

## Selectmen's Meeting Minutes

Tuesday, August 8, 2006

**Present: Selectman Bowles, Maxfield, and Ives.**

**Also present: Road Agent David Rice, Police Chief, Code Enforcement/Compliance Officer Bob Fiske, Planning Board Chairman Tom Dow, Planning Board member Bob Ordway, and ZBA Chairman David Powelson.**

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

- I. Selectman Maxfield moved to approve the Selectmen's Meeting Minutes of Tuesday, August 1, 2006 as presented. Seconded by Selectman Ives. All in favor. Motion carried. Selectman Ives moved to approve the Selectmen's Meeting Minutes of Wednesday, August 2, 2006 with the Engineers of the Louis Berger Group as presented. Seconded by Selectman Maxfield. All in favor. Motion carried.
- II. Chairman Bowles opened the Board of Permit.
  - a. Chairman Bowles stated that the Board had received correspondence from Attorney Mayer regarding mortgages for road bonds. He said the current regulations do not allow for this type of bonding for road construction. Chairman Bowles said that if the Boards feel mortgages should be considered, it needs to be included in the update to the Land Use Regulations. He read a portion of the letter from Attorney Mayer. Selectman Maxfield reviewed the portion of the letter pertaining to the types of bonds that should be allowed as well as the costs associated with foreclosure on the mortgage bond. Tom Dow said the regulations currently in place state are a cash construction bond, letter of credit, or performance bond. He said when Mr. Davis approached the Planning Board regarding the mortgage as a bond, Mr. Davis stressed that he had previously been allowed to use a mortgage for a bond. Mr. Dow said the Planning Board was leaving it up to the Board of Selectmen to decide on the type of bond, as is the procedure. He said that he felt that the regulations were not being followed as strictly as they should be. Discussion ensued regarding collecting on a bond. Mr. Ordway said he felt it should go by the regulations. Bob Fiske discussed that Mr. Davis had been allowed to provide the mortgage on a previous project. Selectman Maxfield stated he did not feel precedence was set because the approval to allow the mortgage in the past went against the Town's regulations. Chairman Bowles stated he felt the Planning Board needed to look into this issue during the updating of the Land Use Regulations. Roy Merrill stated one thing that needs to be looked into is some of the subdivisions that are being approved now are not

going to be built for possibly three years from now. He said that the cost estimates for the roads are based on current construction figures, not the cost for construction in three years. Chairman Bowles stated the mortgage agreement has been prepared but has not been signed or accepted. Discussion ensued regarding the options that are stated in the regulations. The Board will forward a letter to Mr. Davis advising him that he needs to produce the bond in one of the three forms listed in the regulations.

- b. Tom Dow discussed the contract with Central NH Regional Planning Commission to update the Land Use Regulations to be in sync with the Zoning Ordinance and the request from Planning Board to encumber the funds for this project. Selectman Maxfield moved to encumber from the 2005 – 2006 Budget line item #01-41911-100-135 in the amount of \$1,000.00 and line item #01-41991-500-550 in the amount of \$1,000.00 for the purpose of paying CNHRPC for updating the Town of Loudon Land Development Regulations. Seconded by Selectman Ives. All in favor. Motion carried. Selectman Maxfield moved to sign the letter of agreement between the Town of Loudon and the CNHRPC to update the Land Development Regulations in the amount of \$6,000.00. Seconded by Selectman Ives. Selectman Maxfield stated \$2,000.00 will come from the encumbered money from the 2005 – 2006 budget, \$2,000.00 to come from the 2006 – 2007 budget and \$2,000.00 will be matched by the CNHRPC. All in favor. Motion carried. Chairman Bowles asked that some Zoning Board members be on the committee to review the changes.

Chairman Bowles closed the Board of Permit and reopened the Selectmen's Meeting.

- III. The Board met with Road Agent David Rice.
  - a. Mr. Rice stated the Cross Brook location had been cleaned up. He advised the Board he had spoken with Gregg Fillmore and if Mr. Fillmore cannot find another operator for his excavator, he would be operating the excavator himself to get the work done next week.
  - b. Mr. Rice stated that some ditching had been done last week on Clough Pond Road.
  - c. Mr. Rice stated that he would be working on cutting brush on Lovering Avenue.
  - d. Selectman Maxfield asked if Mr. Rice heard anything further regarding Clough Pond Beach. Mr. Rice stated had placed a call to Darlene at DES and was waiting for a call back.
- IV. The Board met with Police Chief, Code Enforcement/Compliance Officer Bob Fiske.
  - a. Mr. Fiske stated he had received a call from Robin Heinz of Merrimack Valley School District. Ms. Heinz said she had received a call from a Maxfield Public Library representative with concerns of

the late bus dropping off children at the Library. Mr. Fiske advised Ms. Heinz that partway through last year the late bus began dropping off the children at the lower lot. Ms. Heinz asked about having Fox Pond Plaza as the late bus drop off. Mr. Fiske stated he felt the lower parking lot was a much safer location than Fox Pond Plaza. The Board stated that they agreed the lower parking lot would be the location for the late bus drop off.

- b. Mr. Fiske asked if the Selectmen had put any more consideration into the special events pay increase for J. Morin. Chairman Bowles advised Mr. Fiske the Board would have an answer for him next.
  - c. Mr. Fiske advised the Board that the new bomb disposal unit for the State would be at NHIS on Wednesday. He said there would be two detonations during the day.
  - d. Chairman Bowles stated for the record that four pistol permits were submitted for signature and approval.
- V. The Board met with Emergency Management Director Sigrid Little.
- a. Mrs. Little advised the Board that the Emergency Operations Plan update meeting would be Friday, August 11, 2006 from 9:00 AM to approximately 12:00 PM at the Safety Complex.
- VI. The Board met with Tax Collector Helen McNeil.
- a. Mrs. McNeil provided the Board with the list of properties for deeding. Discussion ensued regarding the deeding process. The Board will review the information and give Mrs. McNeil their decision.
- VII. The Board met with Michael Harris.
- a. Mr. Harris expressed his sincere thanks to the Board and other public officials in the room for their service. He advised the Board that he was also recording this discussion. Mr. Harris stated he would like to speak for five minutes, at the very most it would be ten and if the Board would respectfully hear him when he was finished, he would respectfully hear anything the Board had to say to him. Mr. Harris said he was at the meeting representing himself and his family. Mr. Harris stated he had spoken with various Selectmen over the years and heard promises that the issues he has would be addressed. He feels his issues have not been addressed. Mr. Harris stated he had spoken with his lawyer and was advised that if the Selectmen did not do what they were supposed to do, he could take the step of "private enforcement action". Mr. Harris stated he was making a solemn promise, a solemn vow, that this is the last time he would address this to the Selectmen. He said if the Board could not protect the interest of the residents of the Town, his neighbors, young children, and his family, this would be the very last time, of the many; many times, he has brought this to the Selectmen. Mr. Harris stated when Mr. Little was Selectman and he

heard what Mr. Harris had to say, and stated, "That's garbage, and it has got to stop". Mr. Harris stated when Selectman Maxfield was Chairman a few cycles ago; Mr. Harris went to a Selectmen's Meeting and asked to speak under the "other business" section. After Mr. Harris spoke to the Selectmen and Chairman Maxfield said after Mr. Harris was finished speaking, "you know Mike, you have taken up about twenty minutes of our time, and the next time you want to come and talk about this, please make an appointment". Mr. Harris stated he told Selectman Maxfield "he did not want to come back and talk to you about this; I want you to do what you are suppose to do". Mr. Harris said that conversation was about three to five years ago and now it is late 2006 and he is still dealing with the situation. Mr. Harris stated after years of discussion, Chief Fiske made a big announcement that there would be a zero tolerance policy for the nonsense that goes on at the racetrack. Mr. Harris said he understands the racetrack brings a great deal of benefit to the Town and he shares the appreciation of those benefits. He said the racetrack is operating under a permit to conduct racing activities during the day. Mr. Harris went on to say the attorney he is consulting with is the attorney that framed the framework for the racetrack as to specific times of operation. He stated many people all live with the inconvenience of noise and other things as a result of the legitimate operation of the racetrack during the day, which is fine and he would learn to live with it. Mr. Harris stated Chief Fiske said he could hear the noise from the racetrack from his home. Mr. Harris stated he does not hear the noise from the track, he feels the vibrations. Mr. Bahre makes his money running the racetrack; he does not make his money by allowing people to shoot off fireworks all night long. Mr. Harris stated he has had this discussion years and years ago and Chief Fiske made a declaration of zero tolerance for that kind of nonsense overnight, which was published in the Union Leader. He said the Police Department sent him a copy of the article. Mr. Harris said that the Police enforced the declaration and it was peaceful and excellent. He stated he had handwritten a thank you note to the Chief of how much he appreciated after all the years of nonsense that they brought about a cessation of this overnight bologna, which Selectman Little called garbage and had to stop. Mr. Harris asked what happened this year. He said it was worse than ever before. All night Friday right through the night, all night Saturday explosions all through the night, and Sunday night when people have to get up and go to work on Monday morning it never stopped. Explosions at ten, explosions at eleven, explosions at twelve, explosions at one, explosions at two, explosions at three, explosions at four, explosions at five, and the last one he recalls hearing was at six AM Monday morning. Mr. Harris said he called the Chief on Monday morning and the Chief blew him off. He stated his whole family was awake because nobody could sleep with the explosions going on and he

turned on the television at eleven o'clock on Sunday night, WMUR, Channel 9 News, and there was the Chief being interviewed saying "we had a really quiet time this time, we didn't make many arrests. In the past we made a lot of arrests, but this time we didn't make many arrests, we had a really quiet time". Mr. Harris said here was his family who had not had any sleep due to the explosions, and they were watching the Chief on Channel 9 News saying it was quiet. He asked if anyone knew what kind of effect that has on children trying to sleep, what kind of effect that has on a man that was under the bombing of 88's a man who was wounded in Anzio, a man who has to listen to explosions all night long when he comes to the family property to sleep. Mr. Harris said Mr. Bahre is not making any money on it. Chief Fiske announced the zero tolerance policy two years ago enforced it and it worked and was great and he even wrote a thank you note, what happened. Mr. Harris said the final thing he was going to say and he was going to stop here is subsequent to the July race, there was a situation where if you stood in his house, right by his window you would hear racing noise at night that seems like any logical measure to be coming from the racetrack and a concert going on late into the night. Mr. Harris said he felt the Board had done a great job in sorting out the application for Boar's Tavern to try and see what could be done to try and balance their interest in having some outdoor activity with concerns for the neighbors, setting limits, saying 8:30 PM sharp as the cutoff. He said he felt the Board had done a great job. Mr. Harris said the racetrack has created an illegal campground, and unlicensed music events late at night. He said he called into the Police Department late at night and he never even got a call back. He asked what is going on. Is everything having to do with the track voodoo? We don't talk about it; we don't think about it, we don't look at it? Mr. Harris said this is really abusive and I know you know it is. He said none of his neighbors would complain about the NASCAR races, when they run reasonable races at reasonable times, but this is abusive and if the Town won't do anything about it, and the Police won't do anything about it what are we going to do? Chairman Bowles asked if that was it for Mr. Harris, could the Board now respond. Selectman Ives said he did not have a response at this time. Chairman Bowles asked if Chief Fiske wanted to respond. Chief Fiske stated no. Selectman Maxfield said he would have to check the minutes, but he could not recall telling Mr. Harris that he needed to make an appointment at this time. Mr. Harris said the point is that this discussion has happened about six times and this July was worse than ever. Chairman Bowles stated Mr. Harris was the only resident that has come forth at this point. Mr. Harris said "negative". Chairman Bowles stated there is no other correspondence anywhere. Mr. Harris stated his neighbor made a formal presentation to the Board, which was reflected in the minutes, his other neighbor has had direct contact

with Mr. Bahre and the Police Department. Mr. Harris stated he had direct contact with Mr. Bahre and the Police Department. Chairman Bowles asked if it were for this race, this July. Mr. Harris said, no, he could not say that. Chairman Bowles stated the July race is the issue they are dealing with now. Mr. Harris said he did not agree, it was the non-controlled situation, it is not just one race, it is looking forward to September, its looking forward to next July, its looking at what happened last week. He said all of a sudden we allow an illegal campground to grow up at the racetrack, we allow unlicensed concerts to go on late at night, and no one even looks at it or calls him back. Mr. Harris said it is a long chain of events, not one event, it is a long continuing, briefly interrupted when Chief Fiske announced his zero tolerance policy, published it in the Union Leader, and successfully enforced it and earned the gratitude of our community, and now it is worse than ever. Chairman Bowles said the Board has heard Mr. Harris through and are not going to discuss this any further, they will take this under advisement. He said he had done a little homework and has not found all of these problems to be 100% true and that is where they will leave it for now. Mr. Harris said his final comment was that he deeply appreciates the Board's service and asked the Board to do the right thing in the interest of the public, and fairness and justice, and he promised the Board this is the last time that he would come here to discuss this with them. He stated he vowed to them, he has done this about six times and he will not do it again.

- VIII. The Board began their review of weekly correspondence.
- a. The Board received the revenue report as of June 30, 2006 and the balance sheet report for fiscal year end.
  - b. The Board received a memo from Office Manager Jean Lee regarding filing an extension for the MS-1 report. The Board agreed to file the request for the extension for the MS-1.
  - c. The Board received a copy of a memo from Jeff Burr to Claire Crowley regarding the dry hydrants on Greenview Drive.
  - d. The Board received a copy of a letter from Julie Robinson of the Conservation Commission to Wetlands Bureau regarding Chichester and Cross Brook Roads dredge and fill applications.
  - e. The Board received copies of sample preservation easements from Assessor Dave Wiley. Discussion ensued regarding the sample wordings. Chairman Bowles advised Office Manager Jean Lee to contact Attorney Mayer regarding the Preservation Easements. The Board has agreed to have the 1% penalty at the end, and follow Columbia's example of 20% penalty within the first half of the duration, and 15% penalty for the second half of the duration if they should remove the property before the set time. Chairman Bowles stated Mr. Tuson was in the audience and asked his opinion on the new wording as Mr. Tuson had applied for the easement but requested it be

withdrawn due to the previous wording. Mr. Tuson said he agreed to the penalty for early withdrawal of the easement. He will provide the Board with some sample wording he had found. Discussion ensued regarding the current wording versus new wording and what the Board agreed upon for the penalties. Mr. Merrill asked the Board if a person wanted to continue their easement at the end of the ten years if the 1% penalty would be waived. The Board said yes. He asked if at the end of the ten years the person wanted to remove the easement would they be assessed the 1% penalty. The Board said yes and if someone wanted to remove the easement within the first five years it would be a 20% penalty and a 15% penalty from the fifth through the tenth year.

- f. The Board received notice of Merrimack County Public Hearing on Supplemental Appropriations to the 2006 Budget.
- g. The Board received a letter from Compliance Network regarding the services they offer.
- h. The Board received a scholarship thank you note.
- i. The Board received information from the State on Hazard Mitigation grant programs. The information will be forwarded to Emergency Management Director Sigrid Little.
- j. The Board discussed concerns regarding a Planning Board application for a business on Route 106 that is trying to open.
- k. The Board received a copy of a letter from Elizabeth Warner regarding her property on Tower Road. The work done on Tower Road has been done by the State, not the Town of Loudon. A copy of this letter will go to the Planning and Zoning Secretary.
- l. Chairman Bowles stated the Board had a direction to pay Foley and Buhl. He stated the payment comes from the Local Government Center insurance account. Chairman Bowles stated the Loudon Freewill Baptist Church would be responsible for half of the payment.
- m. Chairman Bowles stated he thought the lumber was all sawed for the J. O. Cate Van building. He discussed the process for the drying of the lumber. Selectman Maxfield moved to authorize the payment to Labell Sawmill and Custom Lumber in the amount of \$1,650.00 for custom sawing pine and kiln drying lumber for the J. O. Cate Van building. Seconded by Selectman Ives. Selectman Maxfield asked when the work would begin. Chairman Bowles stated two trees need to be cut and then site work needed to take place to start. He also stated the money needs to be withdrawn from the Cate Van Warrant Article. Bob Fiske asked if anyone had contacted Mr. Milligan as he had discussed a donation on the concrete work.

IX. Selectman Maxfield stated that he had met with a representative of the H. L. Turner Group regarding the South Village Road Dam.

- a. Selectman Maxfield said that he received the construction project documents. The plan on going to go out to bid next week. Selectman Maxfield stated he was advised they are planning on waiting for the

water to go down a bit before they take the dam apart. He stated John Levigne of the Turner Group has already touched base with some potential contractors.

- X. The Board met with Mrs. DeCato regarding the Chichester Road Bridge.
- a. Mrs. DeCato said she has read a lot about the project and heard a lot about the project but nothing has happened. Chairman Bowles stated it is currently out to bid, both bridges are out to bid. He stated on August 22, 2006 there is a public hearing scheduled to open the bids. Once the Engineers confirm the information, the bid will be awarded. Mrs. DeCato asked about the Bailey bridge and if the Board was going to be putting it in temporarily. Chairman Bowles said they were not going with the temporary bridge. Mrs. DeCato stated this is going to put her out of business. Chairman Bowles said that as he had discussed before, if they were to put the Bailey bridge in it would delay the permanent project because of the time to set it up and the time to take it out. Mrs. DeCato stated the Town of Gilmanton told her it took them three hours to put one in. Chairman Bowles asked if it was an application exactly like the one for Chichester Road. Mrs. DeCato stated she did not go and view the site. Chairman Bowles explained that the Board and Road Agent met with Bridge Engineers from the State of NH and they explained the process to place the Bailey bridge. Mrs. DeCato said it has been almost 90 days. Chairman Bowles stated he was aware of how long it has been and said that it is very frustrating to the Board. He explained the process that the Town has had to go through to meet the requirements for the funding for the bridge project. Mrs. DeCato asked why the Board did not put in the 8 x 8 culvert in like she had received quotes for. Chairman Bowles stated the Town could put in the 8 x 8 culvert but it does not meet the 100-year water shed. Mrs. DeCato said we are not going to be here in 100 years and it would be someone else's problem. Chairman Bowles stated the Town does not have the cash flow to do it. He said if we want to meet the Federal and State funding there are things that need to be followed. Chairman Bowles stated an 8 x 8 culvert would not have held back the amount of water that came through in the spring. Chairman Bowles stated the start date would be in September. He said that while Mrs. DeCato was not the only one affected by the bridge being out, he was sorry for the inconvenience this caused her and everyone else involved. Chairman Bowles stated this also effects the agreement with Chichester for ambulance services. He asked that everyone have a little more patience. The Board discussed the process that has to take place for the projects as well as the easement issues.

Selectman Ives moved to adjourn the meeting at 8:17 PM. Seconded by Selectman Maxfield. All in favor. Meeting adjourned.

THE LOUDON BOARD OF SELECTMEN

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Dustin J. Bowles, Chairman

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Roger A. Maxfield, Selectman

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Steven R. Ives, Selectman