

Selectmen's Meeting Minutes

Tuesday, February 20, 2007

Present: Selectman Bowles, Maxfield, and Ives.

Also present: Deputy Fire Chief Rick Wright.

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

- I. Selectman Maxfield moved to approve the Selectmen's Meeting Minutes of Tuesday, February 13, 2007 as presented. Seconded by Selectman Ives. Chairman Bowles stated the Board met with Chris Pope, of the State of NH Emergency Management Bureau prior to the normal start of the Selectmen's Meeting. He stated the meeting was posted with the 5:30 PM start time and the Board continued into their regular Selectmen's Meeting. All in favor. Motion carried.
- II. Chairman Bowles stated for the record that one pistol permit was submitted for signature and approval.
- III. The Board met with Mark Race of 37 Clearview Drive regarding a building permit penalty.
 - a. Mr. Race advised the Board that he had applied for a building permit for the lot across from his residence with the intention of selling it to a family member once it was completed. He said he did not have any intention of living in it as he plans to reside in his current home. Mr. Race said when he applied for the building permit he inadvertently checked off the wrong box on the application which states that he agreed that he would live in the home for one year. Chairman Bowles said that he researched the issue and due to time constraints with the building permit, Mr. Race obtained one of the last residential building permits. He said if Mr. Race did not sign for the building permit he received, he would have had to wait until 2008 for his permit. Mr. Race said he understood that to be correct. Chairman Bowles said that Mr. Race signed the building permit application and initialed that he was aware of the penalty. Chairman Bowles went on to say that he feels the Board should stand behind the application. Mr. Race said that he inquired about the \$500.00 to \$10,000.00 penalty at the time of the application. He went on to say that Bob Fiske advised him to circle yes, and that it would be dealt with at a later date. Mr. Race said he never had any intention of living in the home. Chairman Bowles said he was advised Mr. Race was made aware that he was getting the residential permit, not the developer permit. He said there was a developer that had to wait until 2008 for the permit because Mr. Race obtained the last 2007 residential permit that would have been turned over to a developers permit. Selectman Ives said based on the facts that were presented to the Board, he felt the Board needed to follow what the permit states.

Selectman Maxfield asked Mr. Race if he was aware that he was getting a residential permit and not a developer's permit. Mr. Race said he is not sure that he was aware of the difference. He said he is not a developer; he is a private citizen and just planned on building on his additional lot. Chairman Bowles advised Mr. Race that he could appeal to the Zoning Board. He said the ZBA would listen to Mr. Race plead his case and they could overturn the Selectmen's decision to follow the permit.

- b. Mr. Race asked about the assessment on the property. He stated there is a building value included in the assessment, however, there is no building on this lot. Chairman Bowles explained that while he does not have a copy of the assessment card to look at, he thinks the assessment is in the "features value" and it is a value assigned to the building permit value. Selectman Maxfield stated he felt Mr. Race should go to the ZBA. Selectman Ives suggested that Mr. Race have all of his information with him when he goes before the ZBA.

IV. Chairman Bowles reconvened the Public Hearing to discuss the acceptance of Greenview Drive as a Town Road.

- a. Chairman Bowles read the Public Notice for those present. Chairman Bowles advised those present that at this time not all easements are in order. Town Counsel received a copy of an easement from Mrs. Crowley's Attorney today, and after review does not feel the wording is correct. Chairman Bowles went on to say that Town Counsel has advised him the Board should listen to all concerns of abutters this evening and once a decision is made, the Board will advise those interested parties of the decision. Town Counsel advised Chairman Bowles that the Selectmen do not need to continue the Public Hearing, once the information has been obtained and the decision is made, the Board can advise the interested parties in writing. Chairman Bowles asked if anyone wants to receive the decision in writing could they please leave their information at the Selectmen's Office.
- b. Attorney Tom McCue stated he forwarded the easement between Mrs. Crowley and Steve and Carol Roy to Town Counsel, who has requested some additional wording in the easement. Attorney McCue will make the changes once he receives the information from Town Counsel. He said he and Mrs. Crowley would be waiting for Town Counsel's recommendations so they can move forward.
- c. Marcia Campaniello asked what other issues were pending. Chairman Bowles stated he is not sure exactly. He went on to say that research is being done on the entire project. Chairman Bowles said because there were many subdivisions, maintenance agreements, and discussions relative to this property the Attorneys are going through all of the documentation and starting from step one. He said it appears another attorney has been brought in to help with the research. Mrs. Campaniello said that if the Board cannot advise the abutters of the issues of concern, how could they voice their opinions relative to those issues. She said it appeared this would be the last opportunity to voice any concerns and without the issues identified it would be difficult to voice any concerns. Chairman Bowles said this is not a typical situation with

accepting a road. He explained how roads are typically built and accepted. Chairman Bowles said Town Counsel is working on piecing everything together to find out the specifics of the road, once that is done, he will forward his recommendations to the Board and the abutters will be notified. Mrs. Campaniello asked if there were any indication of the likelihood of it going public. Chairman Bowles said he does not know. Mrs. Campaniello asked if there were any specific items that the Board is aware of and gave a few examples of what Town Counsel could be looking at. Chairman Bowles said the issues could be one, all, or additional issues that are found during the research. He said they could find issues that go back to the first portion of construction, maybe the road was not built according to the plans that were submitted, he does not know until the research is completed. Chairman Bowles said it is a huge liability for the Town to accept a road and they have to be sure that it is built properly. Mrs. Campaniello said the road was built through the Golf Course and Mr. Crowley received approvals from the appropriate Boards, subdivisions were approved, and those Boards knew the road was being built, so why would the Town have any concerns with accepting the road if the approvals were granted correctly in the first place. Chairman Bowles said when this road was first done it was deemed a "Private Way" on the first plan. Mrs. Campaniello asked if the second and third phase of the road was listed as a "Private Way". Chairman Bowles said he did not know for sure at this time. He said the Town will not accept any road if they are aware of any pending issues or liabilities. Mrs. Campaniello asked if Town Counsel understood if there are outstanding liability issues, not resolved, the people who live on Greenview Drive are still going to have those same concerns that the Town has and the Town is better able to deal with those issues than the individual citizens that have no other means to deal with them. Selectman Maxfield said the issues that the Town is concerned with are things like electric lines and water lines running under the road and many other issues that need to be researched. He explained that the Planning Board lays out the road, the contractor comes in and posts a construction bond, builds the road to Town specifications, posts a maintenance bond, Town Counsel reviews the petition to accept the road, if all is in order and there are no issues, the Town accepts the road. Selectman Maxfield said this is a unique situation, and the Town's Attorney is working hard to get the answers.

d. George Page talked about the original conception of the plan and asked about the long term after affects of possible contamination underground in that area, relative to the Town being liable if they accept the road. He went on to say that by allowing this road to be accepted by the Town there is a chance that the trailer parks will ask for the Town to maintain their roads also. Chairman Bowles said he did not feel that it would go to that extreme, as the trailer parks do not all have engineered plans and such. He went on to discuss the issue with the contamination, and said each homeowner signed a waiver if there was any contaminated soil placed on their property, and he does not believe the Town would be liable. Mr. Page asked if the Board was sure there would be no liability to the Town if the road were accepted as a Town

road. Chairman Bowles said he was not certain. Mr. Page talked about there being a major watershed in the Greenview Drive area and about the long term affects of what can happen. Mr. Page said he felt the Selectmen should be looking at this issue. Selectman Maxfield discussed the DES decisions relative to the placement of the ESMI soils.

- e. Mrs. Campaniello said she felt there were specific liability issues that the Board had that they were not discussing. Selectman Maxfield said the liability issues he was thinking of are relative to the underground water and electric lines. Mrs. Campaniello asked if there were more than just those. Selectman Maxfield said he did not want to say anything else. Mrs. Campaniello asked if things were looking like they were as close to getting the road accepted as they were before or have things gotten worse. Chairman Bowles said that again, until the Attorneys are able to come up with their findings, the Board does not have that answer.
- f. Attorney McCue said if anyone wanted to discuss the ESMI soils issue, they could contact him outside of this meeting to discuss it in detail. He said he did not want to waste a lot of time tonight and provided his telephone number for those present.
- g. Bob Landry said he wanted to thank the Selectmen for what they have been trying to do for the residents. He said he would like to see the road go public with maintaining the golf course as a feasible golf course.
- h. Ken Lorden asked why the Board would be re-approving a decision that has already been approved. Chairman Bowles said it has not already been approved. Mr. Lorden said the road was built to State specs, it was bonded, and some of the bonds have already run out. Chairman Bowles said it is the way the law reads. He said that towns require contractors with subdivisions to build roads to Town and/or State specifications regardless of if they will be private or public. Chairman Bowles went on to say that the Zoning Ordinance is in place and needs to be followed. Once the contractor builds the road, they then petition the Town to layout and accept the road. Mr. Lorden said if they were to have built the road to Town standards, at what point was this road checked to be sure that it was done correctly. Chairman Bowles said that there were several inspections done as the road was being built. He also said that the Town requires the same bonds and escrow for engineering fees for inspections to be in place on private roads, just as they do on any other road being built with the intention of becoming a Town road. Mr. Lorden asked if there were problems with the way the road was constructed or issues with easements, wouldn't the Town have known about it at the time. Chairman Bowles said that this road was always addressed as a "Private Way" and as far as the easements and agreements were written would have been the responsibility of the landowner/contractor, not the Town. Now the petitioner has asked the Town to accept this road, the Town is looking to be sure the easements and agreements are in order and that the Town will not be dealing with any liability issues in the future. Mr. Lorden said that he did not understand what the issues were. Selectman Maxfield stated this road is not like any other road in the Town of Loudon and because of issues like the golf

carts driving along the edge or crossing the road, the Board wants to be sure that there will not be any liability to the Town if the road is accepted. Selectman Ives said that the basic construction of the road was built to Town Standards, and if it were in another location, this would not be a problem. The problem is regarding the road location and what surrounds the road, until those issues are addressed, the Town cannot accept the liability issues. Mr. Lorden asked if the road was in the golf course or was the golf course in the road. Selectman Ives said that is one of the issues that needed to be resolved. Chairman Bowles said this issue is not just as simple as the Planning Board approving the plan for a road and having it built to Town Standards. He said that once a road is built, it then has to go through the layout and acceptance process, which is where the Town requires legally recorded easements and agreements prior to any acceptance of the road. Chairman Bowles went on to say that in most cases, the petitioner is the one who bears the burden of proof and costs associated with this process, the Town typically does not go through the steps like they are doing with this road.

- i. Mrs. Campaniello asked if all the issues that Mrs. Crowley has had to address have been taken care of. Chairman Bowles said that to the best of his knowledge, any issue that has been discussed regarding Mrs. Crowley has been or is being addressed. He said that does not mean that during the research process the Attorneys will not come across any other issues that may need to be addressed by Mrs. Crowley. Mrs. Campaniello asked if there were any issues that have been presented to the Golf Course that need to be resolved and have yet to be resolved. Chairman Bowles said he does not know what the Attorneys have found for information at this time. He said the Selectmen do not contact Town Counsel every day for an update. Chairman Bowles said Mr. Leombruno and his Attorney have been working with Town Counsel and the Board and he does not believe that there are any issues with the golf course.
- j. Roger Gayer thanked the Board for their time with this issue. He discussed other subdivisions that have been done in other Towns and they required associations to be developed prior to the selling of the lots, instead of after the fact. Chairman Bowles discussed Mr. Crowley's discussions that this road was going to always be a "Private Way". Selectman Maxfield talked about the discussions the Board had with Mr. Crowley and Mr. Crowley maintained during those discussions this would always be a "Private Way". Mr. Gayer said Mr. Crowley told him the day before he signed the papers on his home that his intention was to turn it over to the Town.
- k. Bob Gaudreau asked what type of liabilities the residents are going to be dealing with if the Town does not accept the road. Chairman Bowles said he was not sure, that until the research is done, he does not feel that he can comment on that. Mr. Gaudreau asked why Town Counsel has not been at the Public Hearings. Chairman Bowles said at this point the Board did not feel the Attorney needed to be present. He said the Board will wait for the answers from the attorneys and then decide if another public hearing needed to be held when the decision is made. Chairman Bowles went on to say that at

this point the Board feels the attorneys will find the answers and make their best recommendation for the Town. Mr. Gaudreau said he wanted to thank Kim Bean for plowing Greenview Drive. Chairman Bowles stated he felt the residents of Greenview Drive were fortunate to have Mr. Bean assisting them.

- l. Joe Campaniello asked if there were a timetable set for a decision on this issue. Chairman Bowles said that there is not a specific date set, once the research is complete, Town Counsel will give his recommendations, and the Board will make their decision. He said that if they feel there is a need to hold another hearing, they will, but at this time, there is no reason to keep continuing the public hearing. Chairman Bowles reminded those present that if they want to have the decision in writing, they needed to provide their information to the Selectmen's Office.
- m. The Board thanked the residents of Greenview Drive for their patience.
- n. Mrs. Campaniello asked if the road does not become a Town Maintained Road, would the reasons for the decision be made public. The Board said absolutely. Chairman Bowles said he felt there would be a formal written response and it would be a matter of public record. Discussion ensued regarding the fact that Town Counsel's recommendations are just that, recommendations, the final decision lies with the Board of Selectmen. Discussion ensued regarding the Selectmen's job to protect the Town.
- o. Chairman Bowles asked for any further public comments. Hearing none, he reminded those present about placing their names on a list to be contacted when the decision is made.
- p. Selectman Ives moved to close the Public Hearing at 7:44 PM. Seconded by Selectman Maxfield. All in favor. Motion carried.

V. The Board met with Steve Roy.

- a. Mr. Roy stated the road his house is on is a Class VI Road subject to gates and bars and he has been plowing his driveway the same way for 14 years. He said he was informed yesterday to move the snow out of the road or the Police Chief would be contacted, as would the Prosecutor. Mr. Roy said the Town plows the paved portion of Voted Road, and he plows his end. He stated this is only used as a snowmobile trail and they are always able to get through. Mr. Roy said his neighbor has decided that he wants to use this road as his access. Mr. Roy provided the Board with photos of the area as well as documents that detail the area and access on the road. He said he has discussed putting up a gate with the Road Agent as people end up going down his driveway thinking that they are heading to Greenview Drive, but the gate has not been put up yet. Mr. Roy said his neighbor has not plowed this road until last week and now he plans to utilize this road for his access. Mr. Roy went on to explain to the Selectmen how he plowed the snow during last week's storm. He said that Chief Fiske and Lieutenant Krieger told him the Town could not even plow the snow to that road. Mr. Roy spoke with Road Agent David Rice and Mr. Rice wanted to know where they are supposed to plow the snow. Chairman Bowles stated Town Counsel advised him that the Town can plow anywhere they want to as it is the Town's jurisdiction, anyone

on a Class VI Road that has frontage on that road has the right to plow it as they see fit, as long as the Town does not have any issues with it. He said Mr. Roy's neighbor has a driveway permit for access to his property. Mr. Roy said his neighbor has three driveways/access to his property. Discussion ensued regarding the neighbor cutting trees, and removing a stonewall, access through the stonewall, boundary lines, driveway access issues, and a cease and desist. Chairman Bowles reviewed a portion of Knowing the Territory publication relative to Class VI Roads and responsibilities of the Town. Discussion ensued regarding the history of the property, the driveway permit access, and the issue of Mr. Roy wanting to continue plowing the snow in the manner he has over the past 14 years. Chairman Bowles said he is not sure where the Town should be involved and where the civil issue is. Discussion also continued regarding the neighbor having access on Country Hill Road as well as Voted Road. Mr. Roy stated he did move the snow banking but he wants to go back to being able to plow the way he always has. The Board will look into this issue and get back to Mr. Roy with an answer for him.

- VI. The Board began their review of weekly correspondence.
- a. The Board received a notice of bond cancellation on the Maratea property.
 - b. The Board received a notice of the Labor Board hearing on March 19, 2007 and the meeting with Attorney Irwin.
 - c. The Board received a memo from Chief Burr regarding the sale of a truck body to the Bristol Fire Department.
 - d. The Board received the draft February 15, 2007 Planning Board minutes.
 - e. The Board received a question from Treasurer Melanie Kiley regarding the heat account at Station #2. Discussion ensued and the Board will look into this issue.
 - f. The Board received a letter from Northeast Resource Recovery Association regarding the February 28, 2007 meeting.
 - g. The Board received the Legislative Bulletin #8.
 - h. The Board received a Scholarship thank you from Alana Mallat.
 - i. The Board received copies of the bid specs for the signal replacement at Route 106 and Route 129.
 - j. The Board discussed the fact that there is still no bond in place for the Plourde property. Bob Fiske will follow up on it prior to April 1, when the Intent to Excavate application is due. Discussion ensued regarding the reclamation bond.
 - k. The Board received correspondence from Town Counsel that the Children's Librarian qualifies for a salaried position.
 - l. Chairman Bowles read the Town Warrant for those present and the Board signed the Warrant.
 - m. Selectman Maxfield stated the Town Hall has been completely refurbished and stated the Contractor had done a marvelous job. Chairman Bowles stated there have been two Saturday night Church Suppers so far and March 4, 2007 at 10:00 AM there will be a grand opening Church service. Discussion ensued regarding the heating system. John Plummer asked about the smoke alarms

for the Town Hall. Chairman Bowles stated the smoke alarms are hard wired and there is a security system installed which will be monitored. Discussion ensued regarding steel beams for structural stability.

Selectman Ives moved to adjourn the meeting at 8:46 PM. Seconded by Selectman Maxfield. All in favor. Meeting adjourned.

THE LOUDON BOARD OF SELECTMEN

Dustin J. Bowles, Chairman

Roger A. Maxfield, Selectman

Steven R. Ives, Selectman