposed grant application. Chairman Maxfield stated that once the budget is adopted following the public hearing on Thursday no further changes can be made. He said that the total proposed budget at this time is \$4,047,399, which is up 1.85%.

- e. The Board reviewed a letter from Gary Beaton.

- X. Chairman Maxfield moved to go into executive session to discuss confidential information regarding a personnel matter at 8:00 P.M. Second by Selectman Bowles. Roll call vote; Selectman Little yes, Selectman Bowles yes, Selectman Maxfield yes. Chairman Maxfield stated that the Board entered into an executive session at 8:00 P.M. and exited the executive session at 8:10 P.M. The purpose was to review confidential documents, decide a plan of action and this has been accomplished.

- XI. James McNeil was recognized from the audience. Mr. McNeil advised the Board that there were five officers of the Loudon Fire Department who are at the Selectmen's Meeting tonight to show their support for Fire Chief Jeff Burr. He said that while there is always room for improvement, they support Chief Burr's job as Fire Chief.

Selectman Bowles moved to adjourn at 8:16 P.M. Second by Selectman Little. All in favor. Motion carried.

LOUDON BOARD OF SELECTMEN

Roger A. Maxfield, *Chairman*

Dustin J. Bowles, Selectman

David M. Little, Selectman