

Selectmen's Meeting Minutes

Tuesday, August 23, 2005

Present: Selectman Kardaseski and Bowles. Selectman Maxfield was not present.

Also present: Sgt. David Girard and Fire Chief Jeff Burr, Sr.

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

- I. Selectman Bowles moved to accept the Selectmen's Meeting Minutes of Tuesday, August 16, 2005 as printed. Seconded by Chairman Kardaseski. All in favor. Motion carried.
- II. The Board met with Sgt. Dave Girard.
 - a. Chairman Kardaseski stated for the record three pistol permits were submitted for signature and approval.
- III. The Board met with Fire Chief Jeff Burr, Sr.
 - a. Chief Burr advised the Board Road Agent Dave Rice was not going to be at the meeting tonight as he is working on the paving on the Ridge.
 - b. Discussion ensued regarding the quotes for the insulation for the Safety Complex. The Board stated they would like to arrange a meeting with the companies to go over their proposal.
 - c. Chairman Kardaseski discussed the letter from NH Haz-mat Team regarding reimbursement. Chief Burr stated they would not include administrative costs in the reimbursement, however they will allow for FICA. The Board will get together with Chief Burr to resolve this issue.
 - d. Chief Burr asked if the Board had anything they would like him to pass along to Road Agent Dave Rice. Chairman Kardaseski stated Tony Puntin had faxed the Landfill Post Closure Monitoring proposal agreement, which needs to be reviewed with The Louis Berger Group and the State of NH.
 - e. Chairman Kardaseski asked if Chief Burr could remind Mr. Rice about the trees that need to be trimmed at the Recreation Field.
- IV. The Board met with Tammy Davis.
 - a. Chairman Kardaseski asked Mrs. Davis if she wanted a public meeting or an executive session. Mrs. Davis stated she would have preferred an executive session; however, since last week's meeting was public, she would like to have a chance to tell her side of the issue as the minutes will be published in the *Ledger*. Mrs. Davis stated she was appalled the discussion was in an open session last week and that she was stuck in the middle of the turf war. She went on to say the word "terminated" was thrown around and all she was

trying to do was help the Town. Mrs. Davis stated she understood the Town Attorney feels the Selectmen are the final authority and she has no problem with that. She said she has no problem with not bringing in her baby to work. Mrs. Davis stated it wasn't that she couldn't find childcare, it's that the State of NH will not allow a licensed daycare to accept a child under 6 weeks of age. She said she was not trying to make the Town pay for her daycare.

She works more than ten hours per week. Mrs. Davis stated it has been made very clear by people in the office that because her doctor's note says she can only work ten hours per week, that is all she is putting on her timesheet. She stated she had spoken with her husband, as it has been a horrible six weeks, and she has decided she will take the full twelve weeks of maternity leave. She stated she would not be coming in to the office at all.

Mrs. Davis stated she has no problem with helping Mr. Tasker and Mr. Maxfield with the minutes and coming in to the meetings at night and she will do as much as she can at home. She stated she is not happy with the way she was treated and she knows that it was nobody against her, but everything has been dumped on her.

Chairman Kardaseski advised Mrs. Davis she has not been employed by the Town long enough to qualify for Family Medical Leave which is what states she is entitled to 12 weeks off. Mrs. Davis stated then the Town should start proceedings to replace her. Chairman Kardaseski stated no one wants to replace her and that is not what she was saying. She was trying to advise Mrs. Davis that after the first six weeks, Mrs. Davis would have to pay for her medical insurance in full and when she comes back full time her benefits would be reinstated.

Mrs. Davis stated this issue was not about money, she didn't need to work, she was trying to help out the Town, but it backlashed on her. Chairman Kardaseski stated it was unfortunate that Mrs. Davis had the attitude she was caught in the middle. If she had come to the Selectmen or talked to her (the Chairman) when she had contacted her last week, an awful lot of these problems could have been eliminated. She went on to say if Mrs. Davis' supervisors had handled the situation when they found out Mrs. Davis was pregnant and arranged for some temporary help to come in, this discussion would not be happening.

Chairman Kardaseski stated she felt Mrs. Davis deserved some time to be home with her baby and felt that, while Mrs. Davis was trying to help, she should not have been put in the position where she even had to help. She stated other arrangements should have been made for that office. Chairman Kardaseski went on to say this is absolutely no reflection on Mrs. Davis or her job performance. The Board is very happy with it, but she feels badly that Mrs. Davis got caught in the middle of it.

Mrs. Davis stated she didn't understand and questioned whether she had five bosses. Chairman Kardaseski stated, no, and the letter Mrs. Davis had received was written by an Attorney and clearly outlined the situation. Mrs. Davis stated it says the Selectmen have final say over the Town employees and it sounds as though she needs to answer to the Selectmen, even

though Mr. Tasker and Mr. Maxfield are the ones who hired her. She asked, "Whom do I have to answer to?"

Chairman Kardaseski stated the ultimate responsibility for employment status, which includes maternity leave, vacation time, intermittent sick leave, paid holidays, insurance, and anything to do with the money she makes, is the Town of Loudon, which is represented by the Board of Selectmen. She stated there are three tiers: there is Mrs. Davis, her immediate supervisors Mr. Maxfield and Mr. Tasker, and then there is the Town of Loudon, who is represented by the Board of Selectmen, who has the ultimate responsibility to the safety of the employees of the Town by law.

Chairman Kardaseski stated it was unfortunate that this was never made clear to Mrs. Davis when she was hired and it bothers her that at no point did Mrs. Davis make an effort to talk with the Selectmen. Gary Tasker stated it was his and Mr. Maxfield's recommendation that Mrs. Davis not contact the Selectmen based on the belief they had regarding the situation. Mr. Tasker stated *he* had contacted the Town Attorney and felt Chairman Kardaseski should not have contacted Mrs. Davis until after getting a reply from the Town Attorney. Chairman Kardaseski stated she *had* contacted the Town Attorney before contacting Mrs. Davis. Mr. Tasker said he felt Chairman Kardaseski should not have contacted Mrs. Davis; she should have contacted him and Mr. Maxfield. Chairman Kardaseski stated she had contacted Attorney Teague and advised him (Atty. Teague) that Mr. Tasker had questioned him on whether or not she had spoken with him. She was upset her Mr. Tasker implied she would lie about her discussion with the Attorney. Mr. Tasker stated there were two attorney's working on this and he didn't imply that Chairman Kardaseski was lying. Chairman Kardaseski stated she spoke with John Teague, who is replacing Bart Mayer while Attorney Mayer is on sabbatical. When Attorney Teague initially spoke with her, he did not have a problem with the issue. Then he received all of the information and at that point he did have a problem with it.

She went on to say the whole thing astounds her especially with the amount of time and taxpayers' money that has been wasted on a discussion they shouldn't even be having. Chairman Kardaseski stated anyone with any common sense knows you do not bring a baby to work and anyone with any common sense who runs a business knows you do not allow your employees to do this. Mr. Tasker said, "Do not sit here and preach to me." Chairman Kardaseski said "Don't you start with me, Gary." Mr. Tasker said, "I'm telling you right now don't do it. I'm here, I'm being calm and I respect the Attorney's decision. But I'm not going to sit here and have you lecture me."

Chairman Kardaseski asked Mrs. Davis what the dates were she would not be coming into the office. Mrs. Davis replied "July 15, twelve weeks from that date." Chairman Kardaseski said, "So you are not working at home or in the office at all at this point in time beginning now." Mrs. Davis said, "I worked all day today." Chairman Kardaseski said, "You're not on maternity leave if you're working." Mrs. Davis said, "I guess I haven't been on maternity leave since four days after I gave birth." Chairman Kardaseski said,

“You’re right, you haven’t been. You have not been, and this is what I can’t understand. You’ve been on intermittent leave right now with a note from your doctor. Maternity leave means you stay at home with your baby and at this point you are on intermittent leave with a doctor’s note.”

Chairman Kardaseski advised Mrs. Davis that the note from her doctor was for 10 hours per week for five weeks which is up on August 31 and at that point in order for Mrs. Davis to work at all, ten hours or whatever her doctor feels is safe and what ever Mrs. Davis is comfortable with, she will need to provide another note. Chairman Kardaseski stated maternity leave is staying at home and she wished Mrs. Davis had been able to feel she could do that. She went on to say that the Board is not planning on terminating her; however, based on a conversation with the Attorney, the Board could terminate her. Because she was never told about the chain of command the Board will not do that. Mrs. Davis said \she had two Chairmen to answer to who could terminate her. Chairman Kardaseski stated, “No, they can’t, they can not. You work for the Town of Loudon; you do not work for Gary Tasker or Roy Maxfield. You work for the Town of Loudon and the only ones who can terminate you or anything of that nature is the Board of Selectmen. We have absolutely no intention of doing that.”

Mr. Tasker said, “I don’t know if that is actually true, but that aside, we are willing to work with Tammy in any capacity she is willing to continue. She’s been a great employee to the Town, with only the best interest, and I feel a little bit to blame that we put her in this position and I know that she is willing to work this thing through. I also wish that the Selectmen would keep rumors to themselves. The word “terminate” has leaked out and has been planted by someone and could only come from the Selectmen.”

Chairman Kardaseski stated, “It’s not a rumor, it’s in the minutes.” Mr. Tasker said “Along with other issues that should not be discussed with other office personnel in that office.”

Selectman Bowles stated this whole issue should never have happened this way. He said, “When the Chairman of the Planning Board and the Zoning Board were asked to address the issue and get back to the Selectmen, it would have been the perfect opportunity to address the situation.” Selectman Bowles said that, “at no point in time has he ever had any issues or wishes to see Mrs. Davis terminated — at no point. She has done a remarkable job for someone not knowing anything about how that office ran. It was in tiptop shape when she took over from the previous employee and I think she grasped it very well she is doing an extremely good job and I think this situation should have been handled differently. That’s all I can say.”

Mr. Tasker said, “I hope this is a new start and I am willing to do what I can to be sure it works. When I said that I would get back to you that day, I went home. I did have a question, and I think I had a right to legally find out what that question was, and I did. And that’s the only thing I did and I did not get an answer on Friday so I did not get back to you.”

Selectman Bowles stated, “I’m talking about three months ago or better. We asked. I know that you guys had a meeting with Mrs. Davis

because I was in the office visiting with Dave Wiley on abatement issues and we never heard anything back from that at all. That I think is where this whole thing started to go wrong. This making a deal, you gentlemen should have come to us and said look this is what we've got at hand, what should we be doing, how do we work this through."

Mr. Tasker stated, "I'd like to work this through and I'd like to work it through now, and I'd like to start today, and I'd like to put a plan in place. You have offered some assistance and we appreciate it. Is that offer still open?" Chairman Kardaseski stated "Yes."

Mr. Tasker stated Mrs. Davis does not have internet access. "I don't believe the computer is an option, but as far as things being delivered to her or if she has some communication with somebody in the facility can help out, is that true?" Chairman Kardaseski said, "Yes, and that is something we have always been open to. Roy last week made it very clear that the only way this was going to happen was if she came in to the office with the baby and that's what got our hackles up. He absolutely refused."

Mr. Tasker said, "I don't want to rehash that." Chairman Kardaseski said, "What we would like to do is, as of Wednesday of next week we'll need another note from your doctor letting us know whether it's OK to continue to work the ten hours. If he says you shouldn't be working more than ten hours, you really shouldn't. You need to get your rest, and I would say probably up until you're approved for about twenty hours per week, you could work from home. I think after that it is probably time to come back in the office. Does that seem logical?"

Selectman Bowles said "Yeah, and if she needs to come in the office for some reason, then she can. I don't want anybody to get the idea she's not allowed in."

Chairman Kardaseski said, "What I'm saying is once the doctor says OK, now you're approved to work twenty-five hours per week, at that point those twenty-five hours should be at the office, not at home. That's what I'm saying. At this point if you're approved for ten and wants to spend eight at home and two in the office that's fine. The only issue here, the only issue that has ever been an issue, is bringing the baby to work, reporting to work with the baby."

Mr. Tasker said, "We understand." Chairman Kardaseski said, "If she wants to work eight hours at home and come in the office a couple hours per week that's fine."

Mr. Tasker said, "The legal implications if something should happen, I don't know but I feel that at this point, I may need somebody to sit in there to get stuff ready, maybe three or four hours per week. If I could find somebody to do that, does that work pay wise? If somebody can fill in for three hours on a Thursday, then people will know they can drop off applications and then if Tammy needed something they could have direct communication with that person."

Chairman Kardaseski asked if Mr. Tasker had someone in mind. Mr. Tasker said "Not at this time." He went on to say, "It could be somebody that

knows something about the position or it could be somebody that doesn't know about the position. I can't put people in there and ask them to do anything that has legal implications if they don't know anything and that's the hard part."

Chairman Kardaseski said, "Well, like I say, we could have eliminated all of this a long time ago."

Mr. Tasker said, "To make it easier on Tammy, maybe if that was the case."

Chairman Kardaseski said, "I would let you guys work that out but you have got to let us know what your plans are, because the people in the office have a right to know who they are going to be working with. They are all willing, if somebody comes in and they need forms and maps or something like that when Tammy isn't there, they are all willing to work with members of the public. Whether Tammy wants people calling her at home for work or not, that's her choice."

Mr. Tasker said "I'll talk to her about that and I'll talk to her about this afterwards but right now there won't be anybody there and we'll be relying on what ever time Tammy might be able to give to come in there or somebody gathering information and leaving it for her. And if I can find somebody to spend three hours in there, I'll let you know."

Chairman Kardaseski said, "I would not hesitate to ask for help. I know that you have issues with Jean, but she's very efficient, very thorough, and she's good with the public. I would rely on her or Bonnie if you can. Obviously, with Tammy not working fulltime, there's money in the budget to get somebody else in there. My concern is that we get Tammy through this. I don't want you (Tammy) to feel that your job is threatened in any way. The only way your job would be threatened at this point, is if you come to work with the baby. If you stop in to visit and you've got the baby that is different, but if you're coming in to work, you can't be bringing her. And that's the only issue we've had. As far as how many hours you come in versus how many hours you work at home, you know what you need to do to get your work done. I leave that up to you."

Mrs. Davis said "I just want to make sure everyone understands I am not coming in to the office, whether I work at home or not, I am not coming in to the office until my twelve weeks is up. I would like a copy of a letter stating that the Chairmen cannot take action against me and the Selectmen can hire, fire, and discipline."

Chairman Kardaseski said, "One Selectman can do nothing." Mrs. Davis said "No, what I'm saying is I have two Chairmen, and I can't speak for Gary, or Roy and he's not here, but should they not like my decision on what I decided to do."

Chairman Kardaseski said, "They can't. They can't, and the letter you got very clearly states the Board of Selectmen has the final authority over all personnel. So it won't happen. We don't want to loose you. We really do want to get this worked out. Do you have any other questions or anything else?" Mrs. Davis said "No."

Chairman Kardaseski advised Mrs. David the Board would look in to the medical insurance so she would know exactly where she stood with it. Mr. Tasker asked about the issue of medical insurance regarding medical leave. Chairman Kardaseski stated while the personnel policy is vague on this subject, the agreement with the health insurance company is that all Town employees working a minimum of 15 hours per week can purchase the insurance, however they have to pay the full premium themselves. The Town only pays their portion for fulltime employees. She advised Mr. Tasker and Mrs. Davis the Board would get an answer as soon as possible. Selectman Bowles thanked Mr. Tasker and Mrs. Davis for coming in.

- b. Chairman Kardaseski asked Mr. Tasker if he could stay for a few minutes during the discussion with Chip Davis. Mr. Tasker stated he could but that he had another appointment he needed to get to.

V. The Board met with Chip Davis regarding his subdivision called Kincaid Haven on Lovejoy Road.

- a. Mr. Davis stated he had received a conditional approval at the July Planning Board meeting and he went right out and took care of things right away. He stated he met with the Town Engineer, got the well covered immediately, and spoke with the Fire Department representative and had taken care of their issue. Mr. Tasker stated Planning Board member Stan Prescott had brought up the issue of the requirement for Mr. Davis to meet with the Conservation Commission and Mr. Tasker asked Conservation Commission Chairman Julie Robinson if she needed to meet with Mr. Davis to discuss things. She stated “yes.” Mr. Tasker stated it was just a formality and Mr. Davis just needed to give her a call. Mr. Davis stated he had no problem with that, but it wasn’t part of his approval. Selectman Bowles stated there were too many conditions placed on the approval and there was discussion that it was being left up to the Conservation Commission to make the final decision as to what happens to the open space. Mr. Davis stated they wanted the Town to take possession of it. Selectman Bowles said he didn’t think a decision had been made, as one member of a board sitting in the meeting doesn’t have the authority to make that decision. Mr. Davis stated Mrs. Robinson spoke up at the meeting and said she wanted the Town to take possession. Selectman Bowles stated he didn’t think a decision had been made. Chairman Kardaseski asked Mr. Tasker what his recollection of the meeting was. Mr. Tasker said he had no recollection of it. Mr. Davis stated his problem is that somebody adds something — a condition — and comes back to next month’s meeting and changes somebody’s plan. Mr. Tasker said everybody sat at the meeting and agreed to it, they didn’t disapprove it, so therefore he thought the decision stands. Mr. Davis stated he could not get on the building permit list because the plan has not been recorded. Discussion ensued regarding what Mr. Davis needed. Mr. Tasker stated Mr. Davis needs to contact the Conservation Commission and once that is set, he could sign the plans. Then they could be recorded. Mrs. Davis stated she had the letter from the Fire Department. Discussion ensued. Mr. Davis stated Mr. Prescott felt something had been left

out of the minutes and the Board changed the minutes to reflect that. Selectman Bowles stated this was why the Board had decided to not grant approvals with conditions. Chairman Kardaseski asked Mr. Davis if he was at the August Planning Board meeting. He said no, he had conditional approval from the July meeting and felt he had addressed all of the conditions. He said Mr. Prescott added a fifth condition at the August meeting that he was not made aware of. Mr. Davis said he felt that Mrs. Robinson had determined the Town would accept ownership of the open space land. Mr. Tasker advised Mr. Davis he should contact Mrs. Robinson in the morning and then advise him of the outcome. Selectman Bowles stated he agreed Mr. Davis should contact Mrs. Robinson. He went on to say the Conservation Commission is doing a lot of research regarding how these properties are going to be monitored and maintained. Mr. Davis stated he had only learned about this condition at 4:00 PM today. Chairman Kardaseski stated that since Mr. Davis got his revised plans in today, there wasn't much that could have been done anyway. Mr. Davis stated that he had turned in his revised plan fifteen or sixteen days ago and had only learned about the condition today, which is keeping him from getting on the building permit list. Mr. Davis stated he also had a problem regarding the building permit, which states it requires a septic plan "as submitted to the State." It doesn't say a "State stamped septic design." He stated you have to get the approval number but it can take three weeks to get the actual stamped plan back, which creates issues when you are trying to get on the building permit list. Discussion ensued regarding what has been required in the past, as well as wording on the building permit application. Selectman Bowles stated the Planning Board members who were at the July meeting recalled there was the condition relating to the Conservation Commission and felt there were too many conditions for the approval. Mr. Davis stated he feels if there are changes that effect someone's application the Board should notify them if they are not present at the meeting. Chairman Kardaseski stated she felt if the Board members were in agreement, the discussion must have taken place at the meeting Mr. Davis was at; therefore, they would not feel there was a reason to notify him, as he was present during the discussion. She stated she does not believe anyone was just changing the minutes or adding conditions. Mr. Davis said the condition relative to him meeting with the Conservation Commission was not in the draft minutes. It was not until last Thursday's meeting that it was included. If he had a copy of the minutes prior to Thursday, it wouldn't have had anything about the condition in it. Discussion ensued regarding listening to the tape of the minutes, writing down the conditions as they are being given out, and not approving applications with conditions.

- VI. The Board began their review of weekly correspondence.
 - a. The Board received copies of the draft MS1 and MS4 reports. The Board will review them and advise Mrs. Lee of any questions or changes.
 - b. The Board received a letter from Tom McCue regarding Claire Crowley's road maintenance bond. Discussion ensued regarding the maintenance bond

figures from Town Engineer Tony Puntin as well as the history of the road construction phases. The Board will take this under advisement at this time.

- c. The Board received a copy of ESMI's 2nd quarter 2005 Host Community Fee.
- d. The Board reviewed a copy of a memo from Tony Puntin regarding Wellington Properties design review.

VII. The Board met with Chip Davis again to discuss his phone conversation with Conservation Chairman Julie Robinson.

- a. Mr. Davis stated Mrs. Robinson advised him the Conservation Commission is still working on a plan and there is nothing she can do. She advised him he could meet with the Committee; however, until such time as the Conservation Commission makes their recommendation to the Planning Board, there is nothing that can be done. He stated if the Open Space Subdivision is included in the regulations, this is something that should have been taken care of at that time. Mr. Davis went on to say that, due to this issue, he will probably miss getting on the building permit list even though he has a State-approved subdivision, he has met all the conditions of the building permits, has been approved conditionally by the Planning Board, and the only thing that is holding him up is the issue of how to deal with the open space land. Mr. Davis went on to say he wants to listen to the tapes of the Planning Board meeting and, if the condition is on the tape, then he will apologize, but if it is not, then it will cost him a lot to lose the building permits. Chairman Kardaseski suggested Mr. Davis contact Gary Tasker. Mr. Davis stated Mr. Tasker said he would sign the plans after hearing the decision of the Conservation Commission. Mrs. Robinson stated they were not ready to make that determination; therefore, he does not feel Mr. Tasker will sign the plans. Mr. Davis stated he is caught in a catch 22 because a decision has not been made on how to accept the land. Selectman Bowles stated there is a long-term plan that needs to be put in place and, unfortunately, it is not ready. A decision will be made while working together with the other boards. They will try and see that Mr. Davis can get on the building permit list, and while this is happening, he asked that Mr. Davis ease off and not hound the Board. Discussion ensued regarding the regulation. Chairman Kardaseski stated this is a Planning Board discussion and should be taken up with them. Selectman Bowles stated the Open Space Subdivision is a State regulation; it is not in there because the Town put it there voluntarily. It has to be there. Selectman Bowles stated there is a lot of research being done by the Conservation Commission and other Towns and once the information has been digested, a decision will be made. Chairman Kardaseski suggested Mr. Davis contact Mr. Tasker and just discuss the situation.

VIII. The Board continued their review of weekly correspondence.

- a. Chairman Kardaseski stated there was a notice for another municipal building project workshop. She stated she felt Selectman Maxfield would benefit from this workshop, as he is the Chairman of the Building Study Committee.

Selectman Bowles moved to adjourn the meeting at 8:00 PM. Seconded by Chairman Kardaseski. All in favor. Meeting adjourned.

THE LOUDON BOARD OF SELECTMEN

Deborah A. Kardaseski, Chairman

Dustin J. Bowles, Selectman

Roger A. Maxfield, Selectman